



## Key case review

**Chair: Paul Gott**, Board Member, the Standards Board for England

**Sara Goodwin**, Head of Legal, the Standards Board for England

**Hazel Salisbury**, Director of Casework, the Standards Board for England

# Case one

## Livingstone v the Adjudication Panel for England

High Court Judgement

19 October 2006

## The comment

- “What did you do before? Were you a German war criminal?”

## The outcome

- A more restrictive code:
- No application to any conduct in a private capacity
- Limitation placed on words “*or in any other circumstances*” (para 4 2001 Code)
- Extension placed on words “*performing his functions*” (s.52(1)(a) 2000 Act)

## Post Livingstone judgement and the Code

- Code applies when acting in your official capacity
- Disrepute and misusing your position provisions apply when “performing the functions” of being a councillor (which may be wider than “official capacity”)

## **Local Government and Public Involvement in Health Bill and the Code**

**After the Bill is introduced:**

- **Code applies when acting in your official capacity**
- **Code applies to conduct in a private capacity which results in a criminal conviction – only if it involves disrepute, misusing your position or intimidation**

## **Case two**

**Councillor Hudson  
Great Yarmouth Borough Council**

APE 0377  
12 July 2007

**Any questions?**

# **Case three**

**Councillor Woodrow**  
**London Borough of Camden**

APE 0352  
20 December 2006

## The Code

- **Paragraph 4 of the Code (2001)**

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

## The allegations

- **Speaking to *The Architect's Journal* prior to a planning application for the Kings Cross Central site being considered by the council.**
- **Failing personally to write to *The Architects Journal* after the publication by the journal of the comments, which were attributed to him in relation to the proposed Kings Cross Central development.**
- **Telephoning a member of staff of English Heritage and improperly discussing the proposed Kings Cross Central development application.**

## A divergence of views

- **Architects Journal**

**MO:** *“The article, if accurately recorded, clearly indicates that you have a pre-determined view of the application”*

**Developer:** *“This is not the first time reporters have approached, seeking comment on an alleged negative ‘briefing’ by Mr Woodrow”*

## A divergence of views

**Cllr Woodrow:** *“He (the journalist); he’s the only one sexed it up into... something that’s hit the headlines...”*

**ESO:** *“It is vital to the protection of the council, the sub-committee, and individual council members that they should have and should appear to have open minds about proposals until they are finally determined....”*

## A divergence of views

- **Telephone calls to English Heritage**

**English Heritage:** “... considered that Cllr Woodrow was quietly lobbying i.e. quietly seeking support from English Heritage for his view”

**Cllr Woodrow:** “Mr Pugh (of English Heritage) was on his hit list of people to talk to. He did not tell officers of his approach to Mr Pugh.”

**ESO:** “Cllr Woodrow’s action in contacting English Heritage was contrary to advice in the Councils Planning Protocol.”

## Tribunal decision

**Found:**

- **Cllr Woodrow was acting in his capacity as a councillor when he:**
  - gave interviews to the Architects Journal
  - telephoned Mr Pugh of English Heritage

## Disreputable behaviour

### The Architects Journal:

- press comment that revealed Cllr Woodrow to be pre-disposed does not harm the reputation of the office of councillor or the authority

## Disreputable behaviour

### Telephone calls to English Heritage:

- planning protocol has status as guidance, and not mandatory guidance
- improper for a councillor to contact a statutory consultee with a view to lobbying support for his/her view

## Disreputable behaviour

- By such improper behaviour, a councillor “*oversteps the mark*” and brings his/her office into disrepute contrary to paragraph 4 of the Code.

## Case four

**Harrogate Borough Council**

**No further action**

**26 July 2007**

# Case five

**A parish council direction**

**Any questions?**

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