

STANDARDS SUB-COMMITTEE HEARING

14th September 2006



Referral of an allegation that Councillor Robin Bowen-Williams breached the Members' Code of Conduct of Bletchley and Fenny Stratford Town Council

Case reference SBE 13980-06

The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003

Sub-Committee: Mr C. Fogden (Independent Member & Chair)
Mrs E. Watson (Independent Member)
Cllr A. Richards (Parish Member (Newport Pagnell T.C.))

Legal Advisor to the Hearing Mr P. McCourt
Hearing Administrator *(if different)* Mrs L. Sung

Others Present

Member: Cllr Robin Bowen-Williams
Accompanied by Cllr K. Ely

**Ethical Standards Officer (ESO)
Represented by** Mr Steven Kingston *(Not present)*
Mr Richard Moules of Landmark Chambers

Witnesses: None

Documentation:

Report of Monitoring Officer, together with

- Annex A Ethical Standards Officer's Report
- Annex B Schedule of Evidence to be taken into account (agreed)
- Annex C Additional letters of Cllr Bowen-Williams sent as part of the pre-hearing process

Letter submitted by Cllr Jan Lloyd, Chair of Bletchley and Fenny Stratford Town Council, on behalf of Cllr Robin Bowen-Williams

Allegation:

The allegation referred for determination at the Hearing was that Councillor Robin Bowen-Williams failed to comply with the Code of Conduct by bringing his office or authority into disrepute, in breach of paragraph 4, as a result of driving a motor vehicle whilst having consumed alcohol in excess of the legal limit, an offence for which he pleaded guilty, was convicted and received a fine of £200 and a ban from driving for 12 months.

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Record of Determination

The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003

1. Procedural Decisions

The Standards Sub-Committee endorsed the following actions:

- (i) Those directions, for the reasons set alongside, set out in paragraph 7.1 of the Monitoring Officer's report.
- (ii) Following a late request of attendance of witnesses of character, following which the ethical standards officer and the Chair were contacted for comment, that Cllr Bowen-Williams would be permitted to call up to two witnesses, who would be restricted to giving evidence of character and only at the stage, if reached, of the Hearing considering sanctions (the third tranche)
- (iii) That, as a result of lack of availability, that a letter from Cllr Jan Lloyd, the Chair of Bletchley and Fenny Stratford Town Council, be admitted in the place of witness evidence of character.

2(a) Findings of Fact *(Summary of the evidence & submissions)*

Mr Moules presented the Ethical Standards Officer's report and stated that the facts were not in dispute. He added that there were a number of claims made against Councillor Bowen-Williams but that they were not founded and confirmed the only allegation made against Councillor Bowen-Williams, as set out above.

Cllr Bowen Williams, whilst asking two questions of clarification, did not dispute these facts

2(b) Decision on Findings of Fact *(Decision on relevant facts)*

That, following a motor vehicle accident on 3rd November 2005, Cllr Robin Bowen-Williams had been found to have driven a motor vehicle whilst having consumed alcohol in excess of the legal limit, for which offence he pleaded guilty, was convicted, fined

£200 and banned from driving for 12 months.

3(a) A Breach of the Code *(Summary of the evidence & submissions on whether the facts amount to a breach of the Code of Conduct)*

Mr Moules highlighted those relevant parts of the ESOs report that comes to the conclusion that these facts should lead to a finding of a breach

Cllr Bowen-Williams submitted that the offence took place at a time when he was not conducting any function of his official duties as a councillor, which was undisputed. He further submitted that paragraph 1(1) of the Code should be read such that the Code only applies when a councillor is acting in the manner described at paragraphs 1(1)(a),(b) or (c)

Mr Moules responded by reference to paragraph 1(2) and that the paragraph should be read as a whole. He also referred to paragraph 4.

During its deliberation in absence of the public and press, the Sub-Committee requested the advice of Mr McCourt. This was repeated once the public session, had resumed for comment by the parties.

The advice given was that Mr McCourt agreed with Mr Moules assertion that paragraph 4 of the Code applied to activities of a Member other than when acting in the situations described at paragraphs 1(1)(a),(b) or (c). The reasons given for this advice were that

- (i) Sub-paragraphs 1(1)(a) to (c) are qualified by the term “*and references to a member’s official capacity shall be construed accordingly*”;
- (ii) Paragraph 1(2) refers to the Code having no effect in relation to Members’ activities undertaken when not acting in an official capacity “*apart from paragraphs 4 and 5(a)*”;
- (iii) Paragraph 4 specifically states that it applies to a member when acting “*in his official capacity, or any other circumstance*”; and
- (iv) There are a number of precedents from Case Tribunals of the Adjudication Panel for England and other Standards Committee Hearings on this point

Cllr Bowen-Williams accepted this as the advice given to the Hearing.

3(b) Decision on any breach of the Code *(Decision; Code Paragraph; reasons)*

The Standards Sub-Committee reached the following decision after considering the submissions of the parties in absence of the public and press.

Paragraph 4 of the Code of Conduct states that

“A member must not in his official capacity or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute”.

Driving with excess alcohol was an offence which not only reflected poor judgement but also demonstrated a disregard for the safety and well being of others and was generally regarded as socially unacceptable.

Accordingly, Councillor Robin Bowen-Williams's actions on 3rd November 2005 could reasonably be regarded as bringing his office or authority into disrepute and thereby constituted a failure to comply with Paragraph 4 of the Council's Code of Conduct.

4(a) Sanctions *(submissions on whether any sanctions should to be imposed)*

Mr Moules stated that he had no instruction as to sanction, but wished to highlight the aggravating and mitigating factors contained within the ESOs report. These concerned

- That Cllr Bowen-Williams was a member of many years experience and would be looked to for guidance by younger or less experienced members
- That, at the relevant time, Cllr Bowen-Williams was Chair of the Council's Finance and General Purposes Committee which is the committee responsible for the council's functions concerning road safety, a position he continued and continues to occupy
- That, at the relevant time, Cllr Bowen-Williams had undertaken no training on the Code of Conduct
- That Cllr Bowen-Williams had made a public apology at a meeting of the Bletchley & Fenny Stratford Town Council
- That a unanimous resolution had been passed at the same Council meeting that there was no need for Cllr Bowen-Williams to resign

Upon questioning, Cllr Bowen-Williams stated that he has still had no offer of training on the Code of Conduct and also that he has never been supplied with a copy of the Code of Conduct itself. Cllr Bowen-Williams confirmed that he had also never asked for a copy of the Code of Conduct.

Mr Moules added that Cllr Bowen-Williams had freely signed the declaration to observe the Code upon taking office.

Cllr Bowen-Williams thanked Mr Moules for setting out the complimentary elements contained within the ESOs report. In response, he drew the Hearings attention to the following.

- As a Council of entirely independent members, others were unlikely to defer to him for guidance
- He sought and continues to seek all affected by this incident to make them aware of it and of his regret
- That this incident took place whilst not on Council business
- That this incident involved no other vehicle than his own
- The minutes of the town council, marked as SK13
- That whilst that council debate took place in private session, he requested to the Council that it be held in public

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- That he pleaded guilty to the offence and that it was an offence at the lower end of the prohibited alcohol to blood ratio. He had been offered a relevant course with the effect of reducing his ban from 12 months to 9 (by 25%), which is the case and the current situation is that he had begun driving again this day.
 - The contents of the letter from Cllr Jan Lloyd, the Chair of Bletchley and Fenny Stratford Town Council
 - The contents of his letter of 10th June 2005, marked as SK14, and that he was now the Chair of the Buckinghamshire Valuations Tribunal
 - His public apology
 - The additional strain upon him caused by problems associated with this investigation arising from the errors of Milton Keynes Council staff, for which apologies have been given and which were set out in his letter of 12th August
 - The final paragraph of his letter of March, marked SK12, in which he states that he “*can only conclude by expressing again my own sadness for the embarrassment which I have caused to others*”.

4(b) Decision on any Sanctions to be imposed *(decision; taking of effect; reasons)*

The Standards Sub-Committee reached the following decision after considering the submissions of the parties in absence of the public and press.

Cllr Bowen-Williams previous service to local government and the community, the level of local support offered to him and the confidence of his colleagues on the Town Council were considered in terms of mitigation.

The Hearing Sub-Committee was mindful, however, that Cllr Bowen-Williams had committed an offence seriously affecting public safety in an area where he would rightly be expected to show leadership.

Overall, Cllr Bowen-Williams’ conduct has been such as to impair his reputation as a councillor in the public mind and, as a result, it is appropriate that a sanction be imposed

That, taking these elements into account, Cllr Robin Bowen-Williams will be suspended from his office as councillor for a period of one month to commence immediately.

5. Right to Appeal

Cllr Bowen-Williams 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.

6. Recommendations to the authority

Arising from the evidence given at the Hearing, the Standards Sub-Committee makes the following formal recommendations to Bletchley and Fenny Stratford Town Council

- (i) **The Town Council should endeavour to arrange for all councillors and senior officers training on the members code of conduct and its practical implications** - Whilst training has been offered through the Milton Keynes Standards Committee and, the Sub-Committee assumed, directly from the Standards Board and other relevant organisations, Cllr Bowen-Williams indicated that none was offered to individual Members.

 - (ii) Cllr Bowen-Williams stated that he had not been provided with a copy of the Code of Conduct. **If that is the case, the Sub-Committee recommends that a copy be supplied to each and every Member of the Town Council as soon as possible.**
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Signed:

Philip McCourt,
Monitoring Officer

Dated: 21st September 2006