

DECISION NOTICE: REFER TO THE MONITORING OFFICER FOR INVESTIGATION OR OTHER SUITABLE ACTION

Reference WC-ENQ00153

Subject Member

Councillor Anthony Doel, Southwick Parish Council

Complainant

Mr Keith Jones

Review Sub-Committee

Councillor Howard Greenman (Chairman)
Councillor Sheila Parker
Councillor Trevor Carbin

Representative of the Monitoring Officer

Mr Paul Taylor

Independent Person

Mr Stuart Middleton

Complaint

The complainant had alleged that the Subject Member, at Council meetings of Southwick Parish Council on 18 August 2015 and 19 January 2016, was the owner of land included in the Wiltshire Strategic Housing Land Availability Assessment (SHLAA) and as a result he breached the code of conduct in that he:

- Failed to declare that interest either within 28 days of taking office or at those meetings.
- Participated and voted in those meetings in respect of a matter in which he had a disclosable pecuniary interest.

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee has decided:

- To refer the complaint to the Monitoring Officer for Investigation or other suitable action.

Reasons for Decision

Preamble

The Initial Assessment of the Deputy Monitoring Officer had been to take no further action.

The Review Sub-Committee went through the initial tests required by the local assessment criteria, and agreed with the assessment of the Deputy Monitoring Officer that the complaint related to the subject member, that he was office at the time of the alleged incident, and was acting in his capacity as a councillor. They therefore then had to determine whether the remaining assessment criteria were met and, if so, whether the matters alleged in the complaint were, if proven, capable of breaching the Code of Conduct of the Parish Council.

In reaching its decision the Review Sub-Committee relied upon the original complaint and supporting information, the response of the subject member, the initial assessment and the additional information submitted by the Complainant in his request for a review of the initial decision to take no further action. They also took into account the comments made by the complainant and the representative of the subject member who attended the review sub-committee meeting. The Review Sub-Committee adjourned on 25 August 2016 to seek clarification on several queries in relation to the papers submitted by both parties, and reconvened on 4 October 2016. They therefore also took into account the comments of the complainant and the subject member on the points to be clarified.

Timing of the Complaint

A query had been raised as to whether the complaint had been submitted in time as required by procedure. The Local Assessment criteria states a complaint '*will not be referred for investigation when it is made more than 20 working days from the date upon which the complainant became aware of the matter giving rise to the complaint*'.

It was acknowledged by all parties that the complaint had been made more than 20 working days after the dates of the meetings at which the breaches were alleged to have occurred. However, as worded, the assessment criteria specified the timing should be calculated from when the complainant became aware of the matter giving rise to the complaint. The complainant maintained that he became aware of the matters in May 2016, and there being no evidence to contradict this, the Review Sub-Committee were of the view that the complaint should therefore be considered as having been made within time.

They did, however, feel that the Standards Committee should consider whether the assessment criteria wording should be amended in future, acknowledging that while a strict deadline of 20 days from the time of an alleged breach was unreasonable, (given the possibility the alleged breach could have occurred in such a way no one could be aware at the time), provision could be made to consider if a complainant should reasonably have been or been able to be aware of matters, for instance where public minutes had been published of a meeting where a breach had allegedly occurred.

Code of Conduct

During the review questions were raised about the Code of Conduct submitted as required by the procedures. It was established it had been provided by the complainant as required, although in the agenda one page had been cut off. The Review Sub-Committee were therefore satisfied that this element of the initial assessment criteria had been met

Decision and Reasoning

The complaint involved whether the subject member had included relevant disclosable pecuniary interests on his register of interests, or, alternatively, had made a declaration of those interests at one or more meetings of Southwick Parish Council.

A great many points had been raised by both parties before, at and during the period of the review on whether the alleged actions of the subject member would, if proven, be capable of breaching the Code of Conduct of the Parish Council. After considerable assessment of the evidence as submitted orally and in writing, the Review Sub-Committee determined that this matter, if proved, was capable of being a breach of the relevant Code of Conduct, notwithstanding that it could also be a criminal offence.

The Review Sub-Committee felt that there was some evidence that a breach of the Code of Conduct had occurred, but that this could only be established by further investigation. Therefore they then considered whether, given the nature of the alleged breach, it was in the public interest to refer the matter for investigation.

The Review-Sub Committee acknowledged that, in this particular instance, the failure to declare, or include on the register of interests, the land interests in question, and/or any participation in the discussions or voting on this matter, if proven, had not resulted in any advantage to the subject member. The parish council had been responding to a consultation from Wiltshire Council and was not the decision maker, and the view of the parish council that the land not be included within the strategic housing assessment area would, if followed, maintain the status quo. It was also noted that, should the matter proceed to investigation, it was probable the matter would need to be referred to the police.

The Sub-Committee noted the view of the deputy Monitoring Officer that, even if there was enough evidence of a potential breach, the lack of advantage to the subject member meant it was not in the public interest to refer the matter for investigation and further action. However, the Sub-Committee considered that the failure to include relevant interests on the register of interest or, failing that, declare the disclosable pecuniary interest at the meetings in question, would, if proven, be a breach of the Code of Conduct of the Parish Council. This could, if proven, be a breach of sufficient seriousness to warrant investigation and possible police referral, even if no personal advantage was gained in this instance. The requirement to properly declare interests and be seen to do so was a matter of sufficient importance as to warrant further investigation in this instance by the Monitoring Officer, for him to determine any consequential appropriate action.