

Standards Committee
Local Assessment Sub-Committee
27 SEPTEMBER 2017

Present: Councillors: David Coldwell, Brian Donnelly and Mike Morgan

SC/1 **ELECTION OF CHAIRMAN OF THE SUB-COMMITTEE FOR THE MEETING**

RESOLVED

That David Coldwell be elected Chairman of the Sub-Committee for the purposes of this meeting.

SC/2 **DECLARATIONS OF MEMBERS' INTERESTS**

Councillor David Coldwell declared a personal interest because he had met the Subject Member, but was not well acquainted with the Subject Member.

SC/3 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED

That under Section 100A of the Local Government Act 1972 as amended the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972 by virtue of the paragraph specified against the items and in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SC/4 **TO CONDUCT AN ASSESSMENT IN RELATION TO THE ALLEGED CONDUCT OF A PARISH COUNCILLOR (CASE REFERENCE CES/150)**

Exempt information Paragraph 1 – Information relating to an individual

The Local Assessment Sub-Committee assessed a complaint that had been received alleging that a Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct ('the Code'). The assessment was conducted under the Localism Act 2011 Chapter 7 and the 'arrangements' which the Council has put in place for the assessment of such complaints under S 28(6) of the Act in relation to the alleged conduct of a Parish Councillor.

The allegation was from two Complainants who were Members of the same Parish Council as the Subject Member. It had been received on 22 August 2017 and referred to the following paragraphs of the Code:

- 5) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- 6) You –
 - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

The complainants also referred to paragraphs 8, 9 and 10 (Personal and Prejudicial Interests) as set out below, alleging a personal and prejudicial interest had not been declared and participation in items of business conducted at a Parish Council meeting.

- 8(1) You have a personal interest in any business of your authority where either—
 - it relates to or is likely to affect -
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body –
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
 - OR
 - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- 8(2) In sub-paragraph (1)(b), a relevant person is—
 - (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

- 9(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 8 above in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(iii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9(5) Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 9(6) This sub-paragraph does not apply to your authority.
- 9(7) This sub-paragraph does not apply to your authority.

- 10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 10(2) You do not have a prejudicial interest in any business of the authority where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) this sub-paragraph does not apply to your authority;
 - (ii) this sub-paragraph does not apply to your authority;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

10(3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 10(2)(b) shall include the amendment, modification or variation of any such approval, consent, licence, permission or registration of any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.

Members of the sub-committee considered the allegation and, on the basis of the information given, whether, if such matters were proven, they would amount to a breach of the Code. They took into account the information supplied by the complainants, the Subject Member's response, the view of the Parish Representative and of the Independent Person, and considered the advice of the Monitoring Officer.

RESOLVED

- (i) In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied, there was no evidence which, if proven, would amount to a breach of the Code.

REASONS

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 5, 6, 8, 9 and 10 of the Code.
- (ii) The Subject Member had sought advice from the Monitoring Officer in May 2016 on whether the Subject Member might hold a personal or prejudicial interest in relation to certain items of council business, such interest arising due to the location of the Subject Member's property and the site of a proposed quarry known as Ham Farm Quarry. The Monitoring Officer's advice had been that the Subject Member did not hold a personal interest on the basis that the Subject Member would not be affected 'to a greater extent than the majority of other taxpayers' in the electoral division or ward. Further as the Subject Member did not hold a personal interest, there was no prejudicial interest.
- (iii) There was no information supplied by the Complainant which, even if proven, would indicate that the Monitoring Officer's advice previously given to the Subject Member should no longer be relied on by the Subject Member.

The meeting closed at 10.52 am having commenced at 10.30 am

CHAIRMAN