

STOCKTON ON TEES BOROUGH COUNCIL

STANDARDS PANEL

SHORT WRITTEN DECISION

1. SUMMARY OF ALLEGATION

That Councillor Mark Chatburn (“the Councillor”) disclosed legally privileged information, namely Counsel’s Opinion, given in confidence to Members of Stockton on Tees Borough Council’s (“the Council”) Planning Committee in connection with an application for planning permission for residential development (13/2184/OUT) in relation to a site at Urlay Nook Road, Eaglescliffe, Stockton on Tees.

2. RELEVANT SECTION OR SECTIONS OF CODE OF CONDUCT

That as a result there was a breach of paragraph 6 of the Council’s Code of Conduct for Members.

3. SUMMARY FINDINGS OF FACT

- (i) The Councillor was sent a legally privileged advice note prepared by Counsel and this was provided to him in confidence under cover of a letter dated 5 November 2013. The letter included specific advice that the legal advice was exempt information and “must not be shared with anyone who is not also a Member of the Planning Committee as this would be a breach of the Members’ Code of Conduct and may further prejudice the Council’s position at the forthcoming appeal”.
- (ii) The Councillor did not seek advice from any Council Officer as to whether the publication of the privileged legal advice was appropriate, whether it may be in breach of the Code or whether it may prejudice the Council’s position in relation to the current planning appeal.
- (iii) The Councillor did not obtain written authority from the Council to disclose the information by the publishing of the privileged legal advice.
- (iv) On 9 November 2013 the Councillor published a blog posting entitled “How Stockton Council is trying to manipulate it’s own Planning Committee” which included an un-redacted copy of the privileged legal advice from Counsel which had been provided to the Councillor in confidence as a Member of the Planning Committee.

- (v) On 9 November 2013 the Councillor posted a link to his published blog post and therefore to the privileged legal advice via his Twitter account.
- (vi) The Councillor was acting in his capacity as an elected Member when publishing information on his blog and his Twitter account.

4. SUMMARY FINDINGS AS TO WHETHER THE MEMBER FAILED TO FOLLOW THE CODE

That the Councillor knowingly disclosed privileged legal advice provided to him in confidence, and which was marked as exempt information, and that the publishing of this information constituted a breach of paragraph 6 of the Council's Code of Conduct for Members.

5. SANCTIONS APPLIED (IF ANY)

The Standards Panel:-

- (i) agreed that the allegation should be considered in public and that there were no justifiable reasons why it should be considered (either partly or wholly) in private.
- (ii) noted that the Councillor was aware of the Panel's meeting, that the meeting had been rearranged to a date he could attend, but that he had not attended.
- (iii) agreed to proceed to consider the allegation in the Councillor's absence.
- (iv) having considered the report of the Investigating Officer, the Investigating Officer's submissions, and having sought and considered the Independent Person's views, determined that the Councillor knowingly disclosed legally privileged advice that had been provided to him in confidence, and which was marked as exempt information under paragraph 5 of Schedule 12A of the Local Government Act 1972; that the publishing of this information in the public domain by placing a copy of the privileged legal advice on the Councillor's blog, and by linking that blog to the Councillor's Twitter account, did not fall within any of the exemptions specified in paragraph 6(a)-(d) of the Council's Code of Conduct for Members, and that it therefore constituted a breach of paragraph 6 of the Code.
- (v) noted the Councillor's unwillingness or refusal to accept responsibility for the breach of the Code, and his unwillingness or refusal to agreed to abide by the Code in the future, in similar or the same circumstances.

- (vi) noted that the breach of the Code was deliberate and blatant and that the disclosure was of not just confidential or exempt information, but legally privileged information; and that the breach was aggravated by its likely impact in relation to the planning and appeal process.
- (vii) noted that the Councillor had shown no remorse, but rather to the contrary had indicated that he would do it again without hesitation, and that he had demonstrated scant regard for the pre-hearing and hearing process.
- (viii) considered that the Councillor's actions represented unacceptable behaviour for a Councillor.
- (ix) agreed that a notice, signed by the Chair of the Panel, and summarising the Panel's decision should be sent to the Councillor as soon as reasonably practicable and that a copy of the notice should thereafter be published in a prominent place at the Council's Municipal Buildings, and on the Council's website.
- (x) agreed that details of the Panel's decision should be reported to a full Council meeting and to a meeting of the Planning Committee.
- (xi) determined that the Councillor should be asked to provide written reassurance within two weeks of receiving the written notice of the Panel's decision, that he would not repeat the failure to comply with the Council's Code of Conduct in the same or similar circumstances, and that in the absence of such written reassurance the Councillor should not be provided by, or on behalf of the Council with any exempt, confidential, or legally privileged council information for the remainder of the Councillor's current term of office.
- (xii) agreed that the Councillor should be provided with appropriate advice and guidance regarding paragraph 6 of the Code of Conduct, including a copy of the Council's Confidential Information Protocol.
- (xiii) asked that the Council's Confidential Information Protocol be re-issued and re-circulated to all Members in light of the Councillor's breach of the Code of Conduct and the Panel's decision in that respect.



Chair of the Standards Panel held on 2nd May 2014

Dated: 7 May 2014