

CODE OF CONDUCT COMPLAINT –
REPORT OF INVESTIGATOR –
DAVID PATTISON –
DIRECTOR OF LEGAL AND PUBLIC HEALTH PROTECTION
AND MONITORING OFFICER – SOUTH STAFFORDSHIRE DISTRICT COUNCIL

CLLR C WILEMAN
(EAST STAFFORDSHIRE BOROUGH COUNCIL)

Complainants:	Andy O'Brien
Subject Member:	Councillor Colin Wileman
Relevant Council:	East Staffordshire Borough Council
Date of Incident:	3 rd February 2016

Detail of Complaint:

The complaint is set out in the complaint form received from Andy O'Brien (AOB), Chief Executive of East Staffordshire Borough Council (ESBC).

The complaint is that on 3rd February 2016 Councillor Colin Wileman (Cllr Wileman) attended the Leader's Advisory Group. It is alleged that at that meeting confidential information was given to members of the controlling political group as to the intended process and likely outcome/s for ESBC awarding voluntary sector grant funding.

Specifically it is alleged that information was given as to the proposed recommendation not to award some or all of the voluntary sector grant funding at that time and the reasons for not doing so.

It is alleged that Councillor Wileman did on or about 3rd February 2016 disclose confidential information concerning the Council's proposed actions regarding the voluntary sector grants fund to another person (namely his son Conor Wileman) without authority to do so thus breaching ESBC's Code of Conduct to which he is bound.

It is alleged that he informed Conor Wileman that certain organisations would not receive any funding. Conor Wileman subsequently petitioned certain Councillors at ESBC about the proposed decision (before it had been made public) and as a result enquiries were made as to the source of the leak. That then led to this complaint being made.

It is further alleged that the information released could have damaged the Council's reputation and possibly its financial standing because this could have led to the unsuccessful applicants bringing a legal challenge against ESBC.

Documents reviewed in investigation of complaint:

1. Complaint form with appendices (Document 1)
2. Code of Conduct of East Staffordshire Borough Council (Document 2)
3. Training records for Cllr C Wileman (Document 3)
4. Declaration of Acceptance of Office of Cllr C Wileman (Document 4)
5. Elected Members' Induction Pack 2015 (Document 5)
6. Current rules of Leader's Advisory Group (Document 6)

Investigation carried out:

I met with the following people:

- The Complainant – Andrew O'Brien
- The Subject of the Complaint – Cllr Colin Wileman
- The Monitoring Officer – Angela Wakefield
- The Leader of the Council – Cllr Richard Grosvenor

Findings of Investigating Officer:

I have been asked to carry out this investigation by Angela Wakefield Monitoring Officer to ESBC.

In carrying out this investigation I have only had the information detailed above before me.

a) *Is Councillor Wileman bound by ESBC's Code of Conduct?*

The first issue is whether Cllr Wileman is bound by the Code of Conduct. I note that Cllr Wileman was elected to office for the first time on 10th May 2015 and signed the declaration of acceptance of office on 12th May 2016.

I do not have a copy of the code of conduct signed by him, however I do have a copy of the list of information provided to all members by the Monitoring Officer in the Elected Members Induction Pack which includes the Code of Conduct.

On being asked by me about the Code of Conduct Cllr Wileman accepted that he was aware of it and that he was bound by it.

I find that Cllr Wileman was bound by ESBC's Code of Conduct.

b) *Does the Complaint fall within the scope of ESBC's Code of Conduct?*

The next thing I must establish is whether this complaint falls within the scope of ESBC's Code of Conduct.

The allegations made against Cllr Wileman relate to information provided to members of the controlling group at ESBC at the Leader's Advisory Group on 4th February 2016. Cllr Wileman accepts that he attended this meeting as a councillor.

Under Part 2 of ESBC's Code of Conduct it applies when Councillors conduct the business of the Council or act as a representative of the Council. The Code of Conduct is clear that this includes carrying out the business of the office to which they are elected.

I am clear that the Code of Conduct did bind Cllr Wileman in relation to any actions in relation to information he was given at the Leader's Advisory Group.

c) *Was there a breach of the Code of Conduct by Cllr C Wileman?*

In order to consider this issue there are a number of points that I must first analyse:

- Was information provided on a confidential basis at Leader's Advisory Group?
- Was confidential information specifically provided at the Leader's Advisory Group on 3.2.16?

- Was that information passed on in breach of that duty of confidentiality by Cllr Wileman?
- Does a breach of that duty of confidentiality constitute a breach of the Code of Conduct?

i) Was information provided on a confidential basis at Leader's Advisory Group?

AOB informed me that the way that Leader's Advisory Group (LAG) works is that officers of ESBC attend Part A of the meeting to brief members of the controlling group who are not members of Cabinet. He further informed me that generally officers leave for Part B of the meeting and other members of the Conservative association may join the meeting.

AOB explained that officers provide technical presentations and that the purpose of LAG is for the whole group to realise the proposed plans going forwards.

AOB believes that the whole nature of LAG is confidential and that this is very clear to anyone attending. AOB believes that there are group rules on this and that all members of the political group are required to sign up to this.

I discussed this issue with Cllr Grosvenor. He was also clear that there was a duty of confidentiality regarding the information and provided me with the current group rules to confirm this.

Cllr Grosvenor explained that at the time it could have been the case that Cllr Wileman's son could have attended the meeting as a member of the Conservative Association albeit that he did not on 3.2.16. I understand that only officers and members of ESBC attended the meeting on 3.2.16.

He further explained that the rules have now been amended so that non-councillors (of ESBC) only attend at a certain point and not for the whole of the Part B meeting.

Cllr Wileman also made the point to me that his son could (at the time) have attended Parts A and B of LAG as a member of the conservative association. He did not specifically recall any warnings about confidentiality generally about information given at LAG.

I note that Cllr Wileman did attend training given by ESBC's Monitoring Officer on Decision Making and Access to Information on 23.11.15. I note that the training given on that date included training on confidentiality. Indeed I have had evidence from the Monitoring Officer that Cllr Wileman asked questions on the ramifications of divulging confidential information.

On balance I find that there was some scope for argument, at the time, as to whether non ESBC councillors, who were members of the Conservative association, could generally have had access to information provided in Part A of LAG. I accept that this has now been clarified by revised rules.

It is not conclusive that all information provided at LAG *generally* was confidential. I therefore need to look specifically at the meeting of 3.2.16.

ii) Was confidential information specifically provided at the Leader's Advisory Group on 3.2.16?

AOB explained that on 3.2.16 the officers presented the proposed budget for the financial year 2016/17 for ESBC to members of LAG in Part A of the meeting.

AOB is clear that it was made explicitly stated at the meeting that the information being provided was commercially confidential.

He explained that the budget setting was discussed at that meeting and that in relation to the grant funding he had specifically stated that it was commercially sensitive as it affected so many organisations and was private and confidential. He also explained the process for awarding the grant funding and the difficulties with the bids.

At the point that the grant funding was being discussed AOB, Sal Khan (The Section 151 Officer) and Lisa Turner (Deputy Section 151 Officer) were the only officers present.

Cllr Grosvenor was also clear that it was made clear at LAG on 3.2.16 that the information was confidential.

Cllr Wileman did not specifically recall any warnings on confidentiality. He did however see why the information was confidential.

I note that on 3.2.16 difficult decisions were being taken which would mean that a number of organisations would no longer receive funding. I accept that it was made clear that the organisations did not know at the time that they would not receive the funding.

them in confidence by anyone...which they believe, or ought reasonably to be aware, is of a confidential nature except for certain limited exceptions (see rule 3.7). The information passed on by Cllr Wileman was in breach of that requirement.

I am clear, based on my findings above that Cllr Wileman ought reasonably to have been aware that the information was confidential as a) it related to the forthcoming budget b) it related to difficult decisions concerning a number of organisations that did not already know what was going to happen regarding the funding

In addition I also find that passing the information on also fell foul of rule 3.9 in that the release of the information could reasonably be regarded as bringing the Council into disrepute. I take that view as if confidential information cannot be provided by officers or other members in confidence then the Council cannot properly function. I also note that the release of this information could have led to a legal challenge against the Council.

I find that on the balance of probabilities a warning was given on 3.2.16 that the information provided in relation to grant funding was confidential and commercially sensitive and that it was clear that it was not to be passed outside that meeting.

iii) Was that information passed on in breach of that duty of confidentiality by Cllr Wileman?

Cllr Wileman was very clear that the source of the information on ESBC's decision re grant funding was him. He explained that after the meeting he went home on 3.2.16 and briefly had a conversation over dinner with his son, Conor.

He explained that he told Conor what had happened that evening for approximately 5 minutes. He thought he was having a confidential "father and son" discussion and wasn't aware that it was going to go to anyone else.

He stated to me that it was a very bad mistake to do what he did and that he couldn't begin to say how sorry he was and that it would never happen again.

I note that on initial investigation Cllr Wileman accepted that he was the source of the leak¹, he then appears to have sought to argue that the leak may have come from another source². However he then sent an email confirming that he was the sole source of the breach³.

I am clear that Cllr Wileman did pass the information on in breach of the duty of confidentiality and that he was the sole source of the breach.

I am also clear that he did not intend the information to go any wider than his son and that he thought his son would keep the information confidential.

- *Does a breach of that duty of confidentiality constitute a breach of the Code of Conduct?*

Yes – Part 3 is clear that Councillors must not disclose information given to

¹ e attendance note of ESBC Monitoring Officer dated 11.2.16

² e revised attendance note dated 15.2.16

³ e email from Cllr C Wileman to ESBC Monitoring Officer dated 21.2.16

In conclusion I find that Cllr C Wileman has breached the Code of Conduct and that the matter should be the subject of a hearing before the Standards Committee.

Signed D Pattison

Date : 16.6.16

Investigating Officer

**ATTENDANCE NOTE – Meeting between ESBC Statutory Officers and
Cllr Colin Wileman**

Matter : 001512
Date : 11 February 2016
Author : Angela Wakefield
Attending : Cllr Colin Wileman (CW); Andy O'Brien (AO'B); Sal Khan (SK); Angela Wakefield (AW)

AO'B first asked CW "Have you shared any confidential information about Bargates?" -to which CW answered "No".

AO'B then asked "Have you shared any confidential information about the voluntary sector?" – to which CW answered "I haven't 'shared' anything, no. I had a short conversation over dinner about it with Conor [CW's son and a Staffs County Councillor]. I know he emailed Julia. I wasn't there when he sent the email; I don't know what he said but he shouldn't have sent it. I apologise."

AO'B outlined for CW the possible financial/legal consequences for the Council of CW's disclosure of the confidential information.

AW questioned CW about his understanding of what constituted sharing of information, since from the way he'd expressed his response to AO'B CW seemed to be indicating that he didn't believe that speaking about a confidential issue over a family dinner really was information sharing. CW replied that he and his son discussed many issues and he hadn't fully appreciated the significance of talking about his Group's discussions/decision on voluntary sector funding. When AW asked CW if the discussions had been in Part B of the LAG agenda, CW was unclear but said that they took place after officers had left so he now thought so. SK reiterated the point that the leak may have significant financial implications for the Council.

CW queried what would happen next. AO'B mentioned the meeting CW was due to have with Cllrs Grosvenor and Ackroyd and AW said that much would depend on the outcome of that meeting but she would also outline the Standards Complaints Procedure, telling CW that she would notify him as soon as she had made a decision on whether or not to treat this as a matter for Standards Committee.

CW readily admitted when questioned that he was the source of the leak of the voluntary sector funding discussions/decision. At several points during the meeting he expressed his apologies for what had happened and acknowledged that he should not have acted as he did.

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CW readily admitted when questioned that he had spoken to Conor about the voluntary sector funding discussions/decision. At several points during the meeting he expressed his apologies for what had happened and acknowledged that he should not have acted as he did.

Note: CW rang AW on 15th February at approximately 2.15pm having recently picked up AW's email enclosing a copy of this attendance note. CW clarified that the LAG meeting finished at approximately 9.30pm, after which he went to Tesco to pick up some food on his way home. CW then returned home where he found Conor, who was already upset and who already apparently had information on the LAG discussions on the subject of voluntary sector funding – including information on what CW referred to as "the five". AW

agreed that she would amend her attendance note to include this new information and that she would circulate a copy in advance of CW's meeting with Cllr Grosvenor late that day.

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Angela Wakefield

From: Cllr C Wileman
Sent: 21 February 2016 19:41
To: Angela Wakefield
Cc: Cllr R G W Grosvenor; Cllr P Ackroyd
Subject: Grant Aid

Dear Angela,

I have told Richard and Patricia that I was the sole source of the leak. I did have a conversation with my son re. grant aid. I am deeply sorry this happened and as I have already said I can't apologize enough for my error. I can assure you and the other council officers and council members that it will never happen again.

As a new councillor I feel I have had undue pressure placed upon me with regards to my relationship with my son. Because of this I am Removing myself from the Bargates briefing group with immediate effect. I have also seriously considered removing myself from the other committees that I sit on, however I have decided against this. I am very proud of being a borough councillor and I am now going to continue to represent the people of Brizlincote to the best of my ability as I was elected to do in May 2015. This whole issue has been very stressful and is starting to affect my health i.e sleep patterns and constant pressure so please take this as my final comment on this matter.

Kind Regards

Colin