

## Case Summary - Looe Town Council

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<b>Case no.</b>	SBE 06888 SBE06890, SBE06891, SBE06892, SBE06894, SBE06896, SBE06897, SBE06899
<b>Member(s):</b>	Councillor Michael Joy, Councillor James Dingle, Councillor Kim Smith, Councillor Brian Galipeau, Councillor Martin Gregory, Councillor Armand Toms, Councillor David Bryan, Councillor David Welch, Councillor Barbara King
<b>Date received:</b>	30 Jul 2009
<b>Date completed:</b>	13 Jan 2010

### Allegation:

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Disrespect, causing authority to breach equalities enactments, disrepute, misuse of position, failure to disclose personal interests, failure to withdraw

### Standards Board outcome:

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The ethical standards officer found that there had been no failure to comply with the code of conduct

### Case Summary

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The complainant, a member of the public of Irish Traveller ethnicity, alleged that Councillor Michael Joy, Councillor James Dingle, Councillor Kim Smith, and Councillor Brian Galipeau failed to treat her with respect and intentionally discriminated against her and her family for reasons of race, or for private gain. She alleged that this had occurred over a three year period during which the councillors had; propagated visits to her land by the police, fire brigade and RSPCA; improperly promoted enforcement action to harass her; improperly objected to her planning applications to live on the land; that Councillor Galipeau and Councillor Smith spoke disrespectfully about her and her family at a district council planning committee meeting; and that the councillors had made anti-traveller remarks and derogatory remarks about her and her family, at council meetings.

The complainant applied to be co-opted to the council. She was unsuccessful. She alleged that Councillors Joy, Dingle, Smith and Galipeau made racist remarks about her application and were determined to prevent her co-option. The complainant alleged that Councillors Smith, Dingle, Bryan, King, Welch, Toms and Gregory, as members of the co-option panel, improperly prevented her co-option by means of an unfair and discriminatory co-option process. She alleged that Councillor Smith was rude to her at the co-option interview. She alleged that Councillor Toms and Councillor Gregory did not disclose personal interests at the co-option interview and that both Councillor Dingle and Councillor Smith had a prejudicial interest in her co-option interview and failed to withdraw from the panel.

#### Member responses

Councillors Joy, Dingle, Smith and Galipeau denied that they had promoted any visits to the complainant's land, other than by district council enforcement officers. They had asked for enforcement in 2006 and 2007 because, in their view, there was unauthorised development on the land. They were unaware of the ethnic origin of the complainant until the relevant planning application was made in February 2008. They opposed the complainant's planning application because they wanted to protect the landscape, and not for reasons of race or for private gain. Councillor Galipeau denied making derogatory remarks about the complainant or Irish Travellers when he argued on the planning merits at the district council planning meeting. Councillor Smith said that he put forward the council's objections to the planning application. He did not make derogatory remarks about the complainant or Irish Travellers. All four councillors denied having made anti-traveller or racist remarks at any council meetings.

The councillors involved in the co-option process denied any discriminatory conduct. Councillors Joy, Dingle, Smith and Galipeau denied making racist remarks or trying to prevent the complainant's co-option. All the councillors on the co-option panel said that they carried out a fair selection process and chose the best candidate on merit. Councillor Smith denied that he had spoken rudely to the complainant during the interview. Councillor Toms and Councillor Gregory said that they had declared a personal interest at the interviews, which was recorded in the minutes. Councillor Dingle and Councillor Smith said that they did not consider that their earlier involvement in the enforcement and planning process concerning the complainant's land had created any conflict of interest for them when taking part in the co-option interviews.

#### **Ethical Standards Officer's (ESO) finding.**

The ESO considered that the councillors were acting in their official capacity as councillors at all relevant times. The ESO considered whether there had been a failure to comply with paragraphs 3(1), 3(2)(a), 5, 6(a), 9 and 12 of the code of conduct.

The ESO considered substantial witness and documentary evidence. She found no evidence that the councillors had treated the complainant's land differently from similar sites where enforcement had been sought. She found no evidence that the councillors' opposition to the planning applications was for reasons of race. She found no evidence that the councillors could privately gain from their opposition to the planning applications. The ESO noted that the police fire brigade and RSPCA had visited the complainant's land but there was no evidence that those visits had been initiated by the councillors. The ESO found no evidence that the councillors had made racist remarks about the complainant or Irish travellers generally, either at the district council planning meeting, or at any other time. There was no evidence of any failure to comply with paragraphs 3(1), 3(2)(a) 5 or 6(a) of the code of conduct

The ESO considered that members of the council's planning committee, including Councillors Joy, Smith and Dingle, made an error of judgment when they put forward a welfare concern about the complainant's children with the council's public planning objections, causing the complainant distress. The ESO accepted that the welfare concern arose from the apparent lack of mains water supply and not for reasons related to race. The ESO did not consider that this conduct was so serious as to amount to a failure by Councillors Joy, Smith and Dingle to treat the complainant with respect. There had been no failure to comply with 3(1) of the code of conduct.

The ESO found that prejudiced views about likely future Irish Traveller behaviour had probably influenced a letter from the council to the district council sent after the complainant had planning approval. The ESO noted that expressing prejudiced views when taking part in council business would be conduct by a councillor that would cause the council to breach equalities enactments. Councillors Galipeau and Smith were not at the council meeting where the issues set out in the letter were discussed. The ESO found no evidence that Councillor Dingle or Councillor Joy had expressed or promoted any prejudiced views during that meeting. There had been no failure to comply with paragraph 3(2)(a) of the code of conduct.


With regard to the co-option allegations the ESO found no evidence that Councillors Joy, Dingle, Smith and Galipeau had made racist remarks about the complainant or expressed an intention to prevent her co-option. The ESO found that the co-option process was fair and was not run in a way intended to improperly disadvantage the complainant. The ESO found that the complainant had not been treated less favourably during the application process or at interview. The successful co-option candidate was chosen on merit. The evidence was that Councillor Smith was not rude to the complainant when asking his question at interview. Councillor Gregory and Councillor Toms had disclosed their personal interests. There was no evidence that Councillor Dingle or Councillor Smith were biased against the complainant as a result of any earlier acquaintance or their involvement with the enforcement and planning matters. Councillors Dingle and Smith did not have a personal and prejudicial interest in the co-option decision. There had been no failure to comply with paragraphs 3(1), 3(2)(a), 5, 6(a), 9 or 12 of the code of conduct.

**The ESO found that the members had not failed to comply with the code of conduct.**

### **Relevant paragraphs of the Code of Conduct**

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Paragraphs 3(1), 3(2)(a), 5, 6(a), 9, 12.

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