



WARWICK DISTRICT COUNCIL CODE OF CONDUCT HEARING DECISION NOTICE

Case Reference LSF. 13. 2011

COMPLAINT

On 19 April 2012, a meeting was held of the Hearing Sub-Committee of Warwick District Council's Standards Committee consisting of Mr C Purser (Chairman), Councillor R Davies and Councillor J Cooke.

The Sub-Committee were supported by Mr G Leach, the Clerk to the Committee, and Ms J Pollard, Solicitor acting for the Council. Also present were the Monitoring Officer Mr A Jones and the Investigating Officer Mr P Oliver. Councillor Day was unable to attend but had provided written submission.

The Hearing Sub-Committee considered a complaint from Mr Norris regarding the conduct of Councillor Andrew Day of Bishop's Tachbrook Parish Council alleging the failure to declare interest under the Code of Conduct.

An investigation had been held by Mr P Oliver, on behalf of the Monitoring Officer, with regard to the declaration of interests declared by Councillor Day when considering the provision of £50,000 to the PCC as a contribution to the new hall at St Chad's Parish Church.

The investigator had submitted his report and it was determined by a Consideration Sub-Committee in February 2012 that a hearing was required.

The findings of the Investigator's report were that Councillor Day failed to declare a prejudicial interest in St Chad's Centre at a meeting of Bishop's Tachbrook Parish Council on 21 January 2010 and failed to declare a personal and prejudicial interest at the Parish Council meeting on 20 May 2011.

FINDINGS OF FACT

Councillor Andrew Day was first elected onto the Parish Council in May 2003, having previously been co-opted in about 2001. He resigned in 2005 due to ill health, was again co-opted in 2006 and re-elected in 2007. He has served continuously since that time, having been re-elected in May 2011. He was chairman of the Communication and Amenities Working Party, and following its split is currently chairman of the Communications Working Party. He has given a written undertaking to observe the Code of Conduct. He can recall having attended two training sessions on the Code of Conduct, the most recent in October 2011. He says that he was aware of the requirements of the Code, and if unsure would seek advice from the Clerk.

Councillor Day has been a member of the Parochial Church Council, (PCC) for approximately ten years, and was a member throughout 2010. He has been chairman of the St. Chad's Centre Committee since its inception in 2002.

The Parish Council adopted the revised Model Code of Conduct without amendment and paragraphs 8, 9 and 10 deal with the requirement to disclose personal and prejudicial interests. Paragraph 9(1) of the Code provides that where a member has a personal interest in any business of the authority, he must disclose the interest and the nature of the interest at any meeting he attends where that business is discussed.

Paragraph 10(1) of the Code provides that a member with a personal interest also has a prejudicial interest "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 affect your judgement of the public interest". Unless one of the exceptions apply a member with a prejudicial interest should leave the room and take no part in the debate or vote

The facts are not in dispute.

There is a proposal to construct a new facility ('St. Chad's Centre') within the village of Bishop's Tachbrook. At the present time, the only community facilities in the village are a sports and social club and the school. The proposal is to construct the St Chad's Centre on land belonging to the church close to the church itself and the Parochial Church Council (PCC) were the instigators of the proposal which is now being taken forward by a committee comprising representatives of both the Church and the community. Within the village, there are strong feelings, both for and against the proposal.

At its meeting on 21 January 2010, the Parish Council considered a request to provide £10,000 per annum over the following five years towards the cost of the St. Chad's Centre. Councillor Day was present at that meeting. The minutes record that Councillor Day declared a personal interest. Councillor Day says that he declared an interest because he was known to be personally involved in the project as Chairman of the St. Chad's Centre Committee. The minutes do not record the nature of those interests. There is no record of any member declaring a prejudicial interest or leaving the meeting.

The minutes also record that Councillor Day "updated the Parish Council on the progress being made with the St. Chad's Centre" and that "Councillor Day asked the P.C. to embrace the same process [i.e. committing funds to new amenities to facilitate bids for external funding] by assigning £10,000 p.a. over the next five years". The Parish Council approved the award of the grant, subject to the drafting of a letter of Understanding setting out the terms on which it was made.

At its meeting on 20 May 2010, the Parish Council considered the outcome of a Parish Poll relating to the Council's decision to make a financial grant towards the St. Chad's Centre. Again, Councillor Day was present. Towards the end of consideration of that item of business, a motion was proposed by a member of the Council that the Council should rescind its offer of £50,000. The motion was defeated. The minutes do not record any member as having declared an interest in that item of business, and we find that no interests were declared in relation to that item of business at that meeting.

We find that the St. Chad's Centre Committee would fall within the ambit of the Code being a body directed to charitable purposes. It is an informal body set up to further the provision of a building which would provide recreational facilities and amenities for the benefit of all residents of Bishop's Tachbrook, it is a body promoting rural regeneration and therefore falls within the charitable purpose of the advancement of community development.

We accept Councillor Day was acting in accordance with advice he had received from the Parish Clerk by declaring only a personal interest at the January 2010 meeting.

Do the facts amount to a breach of the Code of Conduct?

Councillor Day declared a personal interest at the meeting on 21 January, but is not recorded as doing so at the meeting on 20 May 2010. We are satisfied that throughout this time he had a personal interest both as a member of the PCC and as Chairman of the St. Chad's Centre Committee. We accept the view of the Investigating Officer that the interest as a member of the PCC was not prejudicial. However, we consider that as Chairman of the St. Chad's Centre Committee which was the body taking the scheme forward, a member of the public with knowledge of the facts would reasonably regard the interest as so significant as to be likely to affect his judgment of the public interest.

We do not accept the representations from Councillor Day that his involvement with the St Chad's Centre Committee should not be considered a prejudicial interest.

Councillor Day was chairman of the group promoting and taking forward the St. Chad's Centre scheme, and that he was a member of the Parish Council who was asking that Council to provide funding for the scheme. It was Councillor Day who proposed the motion to make the grant. The Committee which he chaired quite clearly had a key financial interest in the decisions of the Parish Council with regard to the grant funding. We do not consider taken objectively that a reasonable man would consider that Councillor Day would be unaffected by his involvement. We consider a member of the public would regard that as a significant interest likely to affect his judgement of the public interest.

We accept that there was no personal gain for Councillor Day or his family. The benefit was to the body.

Therefore, we conclude that Councillor Day should have declared a prejudicial interest at the meetings of the Parish Council on 21 January 2010 and 20 May 2010 and therefore in breach of the Code.

DECISION

Having considered the findings of fact and the representations made to the Sub-Committee, they considered that Councillor Day had failed to comply with the Code of Conduct and consider the following sanctions to be appropriate.

Councillor Day should write to the Parish Council apologising for his failure to recognise the need to declare a prejudicial interest in relation to the grant funding of the St Chad's Centre, within two weeks of this decision notice. The form of the apology to be agreed in writing with the Chairman of the Standards Committee.

That the Monitoring Officer sends written advice on declaring prejudicial interests under the current Code of Conduct to Councillor Day. That Councillor Day must acknowledge receipt and understanding of this letter within two weeks of the letter.

REASONS FOR DECISION

The Sub-Committee recognises that Councillor Day is a dedicated Parish Councillor, of good character and well respected in the community. There was no personal gain involved in this matter for Councillor Day. The Sub-Committee were satisfied this was a misunderstanding of the provisions of the Code. It is also recognised that he took and acted upon advice from the Clerk to the Council. Nevertheless as the ultimate decision rests with the Member to make a Declaration the Sub-Committee considers a sanction is appropriate.

RIGHT OF APPEAL

Councillor Day as respondent, may appeal to the President of the First Tier Tribunal against this decision within 21 days of the date of being notified of the decision.

TERMS OF REFERENCE

The Local Government and Public Involvement in Health Act 2007 amended the Local Government Act 2000, which provided for the local assessment of new complaints that members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 make provision for the investigation and determination of such complaints by setting out the framework for the operation of a locally based system for the assessment, referral, investigation and determination of complaints of misconduct by members of authorities.

ADDITIONAL HELP

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

Mr C Purser
Chairman of the Hearing Sub-Committee
19 April 2012