

## ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS

<b>1. Meeting:</b>	Standards Committee
<b>2. Date:</b>	8 <sup>th</sup> September 2011
<b>3. Title:</b>	Mr Neil Fulcher
<b>4. Directorate:</b>	Chief Executive's Directorate

### 5. Summary

Long-standing members of the Committee may recall the case of Cllr Neil Fulcher (as he then was) who was a member of Bramley Parish Council in 2009. Cllr Fulcher made certain disparaging comments about Mr R Waller in an e-mail to him and about Mr Waller, Mr T C Mumford and a fellow member of Bramley Parish Council, Cllr T Bradley (as he then was), in letters to the local newspaper.

Mr Waller and Cllr Bradley complained to the monitoring officer that Cllr Fulcher had breached the parish council's code of conduct. On considering the complaints the Committee referred the matter to the Standards Board for England (as it then was) who in turn referred it for investigation by an ethical standards officer.

The ESO found Cllr Fulcher not to be in breach of the code in relation to Cllr Bradley's allegation that he had withheld from the members of the parish council legal advice given by Mr Mumford, but in breach in relation to Mr Waller's allegation. In the course of his investigation the ESO also found evidence of other breaches of the code in relation to Cllr Bradley, Mr Mumford and another council officer, Mr K Battersby.

The case was heard by the First-tier Tribunal on 19<sup>th</sup> July 2010 on the basis of written submissions as Cllr Fulcher had informed the tribunal that he would not be attending the hearing. He was found to be in breach of paragraphs 3 (1) (you must treat others with respect) and 5 (you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute) of the code and suspended from membership of Bramley Parish Council for a period of six months.

Cllr Fulcher then appealed to the Upper Tribunal on a number of grounds the majority of which were dismissed. However, the Upper Tribunal did find that the First-tier Tribunal had fallen into error as in its statement of reasons it linked the allegations in relation to Mr Mumford and Mr Battersby with Mr Waller's complaint rather than treating them as separate allegations upon which it was required to make specific findings and give reasons on the basis of the written evidence before it (counsel for the ESO submitted that it appeared from the First-tier Tribunal's decision

that it wrongly considered that these allegations were not formally before it and therefore did not make findings in relation to them).

As Cllr Fulcher had already served his six months' suspension at the time the Upper Tribunal heard the appeal, the tribunal and Mr Fulcher considered little would be achieved from reducing the period of suspension to five months.

Attached as Appendix A to this report is the Upper Tribunal's decision.

## **6. Recommendations**

**IT IS RECOMMENDED that members note this report.**

## **7. Proposals and details**

Please see paragraph 5.

## **8. Finance**

Not applicable

## **9 Risks and Uncertainties**

None.

## **10 Policy and Performance Agenda Implications**

Not applicable

## **11 Background Papers and Consultation**

Decision of the First-tier Tribunal.

## **12 Contact**

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**APPENDIX A**

**DECISION OF UPPER TRIBUNAL**