

Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

Agenda No

Audit & Standards Committee - 30th April 2008

Investigation under the Member Code of Conduct

Report of the Strategic Director of Performance & Development

Recommendation

- (1) That the Committee considers whether or not there has been a breach of the Member Code of Conduct.
- (2) If the Committee considers that there has been a breach then the Committee is asked to consider what action (if any) is appropriate.

INTRODUCTION

A copy of the investigators report into the complaint about Councillor Kanwardeep Singh is attached as Appendix 1. Certain information relating to the personal and family circumstances of Councillor Singh provided during the course of the investigation has been classified as 'exempt' under paragraphs 1 and 2 as defined in Schedule 12A to the LGA 1972 and regulations (Access to Information Rules) and is contained in a supplementary report.

The Investigating Officer does not intend to call any witnesses.

Councillor Singh does not intend to call any witnesses

PROCESS

An advice note on the process to be followed based on the arrangements agreed by the Committee for dealing with referrals for determination by the Standards Board is attached as Appendix 2.

DAVID CARTER
Strategic Director of
Performance & Development

Shire Hall
Warwick
9 April 2008

WARWICKSHIRE COUNTY COUNCIL MEMBER CODE OF CONDUCT

INVESTIGATION REPORT (OPEN)

CASE REF: SBE20485.07

RE: Reference in relation to possible failure to follow the Code of Conduct

COMPLAINANT: Mrs S Doughty

RESPONDENT: Councillor Kanwardeep Singh

INVESTIGATING OFFICER: Jane Pollard, Overview and Scrutiny Manager

INTRODUCTION

- 1) By letter and decision notice dated 12 December 2008 the Standards Board for England referred an alleged breach of the code of conduct to the Monitoring Officer of the County Council for investigation.

THE ALLEGED BREACH

- 2) Mrs S Doughty complained to the Standards Board for England following some work carried by a company called 'Perfect Property Services Limited'. Mrs Doughty was dissatisfied with the work and felt that Councillor Singh as a director of the company had used his position as a Councillor. The Standards Board for England assessed the complaint and decided that Councillor Singh was not acting in his official capacity and therefore the code did not apply. The only matter which fell potentially within the scope of the code of conduct was the allegation that Councillor Singh as a director of the company had failed to declare this company as a financial interest on the members' register of interest. A copy of the Decision Notice is available for inspection by members. This is the only matter which has been referred by the Standards Board and the only matter upon which the Committee is asked to adjudicate.

THE FACTS

- 3) Councillor Kanwardeep Singh was elected as a County Councillor on 5th May 2005. He made his declaration of acceptance of office on 10th May 2005, which includes an undertaking to abide by the Code of Conduct adopted by the Warwickshire County Council. Councillor Singh completed his register of interests following the elections and updated his register by notice given on 7th February 2006.
- 4) The Council initially adopted a Member Code of Conduct under the Local Government Act 2000 with effect from 1 April 2002. A revised code was adopted by the Council on 15th May 2007 to give effect to the changes made by the Local Authorities (Model Code of Conduct) Order 2007 SI 1159.

- 5) Councillor Kanwardeep Singh became a Director of Perfect Property Services Limited (the Company) on 21 July 2006 and ceased to be a Director of the Company on 21st May 2007. A copy of the relevant notices given to the Registrar of Companies and a letter from the Accountants and Tax Advisors to the Company confirming that Councillor Singh has not been involved in the administration of the Company since 21 May 2007 are available to members of the Committee on request.
- 6) The register of interests completed by Councillor Singh does not include any reference to the Company.
- 7) Councillor Singh was a 'remunerated director' in the sense that his participation as a director would have entitled him to a share of the profits. However as the company failed Councillor Singh has not received any payments from the Company nor has he recouped any of his initial investment.

THE CODE REQUIREMENTS

- 8) The Code which applied at the time Councillor Singh became a Director of the Company was the Code adopted by the Council on 1 April 2002. The revised code only applies from 15th May 2007. However essentially the provisions of both are the same i.e. they require a Councillor to include any personal interest which is required to be registered within his or her register of interests and to notify of any changes to his or her registrable personal interests within 28 days. An extract of the relevant provisions of the two codes are attached as Annex A.

VIEW ON WHETHER THERE HAS BEEN A BREACH OF THE CODE

- 9) In my view Councillor Singh had a registrable interest by virtue of his directorship of the Company and there has been a breach of paragraph 16 of the 2002 Code (now paragraph 13(2) of the 2007 Code) i.e. Councillor Singh failed to give written notice within 28 days of a change to his register of interests following his appointment as a Director of the Company on 21 July 2006.
- 10) As Councillor Singh is no longer a Director of the Company no amendment is required to his current register of interests to reflect this.

VIEWS OF COUNCILLOR SINGH

- 11) Councillor Singh accepts that he should have registered his appointment as a Director of the Company in his register of interests and asks the Committee to take into account the following reasons: -
 - (a) Personal and family circumstances which led to a very demanding and difficult time in his life during which he overlooked the requirement to register his interest in the Company. (The details of these circumstances are set out in the exempt part of the report).

In addition Councillor Singh would say

- (b) 'During the course of his directorship he did not portray himself as a Councillor which is confirmed in the decision of the Standards Board for England and Wales dated 12 December 2007 and he ensured that the Company was insured (A copy of the Certificate of Insurance has been supplied and is available for inspection by members.)

Previous Conduct

- (c) He would ask the Committee to take into account his good reputation with his members and the public and his committed and hard working approach in general council life.
- (d) He has worked hard to promote community cohesion and enclosed is a reference from Ramgharia Sikh Temple, Coventry which shows this to be so. Also attached is a reference from Bedworth Neighbourhood Watch.
- (e) He would also say that whilst it is inexcusable to fail to register the interest his failure was unavoidable due to the extreme pressure and emotional distress that he was suffering at the time. He has previously registered his interests in the Warwickshire County Council Register of Interests as and when required to do so. He is deeply regretful for this minor lapse and would ask that the above circumstances be taken into account. He was without any intent to mislead the local government or the community at large and this was a genuine oversight.
- (f) He would ask that the Committee make a decision that is appropriate in the circumstances and suggests that this is one of the following
 - i. No action be taken
 - ii. A written warning or
 - iii. Requirement for training.

Councillor Singh would wish to be present at the meeting to answer any additional questions the Committee may have.

Jane Pollard
Investigating Officer

ANNEX A

Extract from 2002 Code - Registration of Financial and Other Interests

14. Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of -
- (a) any employment or business carried on by him;
 - (b) the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;
15. Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his other interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of his membership of or position of general control or management in any –
- (c) company, industrial and provident society, charity, or body directed to charitable purposes;
16. A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the authority's monitoring officer of that change.

Extract from the 2007 Code - Registration of members' interests

13. —(1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.
8. —(1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect-
 - (iii) any employment or business carried on by you;



ਰਮਗਰੀਆ ਗੁਰਦੁਆਰਾ, ਕਮਿਊਨਿਟੀ ਕਾਲਜ ਤੇ ਪਰਿਵਾਰਿਕ ਕੇਂਦਰ

ੴ ਸ੍ਰੀ ਗੁਰਗੁਰੂ ਜੀ ਕੀ ਫਤਹਿ ॥

**RAMGARHIA GURDWARA, COMMUNITY COLLEGE
& FAMILY CENTRE MANAGING COMMITTEE**
1103 FOLESHILL ROAD, COVENTRY CV6 6EP

Ref No.

Date: 3rd February 2008

To whom it may concern

Tel: Office 024-7666 3048

Public 024-7668 8208

Re: Mr Kanwardeep Singh

Dear Sir/ Madam,

On behalf of the Ramgarhia Sikh Temple, Coventry – we would like to provide the following statement in support of: -

Mr Kanwardeep Singh - of -

14 Robert Road, Exhall, Coventry CV7 9GU.

We have known Mr K Singh since his early childhood. Since his arrival to the U.K. as a young boy from India in 1985, together with his family, he has grown to become a very well respected and valued members of our community.

Currently Mr K Singh is an active member of Warwickshire County Council in the role of an elected member of Poplar Ward, representing his local constituency. From his work with the local community, we can say that he is dedicated to his duty as a local councillor who is always willing to help his constituents from all walks of life.

As a youth worker, his efforts with drug rehabilitation and drug related problems affecting his community are particular noteworthy.

Yours sincerely


MS Bancil (Mr)

President



BEDWORTH NEIGHBOURHOOD WATCH

**Mrs L C Price Secretary
15 Baker Street
Hawkesbury Village
Warwickshire
CV6 6DJ
Tel: 024 76363458
Mobile: 07979846395
E-Mail gobbylynne@aol.com**

Date 10-04-2008

To whom it may concern

I have been asked to write to you in reference to Cllr K Singh, poplar ward. The committee can confirm that Cllr Singh has attended our monthly meeting on a regular basis and have always put himself forward to assist our members even if they are not in his ward. To name a couple of things he has achieved, he has stopped the double decker buses from going along Wootton Street and has also had weight restrictions put on Queen Street bridge.

Yours sincerely

Lynne Price

Secretary Bedworth Neighbourhood Watch

This project is funded by

Warwickshire County Council-Nuneaton & Bedworth Borough Council-Heart of England Community Foundation

ADVICE NOTE Determination of Complaints

Procedure at the Hearing

- 1) Introduction of those present
- 2) Any representations by the investigating officer and/or Councillor Singh as to reasons why the Committee should or should not exclude the press and public from all or any part of the hearing and determination to exclude the press and public.
- 3) Where the Committee decides that it will not exclude press and public, the Monitoring Officer shall at this point provide copies of the papers that have been circulated to any members of the press and public who are present.
- 4) If the Member is not present, consideration as to whether to adjourn or to proceed in the absence of the Member
- 5) If the Committee decides to proceed then, subject to the Chair of the Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting the hearing will proceed with
 - (a) Representations from the Investigating Officer
 - (b) Any witnesses called by the Investigating Officer in relation to disputed facts
 - (c) Representations from the Member
 - (d) Any witnesses called by the Member in relation to disputed facts
 - (e) Any witnesses called by the Committee or sub-committee in relation to disputed facts
- 6) The members of the Committee may ask a question at any point. Questions will be asked through the Chair.
- 7) If the Member, the Investigating Officer or any representative of either party wishes to challenge any oral evidence being presented, then these questions shall be directed through the Chair. Neither the Investigating Officer nor the Member or their representatives will be permitted to directly question each other or the witnesses the other calls.
- 8) If at any time during the course of the hearing the Member seeks to dispute any matter in the Investigator's report which he/she has not given notice of intention to dispute in his/her written statement in

response, the Monitoring Officer shall draw this to the attention of the Committee. The Committee or may then decide:

- (a) not to admit such dispute
 - (b) to admit the dispute, but to invite the Investigator to respond
 - (c) to adjourn the meeting to enable the Investigator to investigate and report on the matter in dispute
- 9) After the completion of any oral representations, and evidence the Committee or sub-committee will retire into private session to consider its findings and any sanctions if appropriate. The Monitoring Officer will retire with the Committee.

Making a Decision

10) The Committee will consider in private session which of the following findings to adopt:

- (a) That there is no evidence of any failure to comply with the Code of Conduct
- (b) That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken
- (c) That the Member has failed to comply with the Code of Conduct and a sanction should be imposed

11) If the Committee finds that there is a failure to comply with the code of conduct the Committee may invite the Investigating Officer and the Member to make further representations in relation to appropriate sanctions in the light of its findings. The sanctions available to the Committee if the Member has failed to comply with the Code of Conduct are **any one or any combination** of the following

- (a) censure
- (b) restricted access to the premises and resources of authority for a maximum period of three months (but ensuring that such restrictions are reasonable and proportionate to the breach and will not unnecessarily restrict the Member's ability to carry out his/her responsibilities as an elected or co-opted member)
- (c) a requirement that the member submits a written apology in a form specified by the Committee
- (d) a requirement that the member undertake training as specified by the Committee

- (e) a requirement that the member undertakes conciliation as specified by the Committee
- (f) partial suspension for a maximum period of three months,
- (g) suspension for a maximum period of three months,
- (h) suspension or partial suspension for a maximum period of three months or until such time as the Member submits a written apology in a form specified by the Committee
- (i) suspension or partial suspension for a maximum period of three months or until such time as the Member undertakes any training or conciliation specified by the Committee

12) Any sanction shall normally take effect immediately following its imposition except that the Committee may direct that any of the sanctions other than censure may commence on any date within a period of six months from the date it is imposed. Where the Member is no longer a member of the authority the only sanction available is censure.

13) In making its findings and deciding on any sanction (if appropriate), the Committee will consider all relevant circumstances and take into account the Guidance produced by the Standards Board for England.

14) If the matter is a complicated one, where the complaint has a number of aspects, the Committee may decide to consider the evidence and reach a finding on each aspect separately.

15) The Committee will normally formally give its findings and decision in public session. The Chair will announce the decision together with the reasons for that decision having regard to the need to protect any confidential or exempt information.

16) A short written summary of the decision will be made available on the day of the hearing where possible or the following working day to the Investigating Officer and the Member by the Monitoring Officer.

Appeal

17) Where the Committee determines that the Member has failed to comply with the Code of Conduct the Monitoring Officer shall inform the Member of his or her right to appeal against the determination to an appeal tribunal drawn from the Adjudication Panel.

Notice of findings

- 18) Within ten working days of the end of the hearing the Monitoring Officer shall circulate the full written decision, in the format recommended by the Standards Board, to the Member, the Complainant (where possible), the Investigating Officer concerned, the members of the Standards Committee and the Standards Committee of any other authority or parish council concerned.
- 19) At the same time, subject to paragraph 20 below, the Monitoring Officer shall arrange for a summary of the findings to be published in two newspapers circulating in the area of the Authority and on the council's web site.
- 20) Where the Committee determines that there has not been a breach of the Code of Conduct, the notice specified in paragraph 19 shall
 - (a) state that the Committee or sub-committee found that the Member had not failed to comply with the code of conduct and shall give its reasons for reaching that finding; and
 - (b) shall not be published in local newspapers if the Member so requests.
- 21) Where the Committee determines that there has been a failure to comply with the Code of Conduct but no action is required, the notice specified in paragraph 19 shall
 - (a) state that the Committee found that the Member had failed to comply with code of conduct but that no action needs to be taken in respect of that failure;
 - (b) specify the details of the failure;
 - (c) give reasons for the decision reached; and
 - (d) state that Member concerned may apply for permission to appeal against the determination.
- 22) Where the Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice specified in paragraph 19 shall
 - (a) state that the Committee found that the Member had failed to comply with the code of conduct;
 - (b) specify the details of the failure;
 - (c) give reasons for the decision reached;
 - (d) specify the sanction imposed, and
 - (e) state that the Member concerned may apply for permission to appeal against the determination.
- 23) Copies of the agenda, reports and minutes of a hearing, except for those parts, which contain exempt or confidential information, will be

available for public inspection for six years after the hearing. Background papers other than those parts containing confidential or exempt information will be available for public inspection for four years after the hearing.

Confidentiality and disclosure of information

- 24) Where the Monitoring Officer considers that the Investigator's report and/or any of the written statements in response is likely to disclose "confidential" or "exempt information" (as defined in Schedule 12A to the LGA 1972 and regulations), and in consequence that it is likely that the Committee will, during consideration of these papers, not be open to the public, copies of these papers shall not be provided to the press or public or be available for inspection by the press or public in advance of the meeting.
- 25) No person concerned in the hearing shall disclose any information which has been categorised by the Monitoring Officer as "confidential" or "exempt" information unless and until the Committee decides such information may be released. This does not affect the rights of the Investigating Officer or the Member to disclose such information to their legal or approved representatives for the purposes of the hearing or for the purpose of seeking legal advice.
- 26) The Committee shall have regard to the need to protect any confidential or exempt information in giving its findings and imposing any sanctions and producing any summary for publication.
- 27) The Hearing will be held in public apart from the following situations:
 - a) Where 'confidential information' is to be revealed, the Committee must hold such parts of a meeting in private. Confidential information is information provided by a government department under the condition that it must not be revealed, and information that cannot be revealed under any legislation or by a court order.
 - b) Where 'exempt information' is to be revealed the Committee may exercise their discretion in deciding whether or not to exclude the press and public. The categories of exempt information are set out in Schedule 12A to the LGA 1972 and regulations and include information relating to the personal circumstances of any person.
 - c) Where the Committee retires to consider its findings and or the imposition of sanctions if appropriate.