

DECISION NOTICE

BREACH OF THE CODE OF CONDUCT – SANCTION IMPOSED

Wiltshire Council Reference No: WC 38/09

Date of Determination 05th July 2010

Subject Member

Councillor Maurice Flanagan, Dilton Marsh Parish Council
Represented by Mr. Francis Morland

Complainant

Mr E Whiting

Hearing Sub-Committee Membership

Mr G Robson OBE – Chairman (Independent Co-Opted Member)
Councillor M Hewson (Wiltshire Council Member)
Mr P Neale (Town / Parish Co-Opted Member)

Monitoring Officer / Legal Adviser

Mr I Gibbons

Investigating Officer

Miss M Lindsay

Clerk

Mr L Paul

Complaint

The Hearing Sub-Committee of Wiltshire Council's Standards Committee met to consider an investigation report on a complaint that Councillor Maurice Flanagan had failed to comply with the Model Code of Conduct for Members, adopted by the Dilton Marsh Parish Council.

The complaint alleged that Councillor Flanagan had failed to comply with the statutory requirement, in paragraph 13(1) of the Code of Conduct, to register his interests within 28 days of his appointment as a member of Dilton Marsh Parish Council.

Paragraph 13(1) - Subject to paragraph 14, you must, within 28 days of -

- a. this Code being adopted by or applied to your authority; or***
- b. your election or appointment to office (where that is later),***

register in your authority's register of members' interests...details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a) by providing written notification to your authority's monitoring officer

The complaint was assessed by the Standards Assessment Sub-Committee of Wiltshire Council on 19 November 2009, who referred the complaint to the Monitoring Officer for investigation.

The Monitoring Officer delegated his investigatory powers to Miss Marie Lindsay, Investigating Officer, pursuant to section 82A of the Local Government Act 2000. The Investigating Officer found that there had been a breach of paragraph 13(1) of the Code of Conduct.

The Investigating Officer's report, dated 09 March 2010, went before the Standards Consideration Sub-Committee on 15 April 2010, who resolved that the matter should be referred to the Hearing Sub-Committee for determination.

A hearing was therefore conducted by the Hearing Sub-Committee of the Standards Committee of Wiltshire Council on 05 July 2010 in accordance with Regulations 18 and 19 of the Standards Committee (England) Regulations 2008 and the Council's Procedure for Determination of Complaints.

Summary of Evidence Considered and Representations Made

The Sub-Committee considered the following evidence and representations:

1. The written complaint;
2. Extracts from the Investigator's report dated 09 March 2010, compiled on 15th June, which contained evidence from interviews conducted with the subject member, the complainant, as well as copies of relevant documents, including correspondence with the clerk of Dilton Marsh Parish Council.
3. Representations at each stage from the subject member, his representative, Mr. Morland, and the Investigating Officer.
4. Oral evidence from the Subject Member at Stage 3 of the proceedings and a written statement from Alison Irving in support of his character.

FINDINGS OF FACT (Stage 1)

The Standards Hearing Sub-Committee made the following findings of fact:

- 1) Cllr Maurice Flanagan was co-opted to Dilton Marsh Parish Council on 16th October 2008 and signed the Declaration of Acceptance of Office form, which included an undertaking to abide by the Code of Conduct from that date onwards.
- 2) He submitted a Register of Interests form to the Monitoring Officer of West Wiltshire District Council in March/April 2009.
- 3) A degree of confusion surrounded the process for submitting Register of Interests at town and parish councils at the material time.
- 4) Councillor Flanagan submitted a fresh Register of Interests of his own volition on 15 March 2010.

These findings of fact were then used as the basis for the Sub-Committee's consideration on the question of breach and sanction, at stages 2 and 3, as set out below. The Sub-Committee also had regard to relevant guidance from Standards for England.

DECISION ON A POSSIBLE BREACH OF THE CODE OF CONDUCT (Stage 2)

Paragraph 13(1) - Subject to paragraph 14, you must, within 28 days of -

- a. this Code being adopted by or applied to your authority; or
- c. your election or appointment to office (where that is later),

register in your authority's register of members' interests...details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a) by providing written notification to your authority's monitoring officer

The Sub-committee found that:

- 1) Upon his appointment as a Parish Councillor on the 16th October 2008 to Dilton Marsh Parish Council, Councillor Flanagan was subject to the Council's Code of Conduct.
- 2) On the basis of the above findings of fact, Cllr Flanagan failed to submit a written notification of his registerable interests to the Monitoring Officer within 28 days of his appointment, in breach of the Council's Code of Conduct, specifically paragraph 13 (1).

SANCTION (Stage 3)

After hearing representations from the parties, and from the subject member in person, the Sub-committee decided to take no further action for the reasons set out below:

Reasons for Decision

- The Sub-Committee wished to be clear that compliance with the Code of Conduct is important to members at all levels. On the particular facts of this case this was a technical breach of the code.
- The subject member had been through an investigation process, which is stressful for all who are involved.
- The Sub-committee had taken account of the arguments presented in mitigation.
- The Sub-committee recognised the need for the decision to be reasonable and proportionate to the circumstances.

Observations and Recommendation

The Sub-Committee were minded to recommend the Standards Committee to note the investigator's report with regard to the procedures surrounding the submission of Councillors' Interests forms, and to ask the Monitoring Officer to undertake a review of the position, highlighting the importance of the Code of Conduct and, in particular, the importance of registering personal interests.

Right of Appeal

A member subject to a standards committee finding may apply in writing to the President of the First-tier Tribunal (Local Government Standards in England) for permission to appeal against the finding.

The President must receive the member's written application within 21 days of the member receiving notice of the Standards Committee's decision.

This decision notice is sent to the complainant, the subject member and Standards for England.