

**MINUTES OF: STANDARDS COMMITTEE**

**Date of Meeting: 19<sup>th</sup> December 2007**

**PRESENT: Mr A Neville (in the Chair)  
Councillors Crosta and P Gill**

**IN ATTENDANCE: Mr D Wilcock, Head of Legal and Personnel, Burnley Borough  
Council  
Mr J Joinson, Democratic Services Manager**

**ALSO PRESENT: Mrs H Moore, Committee Services Manager  
Mrs E Newsome, Burnley Borough Council**

**INVESTIGATOR: Mrs L Fisher – Head of Planning, Legal and Democratic  
Services**

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**1. INVESTIGATION INTO A COMPLAINT OF A BREACH OF THE CODE OF CONDUCT  
FOR MEMBERS – WHITWORTH TOWN COUNCIL – COUNCILLOR K HEAKIN**

The Committee considered the matter of complaints which had been made against Councillor J Heakin about two alleged breaches of the Whitworth Town Council - Code of Conduct for Members.

The Committee determined that the meeting should be held in public and that the meeting should proceed in the absence of Councillor Heakin.

The Committee considered all the information provided to them including the final report, supporting documentation and oral submissions of Mrs Fisher, the Monitoring Officer, together with Councillor Heakin's letter dated 17<sup>th</sup> December 2006.

Mrs Fisher was not present when the Committee discussed its decision in relation to the facts of the case, whether a breach had occurred and any sanctions to be applied.

**Resolved:**

That Councillor Heakin did breach the Whitworth Town Council - Code of Conduct for Members.

Full details of the Committee's decision are set out in the formal decision note of the hearing (attached).

**(The meeting started at 1.00pm and finished at 2.25pm)**



## Hearing in relation to a possible breach of the Code of Conduct - Local Determination

### Introduction

- Reference number: 2006/01
  - SBE reference number: SBE14024.06 and SBE14235.06
  - Date of report: 21<sup>st</sup> March 2007
  - Name of Member: Councillor K Heakin
  - Name of Member's representative: (None present)
  - Relevant authority concerned: Whitworth Town Council.
  - Name of Ethical Standards Officer (ESO): Mr Nick Marcar
  - Name of ESO's representative: (Not applicable)
  - Name of investigator: Mrs L Fisher, Monitoring Officer, Rossendale Borough Council.
  - Date of the hearing: 19<sup>th</sup> December 2006
  - Names of Standards Committee Members:  
  
Chairperson: Mr A Neville (Independent Member)  
Member: Councillor M Crosta  
Member: Councillor P Gill
  - Name of legal adviser to the Standards Committee: Mr D Wilcock, Head of Legal and Personnel, Burnley Borough Council
  - Name of clerk of the hearing: Mr J Joinson, Democratic Services Manager, Rossendale Borough Council
  - Observers present: Mrs H Moore, Committee Services Manager, Rossendale Borough Council and Mrs E Newsome, Burnley Borough Council.
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## Section 1: Preliminary documents

1.1: The referral from the Ethical Standards Officer:

On 24<sup>th</sup> February and 26<sup>th</sup> April 2006 the ESO, in accordance with Section 60(2) of the Local Government Act 2000, referred two allegations about Councillor K Heakin to the Monitoring Officer for investigation. The allegations were investigated by Mrs L Fisher who prepared a report of her findings. The investigator's report concerns a possible breach of the Code of Conduct and, under Paragraph 5(7)(d) of the Regulations, the investigator referred her report to the Standards Committee for a hearing in accordance with the Regulations.

The allegations were that Councillor K Heakin, being a member and Director of the Community Leisure Association of Whitworth ("CLAW") and as Leader of Whitworth Town Council failed to comply with the Code of Conduct of Whitworth Town Council by:-

- (a) failing to leave a meeting of Whitworth Town Council on the 2<sup>nd</sup> February 2006 after declaring that he had a prejudicial interest in the matter under discussion, namely a lease between CLAW and Whitworth Town Council, leading to a breach of paragraphs 7, 8, 9 and 10 of the Code of Conduct.
- (b) failing to leave the room at a meeting held on 9<sup>th</sup> February 2006, when the minutes of the meeting of 2<sup>nd</sup> February 2006 were being ratified, having declared a prejudicial interest in connection with the minutes.

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## Section 2: Oral and written submissions (procedural)

2.1 The Standards Committee's decision on procedural matters was as follows:

The Panel considered all the information provided to them, including the final report of the Monitoring Officer and Councillor Heakin's letter dated 17<sup>th</sup> December 2006, which was addressed to the Chair of the Panel. The Panel noted Councillor Heakin's apologies that he was unable to attend the meeting and determined to proceed with the hearing in his absence on the basis of his written submission.

The Panel also agreed that the meeting should be held in public.

The Monitoring Officer was present at the meeting and provided information to the Panel based upon her final report as investigator. The Monitoring Officer was not present when the Panel discussed its decision in relation to the facts of the case or any sanctions.



The Panel determined that, notwithstanding the disputed facts outlined in Section 3 below, there was sufficient evidence upon which to make a formal decision on the allegations. Accordingly, it reaffirmed its decision to proceed with the hearing.

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### **Section 3: Findings of fact**

3.1 The following facts in the investigator's report were undisputed:

- That Councillor Heakin had a personal interest in the matter of the lease with CLAW and the Town Council and failed to declare it.
- That Councillor Heakin had a prejudicial interest in the matter of the lease with CLAW and the Town Council
- That Councillor Heakin did declare a prejudicial interest at the meetings held on 2<sup>nd</sup> and 9<sup>th</sup> February 2006.
- That by not leaving the room Councillor Heakin influenced the debate, being Leader of the Town Council, which was considered to be a position of influence. That Councillor Heakin asserted that he knew the lease would be carried through anyway due to the Members present on the night of the 2<sup>nd</sup> February 2006. That Councillor Heakin had attempted to vote on 2<sup>nd</sup> February 2006 and that this would have indicated in which direction he intended to vote, thus influencing others to vote in the same way.
- That Councillor Heakin engaged in discussions with other Town Council Members relating to a matter in which he had a personal and prejudicial interest.

3.2 The following facts in the investigator's report were disputed:

The Panel noted that within the investigator's report there was some disagreement between Mr Jackson, the Clerk to the Town Council, and Mrs Parkinson, the Deputy Monitoring Officer, as to the advice provided by the Deputy Monitoring Officer about the requirement to leave the room. However, the advice provided to Councillor Heakin by the Clerk to the Town Council was not disputed.



### 3.3 Summary of evidence:

The Panel noted that during the investigation Mrs Parkinson, the Deputy Monitoring Officer, had provided evidence that on 2<sup>nd</sup> February 2006 she had advised Mr Jackson, the Clerk to Whitworth Town Council, that Councillor Heakin had a prejudicial interest, that he could not vote and should leave the room whilst the matter of the lease was discussed.

The Panel also noted that during the investigation Mr Jackson, the Clerk to Whitworth Town Council, had provided evidence that Mrs Parkinson, the Deputy Monitoring Officer, had advised that the interest was prejudicial, but that Councillor Heakin could stay in the room.

### 3.4 Summary of submissions about disputed facts by Councillor Heakin:

The Panel noted that Councillor Heakin in his letter dated 17<sup>th</sup> December 2006 stated that he had relied upon the advice provided to him by Mr Jackson, the Clerk to Whitworth Town Council, that he should not speak on the item, but did not need to leave the room.

### 3.5 Summary of submissions about disputed facts by the investigator:

The investigator reported that, given Councillor Heakin's position as Leader of the Town Council, he should have been aware of the requirement to leave the room if he had a personal and prejudicial interest, irrespective of the accuracy of the advice received.

### 3.6 Standards committee's findings of fact:

3.6.1 The standards committee made the following findings in relation to the facts in dispute after considering the submissions of the parties and the evidence before the committee:

The Panel was satisfied that Councillor Heakin may have received inaccurate advice about his requirement to leave the room, but that irrespective of what advice he had actually received, his responsibility to leave the meeting was clear.

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## Section 4: Decision on whether the Code was breached

### 4.1 Summary of submissions by Councillor Heakin:

The Panel noted that Councillor Heakin in his letter dated 17<sup>th</sup> December 2006 had accepted that he ought not to have been present at the Whitworth Town Council meetings when the matter of the lease was discussed.



The Panel also noted Councillor Heakin's written submission in relation to possible future revisions to the Members' Code of Conduct, which might lead to a relaxation of the rules regarding attending and speaking at meetings where the Member concerned had a public service interest.

#### 4.2 Summary of submissions by the investigator:

Mrs Fisher, the Monitoring Officer, summarised the content of her final report. She indicated that she had carried out an investigation in her role as Monitoring Officer in accordance with the relevant Regulations. She provided a summary of the first allegation which had been submitted by Councillors Neal and Kershaw and the second allegation which had been submitted by Councillor Neal, as set out in Paragraph 1.1 above. She outlined the circumstances surrounding the allegations, which related to discussions at Whitworth Town Council concerning the entering into of a lease with the Community Leisure Association of Whitworth ("CLAW").

The Monitoring Officer also outlined the procedure which had been followed during the investigation. She indicated that Councillor Heakin, Councillor Neal, Councillor Kershaw, Mr Jackson, and Mrs Parkinson had all been interviewed. In addition, letters dated 10<sup>th</sup> April and 7<sup>th</sup> October 2006 from Councillor C Power, Mayor of Whitworth, had described the events at the meeting on 2<sup>nd</sup> February 2006.

Mrs Fisher summarised her findings of fact as investigating officer, details of which are set out at Paragraph 3.1 above.

#### **4.3 The Standards Committee's decision on whether or not there has been a breach of the Code.**

4.3.1 The Standards Committee reached the following decision after considering the submissions of the parties:

The Panel were satisfied that Councillor Heakin did breach the Whitworth Town Council Code of Conduct. Full details are set out in Paragraph 4.3.3 below.

4.3.2 The relevant sections of the Code of Conduct are:

Paragraphs 8 and 10.

4.3.3 Councillor Heakin did fail to comply with paragraphs 8 and 10 of the Code of Conduct.

The Standards Committee's reasons for this decision were:



- (1) By failing to leave the room on both 2<sup>nd</sup> and 9<sup>th</sup> February 2006 when the matter of the Town Council lease with CLAW was discussed, having correctly declared that Councillor Heakin had a prejudicial interest. In doing so and in the position of Leader of the Town Council, his presence influenced the debate on this matter.

This had breached Paragraph 10 of the Code of Conduct which stated that “a Member with a prejudicial interest must:

- (a) withdraw from the room or Chamber where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he or she has obtained a dispensation from the Standards Committee of the Rossendale Borough Council;
  - (b) not seek improperly to influence a decision about that matter.”
- (2) That the interest was also a personal interest under paragraph 7(1) of the Code of Conduct, sub paragraph (a) which states that “a Member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under Paragraph 12 and 13 below...”

Paragraph 13 refers to the notification requirements for Town Councils for an interest which concerns “a membership of, or position of general control, or management in any...(c) Company, Industrial or Provident Society, Charity or body directed to Charitable purposes”. CLAW was such a Company.

That Councillor Heakin had such a personal interest in the matter under discussion and had failed to declare it. This had breached Paragraph 8 of the Code of Conduct which required a Member to disclose such personal interests.

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## Section 5: Sanction

### 5.1 Summary of submissions as to sanction by: Councillor Heakin

The Panel noted Councillor Heakin’s submission in his letter dated 17<sup>th</sup> December 2006, that the anticipated Revised Code of Conduct for Members was widely expected to introduce changes to the requirements in respect of declarations of interests.

The Panel also noted that Councillor Heakin took advice from the Clerk to the Town Council prior to the meeting and that the advice given at that time appears to have been incorrect.



## 5.2 Summary of submissions by the investigator:

Mrs Fisher reported that, as Leader of the Council, Councillor Heakin ought to have been aware of the requirements in relation to the Code of Conduct. The Investigator also made representations that in her opinion Councillor Heakin had not treated the breach with the level of seriousness it warranted and that as a Member of the Standards Committee he ought to set an example to others regarding standards of ethical governance. She asked that the Panel consider requesting a written apology from Councillor Heakin, imposing a requirement for him to undergo training and censuring him.

## 5.3 **The Standards Committee's decision on what sanction, if any, ought to be imposed:**

5.3.1 The Standards Committee reached the following decision after considering the written evidence and submissions of the parties.

- (1) That Councillor Heakin be required to attend training on the Code of Conduct within a period of two months.
- (2) That Councillor Heakin be requested to submit a written letter of apology to the Chair of the Standards Committee.

5.3.2 The requirement to undertake training on the Code of Conduct within a period of two months will take effect from the date of receipt of the Panel's decision, subject to agreeing a suitable date with the Monitoring Officer.

5.3.3 The Standards Committee's reasons for deciding to impose the requirement to undergo training was based upon the fact that Councillor Heakin appeared uncertain as to his responsibilities in connection with declaring personal and prejudicial interests and, in particular, the requirements to withdraw from the meeting and not to influence a decision in the case of a prejudicial interest.

The Panel did take into account the fact that the advice provided to Councillor Heakin on 2<sup>nd</sup> February 2006 about remaining in the meeting room may have been incorrect, but felt that as Leader of the Council and as a Member of the Standards Committee he should have been more aware of his responsibilities. The Panel also took into account the fact that Councillor Heakin had subsequently admitted his actions and now appreciated that he should have left the room. Accordingly, it was felt that Councillor Heakin should be requested to send a letter of apology to the Chair of the Standards Committee.

The Panel considered Councillor Heakin's comments about the anticipated revised Code of Conduct for Members which was widely expected to introduce changes to the requirements in respect of declarations of interest. However, the Panel agreed that it was





bound to determine the matter based upon the existing Code of Conduct which was in force at the time of the incidents.

Having considered all the circumstances, the Panel determined that censure was not an appropriate sanction.

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## **Section 6: Right to appeal**

6.1 Councillor Heakin has the right to apply in writing to the president of the Adjudication Panel for England for permission to appeal the Standards Committee's finding. The president of the Adjudication Panel must receive written notice requesting permission to appeal within 21 days of the Member's receipt of notification of the Standards Committee's finding.

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## **Section 7: Recommendations to the authority**

7.1 The Standards Committee made the following recommendations in relation to the promotion and maintenance of high standards of conduct by the Members and co-opted Members of the authority:

That Whitworth Town Council be invited to undertake training on the Code of Conduct within a period of two months.

*Andrew Neville*

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Chair of the Standards Committee

21<sup>st</sup> March 2007