

## **Standards Committee – Code of Conduct scenarios – 30.3.2017**

### **Answers**

1. Councillor Robert Snell is the Chair of the Development Management Committee of Ambridge Council. He holds firm views on greenbelt land. He has written to the local paper stating his opposition to an application for a housing development on the green belt, which is to be decided at the next meeting of the Committee.

a. What interest does he have, if any, and what action should he take?

*The Councillor may not have a personal or disclosable pecuniary interest but he appears to have pre-determined the matter. Under Section 25(2) of the Localism Act 2011 if—*

*(a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and*

*(b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision*

*(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—*

*(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and*

*(b) the matter was relevant to the decision.*

*In this case although the councillor may seek to rely on section 25, with his stated firm views, it would be difficult for him to claim that he is approaching this matter with an open mind. The councillor should also be advised of provisions in the Code requiring Councillors not to bring their office or Council into disrepute as he could be said to be biased due to his stated position.*

*The Councillor should not sit on the Committee to avoid any challenge to the decision and should arrange for his deputy to deal with this item.*

The Development Management Committee approves the planning application, against the advice of the planning officer. After the meeting, Councillor Jennifer Aldridge finds out that Councillor Justin Elliot, who is the owner and developer of the scheme, has been trying to get his fellow councillors to support his application. Councillor Aldridge is insistent that there has been a breach of the Code by Councillor Elliot. She wants to know how to take this forward.

b. Has there been a breach of the Code?

*Lobbying of his fellow parish councillors may breach the paragraph 3 of the Code.*

*(3) Do 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;*

*The councillor appears to have tried to use their position as a member to confer on himself an advantage. In doing so, he may be bringing himself and his office into disrepute.*

c. Would your answer be different if Councillor Elliot was a member of the Development Management Committee and had taken part in the discussion but left before the vote?

*Under the Localism Act 2011 this would appear to be a disclosable pecuniary interest as he has a pecuniary interest in the land. The fact that he has taken part in the discussion is sufficient for this to be a possible criminal offence and would be reported to the police.*

d. What action should Councillor Aldridge take?

*The councillor could speak to the Monitoring Officer and / or fill in the complaint form available on the Council website and send it to the Monitoring Officer.*

Councillor Aldridge makes her complaint and it is referred to the Monitoring Officer. The Independent Person has met Councillor Elliot on several occasions at various social gatherings.

e. Does the Independent Person need to take any action?

*The Independent Person should inform the Monitoring Officer of any possible conflict. The issue of whether she can continue to provide advice depends on whether she believes she has a personal interest or not. If the contact is purely attendance at the same events then it is unlikely to be significant. If it is more than this, then the deputy Independent Person should be asked to provide their views instead, to avoid any challenge to the decision made on the complaint.*

The complaint is investigated and the Standards Committee finds this behaviour has been a breach of the Code.

f. Does this invalidate the decision?

*Section 28 (4) of the Act states:*

*A failure to comply with a relevant authority's code of conduct is not be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.*

*The decision therefore stands unless it is challenged by judicial review.*

2. You are the Chair of the Penny Hasset Parish Council. At the meeting Councillor Tucker declares an interest relating to an item on the agenda. The Clerk asks him to confirm what the interest is. Councillor Tucker replies "it's none of your business."

a. What action do you take, if any?

*While Parish Codes may be different from that of the Council, they must include the General Principles of Conduct, which include:*

*Honesty*

*Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.*

*In this case the Clerk is merely trying to carry out their responsibilities.*

*The Chair should advise the councillor accordingly and refer them to any relevant planning protocol, if appropriate.*

b. What action can the Parish Council take?

*If the behaviour continues, the Parish Council can make a formal complaint to the Monitoring Officer.*