

Public Agenda

Minutes of Members' Code of Conduct Committee Panel

12 October 2016

Present:

Mr Murray Litvak
Councillor S.C. Mooney
Councillor R.W. Sider BEM
Councillor B.B. Spoor

Councillors in attendance: Councillor S. Burkmar

225/16 Disclosures of Interest

There were none.

226/16 Exclusion of Press and Public

The Panel considered whether the press and public should be excluded from the meeting during consideration of the following matter on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act.

The Panel in making its decision had regard to all circumstances and was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

RESOLVED that in the interest of having a frank and open discussion about the matter, the press and public are excluded from the meeting.

227/16 Exempt Determination of Complaint against Councillor Burkmar

The Chairman opened the meeting by re-introducing the members of the Panel and officers present and explained the nature of the decision to be taken.

The Chairman reminded all concerned of the process undertaken so far in that, on 15 July 2016, The Panel considered the report of the Monitoring

Officer concerning a complaint from a member of the public on the conduct of Councillor Burkmar in relation to a telephone conversation on 25 April 2016.

The Panel noted the Independent Person's view that the case appeared to involve a breach of the Members' Code of Conduct and should be investigated further.

The Panel concluded that there was sufficient evidence to indicate a breach of paragraphs 7 and 9 of the Members' Code of Conduct outlined herewith:

7. "You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example."

9. "You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating."

The Panel decided as follows:

1. That Councillor Burkmar was disrespectful to his constituent during their telephone conversation contrary to paragraphs 7 and 9 of the Code of Conduct.
2. That Councillor Burkmar was discourteous and disrespectful to his email correspondents contrary to paragraphs 7 and 9 of the Code of Conduct.

RESOLVED that the Panel, having considered all the evidence, concluded the following sanctions were appropriate:

- a. For breach no. 1 above, Councillor Burkmar is required to send a private, written apology to the constituent and copy in the Monitoring Officer, Michael Graham, within 7 days of the Hearing.
- b. For breach no. 2 above, Councillor Burkmar is required to attend ICT training in order to get the best use out of the equipment he has purchased as soon as possible, and to advise the Monitoring Officer when this training is complete.
- c. Also for breach no. 2, the Panel censured Councillor Burkmar and agreed to issue a Press release on this matter.

SPELTHORNE BOROUGH COUNCIL
Final written decision of
Member's Code of Conduct Hearing Panel

Date of Hearing	12 October 2016
Subject Member	Councillor Steven Burkmar
Complainant	Mr E (Resident of Staines-upon-Thames)
Chairman of the Members' Code of Conduct Hearing Panel	Mr Murray Litvak
Other members of the Members' Code of Conduct Hearing Panel	Councillor Sinead Mooney Councillor Robin Sider BEM Councillor Bernie Spoor

<p>A panel was conducted in accordance with the Localism Act 2011 and the hearing procedures adopted by the Council.</p>

Summary of original complaint

The complaint concerns allegations that Councillor Steven Burkmar failed to comply with the Members' Code of Conduct in that he:

- a) Spoke in a disrespectful manner to his constituent during their telephone conversation on 25 April 2016; and
- b) Did not read or respond to emails sent to him as a Councillor, thereby being discourteous and disrespectful to his email correspondents.

Relevant Section of the Code of Conduct

The Code of Conduct which was applicable at the time of the telephone conversation on 25 April 2016 was that which was adopted by Spelthorne Borough Council from the 25 July 2013. The following paragraphs of the Code are relevant to these allegations:

Paragraph 7 You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Paragraph 9 You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating.

Summary of the evidence considered and representations made

- The Panel read and considered the report of the Monitoring Officer, Mr Michael Graham.
- The Panel heard verbal evidence from Councillor Steven Burkmar.

Findings in respect of the Conduct of Councillor Steven Burkmar

The Panel made the following finding in relation to Councillor Burkmar's conduct during a telephone call with his constituent on the 25 April 2016:

1. That he was disrespectful to his constituent contrary to paragraphs 7 and 9 of the Code of Conduct.

Reason for finding

The Panel recognised that Mr E and Councillor Burkmar had given conflicting accounts of the discussion that had taken place and that there was no independent evidence available to corroborate either case. That being said, the Panel was persuaded that, during the telephone conversation, Councillor Burkmar did not treat Mr E with due courtesy and respect. By Councillor Burkmar's own admission, he was curt with Mr E and had ended the conversation without the civilities most constituents would expect from their Councillor. Moreover, whether or not Councillor Burkmar had intended any offence when speaking to Mr E, the Panel did note the negative effect that the conversation had had on Mr E, from the recorded telephone conversation Mr E had with Spelthorne customer services when he registered his complaint. This call recorded and immediately followed the call in question between Mr E and Councillor Burkmar.

The Panel made the following finding concerning Councillor Burkmar's handling of email correspondence:

1. That he was discourteous and disrespectful to his email correspondents contrary to paragraphs 7 and 9 of the Code of Conduct.

Reason for finding

The Panel concluded that it was clearly Councillor Burkmar's responsibility to ensure that he was able to read and respond to emails which he had received from residents into his Spelthorne account. Having expressly purchased new IT equipment for this purpose, Councillor Burkmar then failed to work with the Council's ICT (Information and Communication Technology) team to ensure that he could access his email account and did not seek training in order to use the technology effectively. Nor did he seek advice from fellow Councillors about accessing and managing his emails. There was no evidence to suggest that IT system operated by Spelthorne Borough Council was in any way deficient.

When the initial Assessment Sub-Committee met in July 2016, there were over 1650 unread emails in Councillor Burkmar's account, many of which were from residents or related to official Councillor business. The Panel thought that this was completely unacceptable. Given the importance and ubiquity of electronic communication in modern society, Councillor Burkmar had been, in the view of the Panel, discourteous and disrespectful to those people who had contacted him by email and not unreasonably had expected him to respond to their enquiries in an appropriate and timely manner.

Sanctions Imposed

In accordance with the Localism Act 2011 and the Spelthorne Borough Council adopted procedures the Panel imposed the following sanctions:

1. Councillor Burkmar is required to send a private, written apology to the constituent with a copy to the Monitoring Officer, Michael Graham, within 7 days of the Hearing.
2. Councillor Burkmar is required to attend ICT training in order to get the best use out of the equipment he has purchased as soon as possible, and to advise the Monitoring Officer when this training is complete
3. The Council is requested to publish a factual press statement of the findings.
4. The Panel **censure** Councillor Steven Burkmar for failing to comply with paragraphs 7 and 9 of the Code of Conduct.

It is hoped that this Decision will underline the high standards that the Council expects from Councillors when communicating with members of their community.

The Panel agreed that this decision notice should be placed on the Council's website under the agenda and minutes of the meeting.

Murray Litvak
Chairman
21 October 2016

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