

26 JUL 2007

Appendix 1



the
Standards Board
for England

Decision Notice

Reference SBE19125.07

The Complaint

The Standards Board for England recently received a complaint from [redacted] concerning the alleged conduct of Councillor [redacted] of Kent County Council. Officers conducted an assessment and decided not to refer the complaint for investigation. The following summarises the general nature of the allegation:

The complainant reported that on 4 July 2006, she sent an email to all Kent County councillors entitled "Whistle blowing on the LEA – YOUR HELP NEEDED". The email contained information relating to an ongoing situation involving the complainant's previous position as a teacher at a local school, and asked for the members' assistance in pursuing the points raised in the email. Councillor [redacted] reportedly forwarded this email to a council officer, stating that the council's Education department should email all members to advise them of the background to the complainant's situation, in order to "avert answering trail of inquiries from them [sic]."

The complainant alleged that Councillor [redacted] email was sent only four minutes after her own email, and that he could not have studied and considered her email in this time. It was alleged that the council officer's email to all members contained lies. The complainant alleged that Councillor [redacted] was responsible for the bias of the officer's email, and claimed that this bias disadvantaged her, as other members would have come to her aid were it not for the officer's email.

The complainant reported that she sent two further emails to all Kent County councillors on 12 July 2006. It was alleged that three minutes after receiving the second email, Councillor [redacted] forwarded it to a number of officers and members with the message "Can ewe do anything to stop this flood". The complainant considered that the short length of the email and the use of the word 'ewe' was "quite appalling".

It was alleged that by his actions, Councillor [redacted]:

- Failed to treat the complainant with respect
- Acted to prevent those who work for Kent County Council from being unbiased
- Stopped Kent County councillors from getting information they are entitled to
- Used his position improperly to disadvantage the complainant

Decision

In situations where a matter of some sensitivity has been brought to all members' attention, it is not considered that it would be improper for a member to ask a council department to provide some background information on that matter to all members. It is recognised that the complainant disputes the accuracy of the email that was subsequently sent to all members by the council officer. However, the accuracy or

otherwise of that email does not have any bearing on the ethical conduct of Councillor [redacted]. In the circumstances of the situation, it is not considered that Councillor [redacted] reported email of 4 July 2006 discloses a potential breach of the Code of Conduct.

It is acknowledged that the complainant has taken offence to the brevity of Councillor [redacted] alleged email of 12 July 2006 in connection with her earlier emails, and the use of the word 'ewe' within his email. It is recognised however that the complainant has been in dispute with Kent County Council for some considerable time on the matters raised in her emails, and that the council refutes the implications made within her correspondence. Under the circumstances, it is not considered that the content of Councillor [redacted] email has the potential to amount to a breach of the Code of Conduct. Additionally, there is no indication that the use of the word 'ewe' was anything other than a spelling error.

The Standards Board for England has decided that the allegation should not be referred to an ethical standards officer for investigation. Having taken account of the available information we do not believe that a potential breach of the Code of Conduct is disclosed. We have made no finding of fact.

We notify all concerned parties in writing once we have assessed a complaint. This decision notice is sent to the person or persons making the allegation, the member against whom the allegation was made, the monitoring officer of the relevant authority and (if appropriate) the clerk to the parish or town council.

Review

At the request of the complainant, the Standards Board's Chief Executive (or, in his absence, another senior officer) can review and change a decision not to refer an allegation for investigation. However, he will generally only do this if he is persuaded that the decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which we processed the allegation, or because we made an irrational judgement on the reported facts.

A request for the Chief Executive to conduct a review has to be made in writing. We must receive the complainant's written request within 30 days of the date of this notice, explaining in detail on what grounds our decision should be reviewed.

If we receive a request for a review, we aim to deal with it within two weeks of receipt. We will write to all the parties mentioned above, notifying them of the outcome.

Terms of Reference

The Standards Board for England was established by the Local Government Act 2000 with a primary duty to consider written allegations. The Act also gave the Board a wide discretion to decide whether or not a written allegation should be referred to an ethical standards officer for investigation.

The Local Government Act 2003 permitted the Standards Board for England to delegate this function to nominated officers. In doing this, the Board has established a careful checking and monitoring procedure.

