

18 November 2008

THE SCARBOROUGH BOROUGH COUNCIL STANDARDS COMMITTEE

CONFIDENTIAL

Report under Section 59 of the Local Government Act 2000 by Lisa Dixon, Legal Services Manager and Deputy Monitoring Officer, employed by the Scarborough Borough Council, into an allegation concerning Councillor James Preston, a Member of Scarborough Borough Council.

Contents

1. The Allegation
2. The Councillor's response
3. Relevant evidence, information, advice and explanations
4. Persons interviewed and organisations contacted
5. Failure to co-operate
6. Proposed Findings of Fact
7. Reasoning
8. Additional information related to this investigation

1. The Allegation

The allegation has been made by Jonathan Learoyd, the IT Manager of Scarborough Borough Council. Mr Learoyd alleges that Councillor Preston has viewed pornographic images while using a laptop provided by Scarborough Borough Council. This is in breach of paragraph 2.4 of the Council's Internet Code of Practice and consequently leads to a breach of paragraph 6(b)(i) of the Members' Code of Conduct which states that Councillors must when using or authorising use by others of the resources of the Council act in accordance with the authority's requirements.

2. The Councillor's Response

- 2.1 In my first interview with Councillor James Preston on 30 July 2008, Councillor Preston admitted that he had viewed one or two internet sites which could be viewed as being inappropriate. Councillor Preston told me that this had been over the space of about a fortnight.
- 2.2 Councillor Preston made it clear that, when asked to return his laptop to the Council, he had co-operated immediately with this request and apologised to the Council's IT Manager and IT Helpdesk Assistant.
- 2.3 After being presented with a copy of the Schedule of Sites produced by the Council's computer forensics consultants, Councillor Preston accepted the revised timescale and list of sites viewed on the laptop.

3. Relevant evidence, information, advice and explanations

- 3.1 This report aims to establish whether Councillor Preston has breached paragraph 6(b)(i) of the Councillors Code of Conduct by failing to comply with the Council's Internet Code of Practice.
- 3.2 To establish whether or not Councillor Preston has breached the Internet Code of Practice and consequently the Council's Code of Conduct, it is necessary to establish whether any of the sites which Councillor Preston viewed are pornographic, indecent, violent, defamatory, racist, sexist, or otherwise discriminatory, harassing or obscene and therefore prohibited by the Council's Internet Code of Practice.

4. Persons interviewed and organisations contacted

Persons interviewed:-

Jonathan Learoyd, Scarborough Borough Council's IT Manager.
Councillor James Preston who is the subject of the allegation
North Yorkshire Police
Kroll Ontrack Associates – Computer Forensic Consultants

5. Failure to Co-operate

All interviewees co-operated with the investigation

6. Proposed Finding of Facts

- 6.1 Councillor Preston did breach paragraph 2.4 of the Council's Internet Code of Practice which prohibits the use of computers supplied by the Council to access images of a pornographic, indecent and/or obscene nature.
- 6.2 As a consequence of Councillor Preston's failure to comply with Paragraph 2.4 of the Council's Internet Code of Practice, Councillor Preston has breached Paragraph 6(b)(i) of the Members' Code of Conduct.

7. Reasoning

- 7.1 Upon being notified of an alleged breach of the Council's Internet Code of Practice the Council's IT Manager instigated an investigation into usage of Councillor Preston's laptop. The Council employed Kroll Ontrack, computer forensics consultants, to carry out the investigation. The investigation concluded that the laptop had been used to access sites which were inappropriate in a corporate context. A list showing the sites accessed by the user J. Preston from the period 24 July 2007 to 23 June 2008 is attached to this report at Appendix 1.
- 7.2 The list of sites includes web sites which are pornographic, obscene or indecent in nature.
- 7.3 Councillor Preston has accepted the list of sites accessed and the period of time over which the unauthorised access took place as set out in the Kroll Ontrack report.

8. Additional information relating to this investigation

- 8.1 No evidence has been found that Councillor Preston has downloaded any images to his computer.
- 8.2 The police were consulted during the course of this investigation.
- 8.3 Councillor Preston did make the point in his first interview that he did not initially notice the Internet Code of Practice included in his induction pack and only read it after this matter came to his attention.

Signed
Lisa Dixon, Legal Services Manager

Dated