



PRIVATE AND CONFIDENTIAL

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007
THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008

STANDARDS

Report following an investigation under Section 59 of the Local Government Act 2000 by Kay Gray appointed by the Monitoring Officer of South Ribble Borough Council into an allegation concerning Councillor Thomas Edward Sharratt

Report prepared by:

**Ms Kay Gray
Principal Solicitor
South Ribble Borough Council
Civic Centre
West Paddock
Leyland
PR25 1DH**

DATE: 1st JUNE 2009

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1 Executive summary

1.1 The complainant is Councillor James Derek Marsh. On the 3rd of December 2008 Councillor Marsh submitted a formal complaint to South Ribble Borough Council relating to Councillor Thomas Edward Sharratt.

1.2 This complaint reads as follows:

“In the latest issue of his magazine “The Idle Toad” he has described me as a “Defecator”. In the previous edition he said that “I had left to join the Tories” which, as any senior member of SRBC will tell you, is a lie. I have put up with his nasty comments in his self-laudatory publication previously, but this time he has gone too far.”

1.3 The provisions of the Code of Conduct that I considered were paragraph 3.1 and paragraph 5.

1.4 Having investigated the matter I have come to the conclusion that there is a breach of paragraph 3.1 and paragraph 5 of the Code of Conduct.

2 Thomas Edward Sharratt’s official details

2.1 Thomas Edward Sharratt was first elected to office in approximately 1995. He represents the Coupe Green and Gregson Lane Ward of South Ribble Borough Council. Councillor Sharratt is also a County Councillor for Lancashire County Council.

2.2 Councillor Sharratt gave a written undertaking to observe the Code of Conduct in approximately May 2007 and has received awareness training.

3 The relevant legislation and protocols

3.1 South Ribble Borough Council has adopted a Code of Conduct for Members in which the following paragraphs are included:

3.1 You must treat others with respect

5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office into disrepute

4 The evidence gathered

4.1 I have taken account of oral evidence from Councillor Sharratt and Councillor Marsh

4.2 I have also taken into account documentary evidence obtained from Councillors Sharratt and Marsh in the form of correspondence and emails

4.3 I considered two articles from the Idle Toad. The first is an article entitled “Not a Real Tory” which appeared in the Autumn 2008 edition No. 343 and the

second an article entitled "The Toad is Dead – Long Live the Toad!" which appeared in the Spring 2008 edition No. 341

5 Summary of the material facts

- 5.1 The allegation relates to the contents of articles that have appeared in the publication of the Idle Toad. ***Paragraphs 5.2 sets out the allegations in summary; paragraphs 5.3 to 5.21 set out my findings of fact.***

Complaint

- 5.2 In his complaint of the 3rd December 2008 Councillor Marsh asserts that in two editions of "The Idle Toad" Councillor Sharratt has published articles which Councillor Marsh believes refer to him. Councillor Marsh believes that one article describes him as a "Defecator" and in the other he believes that Councillor Sharratt has said that he left the Idle Toad Party to join the Tories which he does not believe to be the case.

Findings of Fact

- 5.3 Councillor Sharratt is a member of the Idle Toad Party. He has previously been a journalist with the Manchester Guardian for approximately 30 years and confirmed that he produces the publication "The Idle Toad".
- 5.4 Councillor Marsh has issues with two articles that have appeared in the publication "The Idle Toad". The first is an article entitled "Not a Real Tory" which appeared in the Autumn 2008 edition, No.343 and referred to a Councillor as a "defecator". The second is an article that appeared in the Spring 2008 edition, No 341 and refers to a Councillor leaving the Idle Toad Party to join the Tories. Copies of both articles are attached to this report.
- 5.5 Neither of the aforementioned articles mentions Councillor Marsh or any other Councillor by name.
- 5.6 Councillor Sharratt confirmed that although he does not write all the articles in "The Idle Toad" publication he did write and edit the article "Not a Real Tory" but could not recall the second article Councillor Marsh refers to. That said he did confirm that no one else carries out editorial functions on the publication.
- 5.7 Councillor Sharratt stated in his taped interview that the article "Not a Real Tory" did refer to Councillor Marsh
- 5.8 The Concise English Oxford Dictionary defines the word "defecate" as "discharge faeces from the body" and as such a defecator could be described as someone who discharges faeces from the body. Defecator is described as someone who leaves one country in favour of another.
- 5.9 Councillor Marsh understood the meaning of the word defecator and stated in interview that he believed that the article was calling him a "bloody shit"

- 5.10 Councillor Sharratt has stated both in taped interview and his letters of the 4th March 2009 and 6th March 2009 that the use of the word “defecator” in the article “Not a Real Tory” was a misprint and should have read “defector”. Councillor Sharratt stated that a correction would appear in the next edition of “The Idle Toad” but I understand that he has informed a Council Officer that the next edition of The Idle Toad will not be produced until after the Elections in June.
- 5.11 Councillor Sharratt states that between the publication of the article “Not a Real Tory” and the submission of the complaint Councillor Marsh did not complain directly to Councillor Sharratt regarding the article. He also stated in correspondence that he has never received a complaint from Councillor Marsh regarding any “nasty comments” as alleged by Councillor Marsh or about any of the articles that have appeared in the Idle Toad.
- 5.12 Councillor Marsh stated in interview that he did not believe the use of the word “defecator” was a misprint but a deliberate act. He stated that he did not believe that a man with as much experience as Councillor Sharratt would have made such a mistake.
- 5.13 In respect of the article “Not a Real Tory” Councillor Sharratt stated that the information relied on came to him third hand in that the lady in question told someone else who told Councillor Sharratt. Councillor Sharratt would not name his source.
- 5.14 Councillor Marsh stated in interview that he believes that the article “Not a Real Tory” refers to him. He stated other people have approached him who also thought the article referred to him.
- 5.15 Councillor Marsh was elected as a representative of the Idle Toad Party on 14th October 2004 and ended his affiliation with the Idle Toad Party on 13 February 2007.
- 5.16 Councillor Marsh states in interview that he had left the Idle Toad Party as a result of an argument with Councillor Sharratt. He stated that he had originally intended to stand as an independent but a few weeks after leaving the Idle Toad Party was asked by the leader of the Conservative Party to stand as their representative. He states that shortly after he received the invitation from the Conservative Party he also received an invitation from the Labour Party. He chose to represent the Conservative Party.
- 5.17 Councillor Marsh stood as a Conservative Councillor in the May 2007 elections.
- 5.18 In respect of the article “The Toad is dead – long live the Toad! Councillor Sharratt stated in interview that the reference to a Councillor leaving to join the Tories may have been a reference to Councillor Marsh.
- 5.19 Councillor Marsh stated in interview that he thought the article referred to him as had other people. He stated that the facts speak for themselves when taking into account which other Councillors were previously in the party and had left.

- 5.20 Councillor Marsh stated in interview that he thought the reason for the articles was to show him in the worse possible light. He thought the article that referred to him leaving to join the Tories had lost him a lot of support.
- 5.21 Councillor Sharratt in correspondence relies on Section 75 (1) (c) of the Representation of the People Act 1983 which he claims permits him and all others to disparage their rivals i.e. political banter.

6 Additional Procedural Comments from Councillor Sharratt

- 6.1 Both in correspondence and in interview Councillor Sharratt made reference to two issues. The first was that he was not aware of the “indictment” against him and secondly he believed that he was being tried twice for the same offence and that this was not allowed under the English Law rule of double jeopardy.
- 6.2 These issues have been dealt with by way of correspondence and also as part of the taped interview.
- 6.3 In relation to the issue of Councillor Sharratt not knowing the “indictment” against him it has been explained to Councillor Sharratt that this is not a criminal matter and therefore there is no indictment merely a complaint.
- 6.4 Councillor Sharratt has been provided with a written explanation of the complaint along with a copy of the original complaint form, the Council’s interim procedure for the initial assessment of complaints of breach of the Code of Conduct, the Council’s initial assessment criteria, copy correspondence from Councillor Marsh with accompanying documents requesting a Review of the original decision, Copy Decision Notice of Review Sub-Committee and he was provided with correspondence which specifically outlined the complaint against him and the sections of the Code of Conduct which it was considered he may have breached.
- 6.5 It has been explained that prior to my investigation no findings of fact have been made against Councillor Sharratt.
- 6.6 Councillor Sharratt raised the matter again both at the beginning and end of the interview. A verbal explanation of the complaint and areas of the Code of Conduct that may have been breached was provided.
- 6.7 Councillor Sharratt is an intelligent man and given the level of information provided to him I find it hard to believe he is not aware of the complaint against him. This is confirmed by the fact that even before the interview he was able to address the issues in question in his letter of the 6th March 2009
- 6.8 In relation to the second submission, Councillor Sharratt has stated that he is being tried for the same offence twice. I refer again to correspondence which has been sent to Councillor Sharratt along with the verbal explanation in interview.

- 6.9 Councillor Sharratt would appear to believe that because the Assessment Sub-Committee initially decided there was no case to answer the matter should not be revisited.
- 6.10 Councillor Sharratt was informed in a letter of 22 December 2008 that the Complainant had a right to appeal the initial Assessment Sub-Committees Decision. This was then repeated in my letter of the 9th March 2009. Councillor Sharratt was therefore fully aware that the current investigation is legally valid and that the rule of double jeopardy does not apply.

7 Reasoning as to whether there have been failures to comply with the Code of Conduct

The Complaint under paragraph 3

- 7.1 I initially considered in what instances a Councillor would be considered to be failing in his duty to treat others with respect. To assist my investigation I have considered Guidance from the Standards Board (e.g. Case Reviews) which clearly state that “paragraph 3(1) is not intended to stand in the way of lively debate in local authorities.” It confirms that such discussions are a crucial part of the democratic process. The Guidance goes on to state that the differences of opinion and the defence of those opinions through members’ arguments and public debate are an essential part of the cut and thrust of political life. This clearly supports Councillor Sharratt’s suggestion that what has been printed in respect of Councillor Marsh leaving the Idle Toad Party to join the Conservative Party is merely political banter.
- 7.2 The Guidance goes on to state that a clear line has to be drawn between the Code of Conduct’s requirement of respect for others, including members of the authority with opposing views, and the freedom to disagree with the views and opinions of others. The following examples are provided which assist in this investigation:
- a. “You’re talking drivel” is likely to be an acceptable expression of disagreement, whereas;
 - b. Calling someone a “useless, fat, dim-witted, ugly four eyed git” on the other hand is more likely to be a failure to comply with paragraph 3(1).

It can be seen that the first comment is aimed at the expression of an idea or argument whereas the second is aimed at the person and their personal characteristics.

- 7.3 When considering the above example and the complaint regarding the use of the word “defecator” I believe that if its use was intentional then there is a breach of paragraph 3.1 of the Code of Conduct as to call someone, in Councillor Marsh’s own words “a shit” could be considered as being aimed at the person and their personal characteristics rather than an acceptable expression of disagreement.
- 7.4 This conclusion is supported by the fact that other people apparently had the same understanding as Councillor Marsh to the word “defecator” and approached him expressing comments in respect of the same.

- 7.5 It is therefore necessary to consider whether the use of the word “defecator” is intentional or was a misprint as Councillor Sharratt alleges.
- 7.6 From the evidence it is clear that Councillor Sharratt wrote the article “Not a Real Tory” which contained the word defecator. He was also the editor of the publication which contained the article and admitted in interview that the article referred to Councillor Marsh.
- 7.7 Councillor Sharratt would appear to be an intelligent man with over 30 years experience as a journalist as well as an experienced Councillor. He was responsible for writing and editing the edition, but claims that the inclusion of the word “defecator” was a misprint. Such a mistake is not consistent with a man of such experience and standing. Even if the misprint had occurred when initially writing the article I would have expected it to have been picked up in the editorial process. Therefore even if the inclusion of the word “defecator” was not intentional I feel that its inclusion was reckless to such a degree that the Code of Conduct would still have been breached.
- 7.8 I therefore conclude that the use of the word “defecator” was intentional and/or reckless to such a degree that a breach of the Code of Conduct has occurred. I feel that this sort of behaviour is something which falls short of what is expected of someone holding public office.
- 7.9 I have to say that I sympathise with the views of Councillor Sharratt when he states that his comments regarding a Councillor leaving to join the Tories is political banter although there is no doubt that harm has occurred to Councillor Marsh as a result of those comments. In light of the contents of the Standards Board Guidance, as outlined above, I do not believe that there has been a breach of paragraph 3.1 in respect of the article “The Toad is Dead – Long Live the Toad”.

The Complaint under Paragraph 5

- 7.10 Paragraph 5 of the code is concerned with behaviour which could reasonably be regarded as bringing a member’s office or authority into disrepute. Conduct by a member that could reasonably be regarded as reducing public confidence in the authority being able to fulfil its functions and duties will bring the authority into disrepute.
- 7.11 The alleged breaches of both paragraph 3.1 and paragraph 5 of the code of conduct do not amount to a criminal offence and thus can only be committed by a member acting in his official capacity. A member acts in his official capacity whenever he conducts the business of his authority or acts, claims to act, or gives the impression he is representing his authority.
- 7.12 In this instance both areas of complaint refer to articles in “The Idle Toad” publication. The publication has the same name as the party and is written (in the main) and edited by the leader of The Idle Toad Party. Although issues of local importance are reported in the paper I believe it also reports what I see to be politically related articles about the Idle Toad Party. I believe that such a publication gives the impression that it is a publication that is produced when

Councillor Sharratt is representing his authority/office. I therefore believe that he was acting in an official capacity when producing the publication “The Idle Toad”.

- 7.13 However, a member is only guilty of a breach of paragraph 5 if he “conducts himself in a manner” which could reasonably be regarded as bringing his office or authority into disrepute. This appears to be directed at situations where public confidence in the office or authority of a member has been reduced by the culpable actions of that member.
- 7.14 As stated previously I believe the use of the word “defecator” in the article “Not a Real Tory” is conduct that falls short of what is expected of those holding public office. It is offensive and has been said in a publication which is available to Councillor Marsh’s constituents and the general public. In addition, I believe that harm has been caused to Councillor Marsh’s reputation. As such I believe Councillor Sharratt has brought his office into disrepute in respect of the article “Not a Real Tory”.
- 7.15 In respect of the article “The Toad is Dead – Long Live the Toad!” I believe that this does not breach paragraph 5 of the Code of Conduct because as stated earlier I believe the comments made are political banter.

8 Finding

- 8.1 That Councillor Thomas Edward Sharratt is in breach of paragraphs 3.1 of the Code of Conduct in respect of the use of the word “defecator” in the article “Not a Real Tory” as his comments were of a personal nature and appeared to be made in an attempt to discredit Councillor Marsh’s character.

I do not find Councillor Sharratt in breach of paragraph 3.1 or paragraph 5 in respect of the contents of the article “The Toad is Dead – Long Live the Toad!”

- 8.2 I find that Councillor Sharratt is in breach of paragraph 5 of the Code of Conduct in respect of the article “Not a Real Tory” and the use of the word “defecator”. The publication of such an article personally calling another Councillor is not behaviour I would expect of someone holding public office. I consider that, Councillor Sharratt has therefore brought his office into disrepute.
- 8.3 If the Standards Committee agree with the findings of this report then a sanction should be imposed on Councillor Sharratt. This would impress upon him the seriousness of the situation. However, given Councillor Sharratt’s record of public service and good conduct, that sanction could be limited to:
- a. Censuring him; and
 - b. Requiring him to apologise to Councillor Marsh in writing and an apology and retraction in the next publication of “The Idle Toad”.
- 8.4 The draft report was sent to both Councillor Marsh and Councillor Sharratt. No response was received from Councillor Marsh and Councillor Sharratt stated that he wished to refrain from comment on the draft report until he puts his defence in person to the Standards Committee.

Appendix A

Schedule of evidence taken into account

Case No: 6

Core documents

Doc No	Description	Pages
1	Complaint	1 – 3
2	Code of Conduct for South Ribble Borough Council	4 - 12

Notes of telephone conversations, letters, and interviews with witnesses

Doc No	Description	Pages
3	Notes of Interview with Councillor Marsh	13 - 19
4	Notes of Interview with Councillor Sharratt	20 - 29
5	Copy letter from Councillor Marsh dated 5 Jan 09	30 - 34
6	Copy letter from Councillor Sharratt dated 21 Dec 08	35
7	Copy letter to Councillor Marsh dated 22 Dec 08	36
8	Copy letter to Councillor Sharratt dated 22 Dec 08	37 - 38
9	Copy letter to Councillor Sharratt dated 5 Jan 09	39 - 40
10	Copy letter from Councillor Sharratt dated 9 Jan 09	41
11	Copy letter to Councillor Sharratt dated 14 Jan 09	42
12	Copy letter to Councillor Marsh dated 28 Jan 09	43
13	Copy letter to Councillor Sharratt dated 29 Jan 09	44 - 45
14	Copy letter from Councillor Sharratt dated 4 Mar 09	46
15	Copy letter from Councillor Sharratt dated 6 Mar 09	47 - 48
16	Copy letter to Councillor Sharratt dated 9 Mar 09	49

Minutes of meetings and other documentary evidence

Doc No	Description	Pages
17	The Idle Toad – Spring 2008 edition No.341	50 – 82
18	The Idle Toad – Autumn 2008 edition No.343	83 - 115
19	Copy extract from Concise Oxford English Dictionary	116

Councillor Sharratt's comments on draft report

Doc No	Description	Pages
	None	

List of unused materials

Appendix B

Chronology of events

- Spring 2008 – The Idle Toad publication No. 341 containing the article “The Toad is Dead – Long Live the Toad”.
- Autumn 2008 – The Idle Toad publication No. 343 containing the article “Not a Real Tory”
- 3rd December 2008 – Councillor Marsh submits a complaint to South Ribble Borough Council