

WILTSHIRE COUNTY COUNCIL

COUNTY COUNCIL

21 November 2000

CONSIDERATION OF OMBUDSMAN FINDINGS IN RELATION TO COUNTY
COUNCILLOR MRS BRYANT

Background

1. As the Monitoring Officer for Wiltshire County Council I am obliged under Section 5 of the Local Government and Housing Act 1989 to report to the County Council with recommendations when there is a finding of maladministration by the Local Government Ombudsman. This includes circumstances where there has been a finding by the Local Government Ombudsman of maladministration by a County Councillor.
2. The Local Government Ombudsman has power to consider complaints by the public against action by members that lead to injustice and maladministration. A finding of maladministration against a member is a finding of maladministration against the County Council.
3. The summary of the Ombudsman's findings into Complaint No 99/B/2400 (Appendix 1) against Wiltshire County Council was that the Council had a vacant smallholding adjacent to the complainant's existing land. It allocated the tenancy to another farmer. Mrs Bryant was a member of the Selection Panel, formed to allocate the tenancy. The Ombudsman found that she had a clear and substantial interest under the National Code of Local Government Conduct that she failed to declare, in that she was related to the successful candidate. She also failed to leave the meeting while the applications were discussed. He found no evidence that a different decision would have been reached had she withdrawn from the meeting. He found maladministration causing injustice. He recommended that the Council make the complainant an ex-gratia payment of £500 for his avoidable distress and annoyance, and to review its procedures.
4. The Director of Environmental Services has apologised to the complainant and has sent him an ex-gratia payment of £500 under delegated authority. The Director has reviewed his departmental procedures.
5. As the County Council's Monitoring Officer I have to report to the County Council with recommendations on what action should be taken within three months of the Ombudsman's report, or such longer period as may be agreed. This includes making recommendations in relation to the conduct of Mrs Bryant and steps that might be taken to avoid a recurrence of the problem.

6. Members have the right to accept or reject my recommendations. I have to advise the Ombudsman of the decision of the Council.

The Interim Standards Panel

7. Under the Local Government Act 2000 the County Council is going to establish a Standards Committee from the summer of next year. In order to prepare for that the Council has set up an independent interim Standards Panel to consider how the Council should prepare for the implementation of the new legislation, (see minute 132 of the Policy and Resources Committee of 19 September 2000). The purpose of the new act is to ensure that the public have confidence in the integrity of local government and its decision making.
8. The Standards Panel was asked to consider the matter of Mrs Bryant and to advise me on a possible recommendation to the County Council.
9. The Standards Panel has considered the Ombudsman's report (Appendix 2) and the representations that Mrs Bryant made to the panel. The Panels recommendations were:

"In the light of our considerations, we recommend the County Council:-

- (1) To mark its disapproval of Mrs. Bryant's behaviour by admonishing her for her failure to act appropriately.*
 - (2) To remove Mrs. Bryant from membership of the County Farms Tenants' Selection Panel until the end of this Council in April 2001. Whether Mrs. Bryant is appointed to the Panel after May 2001 will be a matter for the new Council.*
 - (3) That in future, members declaring a non-pecuniary interest and who propose to remain in the meeting because they feel their interest is not clear and substantial should be asked to explain at the meeting the exact nature of their interest. Members preferring not to explain their interest should leave the meeting and take no part in the decision-making process."*
10. The Standards Panel's findings seem to me, as the County Council's Monitoring Officer, fair and reasonable and I am minded to recommend to the County Council that they be adopted in their entirety.

Recommendation

11. That the County Council:

- i. Note the findings of the Local Government Ombudsman into Complaint No 99/B/2400 (Appendix 1) against Wiltshire County Council.
- ii. Note the action of the Director of Environmental Services.
- iii. Mark its disapproval of Mrs. Bryant's actions by admonishing her for her failure to act appropriately.
- iv. Remove Mrs. Bryant from membership of the County Farms Tenants' Selection Panel until the end of this Council in April 2001.
- v. Amend standing orders such that:
 - a) Members declaring a non-pecuniary interest and who propose to remain in the meeting because they feel their interest is not clear and substantial should be asked to explain at the meeting the exact nature of their interest.
 - b) Members preferring not to explain their interest should leave the meeting and take no part in the decision-making process.

STEPHEN GERRARD
Solicitor to the County Council & Monitoring Officer

Unpublished documents relied upon in the production of this report: None

Environmental impact of the recommendations contained in this report: