

Standards Committee, item 2

Committee: Standards Committee
Date: 31 October 2006
Title: Local Investigation of alleged breach of Code of Conduct by a Parish Councillor
Author: Catherine Nicholson, Solicitor,

Agenda Item

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Item for decision

Summary

Parish Councillor Nigel Cook of Clavering Parish Council reported himself to the Standards Board for England for breaching the Code of Conduct of Clavering Parish Council that he had failed to declare a prejudicial interest and withdraw from the two meetings of the Parish Council whilst a planning application of a friend was considered. The Ethical Standards Officer referred the matter to the Monitoring Officer of the Council for investigation under the Local Government Act 2000 and the Local Authority (Code of Conduct)(Local Determination) Regulations 2003 as amended by the Local Authority (Code of Conduct)(Local Determination)(Amendments) Regulations 2004.

Recommendations

That the Committee consider this report

Background Papers

Investigation Officer's notes

Minutes of the Clavering Parish Council meeting 7 November 2005

Minutes of the Clavering Parish Council meeting 6 March 2006

Minutes of the Clavering Parish Council meeting 3 April 2006

Copy of letter from Nigel Cook to Standards Board

Clavering Parish Council Code of Conduct

Impact

Communication/Consultation	None
Community Safety	None
Equalities	None
Finance	None
Human Rights	Whilst the Members Code of Conduct impinges on Members' privacy (art 8) and

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	freedom of speech (art 10) such restrictions are in accordance with the law and have been held to be justified.
Legal implications	
Ward-specific impacts	The impact is on the Parish rather than the ward
Workforce/Workplace	None

Situation

1. The allegation is that Councillor Nigel Cook has failed to comply with the Clavering Parish Council Code of Conduct by not complying with paragraph 10 as he failed to withdraw from the room when a matter in which he had a prejudicial interest was considered at the parish council meetings on the 7 November 2005 and 6 March 2006.
2. The Clerk to the Parish Council was interviewed and provided the following evidence as to what happened in both those meetings and some helpful background information
 - a. The Clavering Council adopted the Code of Conduct in 2002 and adopted the Model Code of Conduct contained in the Parish Council's (Model Code of Conduct) Order 2001.
 - b. Councillor Cook had lived in Clavering for about 7 years, became a parish councillor in 2003 and became chairman of the Council in May 2004. The only training that he had received on the requirements of the Code of Conduct was in July 2005 when the Monitoring Officer attended the Parish Council and gave a presentation to all councillors on the basic outline of Members Interests and examples
 - c. It was she who, at the end of the second meeting, advised Councillor Cook that he should have withdrawn from the meeting during the discussion of the planning application. She advised that due to the chaos caused by other members at the point in proceedings where declarations of interest were being made, she had not heard the declaration of either him or Rebecca Stanford. However, after the end of the meeting in discussion between the two, Councillor Cook advised that he had made the declaration, at which point she pointed out that he should have left the room.
 - d. Councillor Cook apologised at the next meeting for his oversight and advised that he had reported himself to the Standards Board.
 - e. She advised that until fairly recently, no one ever withdrew from meetings and that in most cases when a personal interest or prejudicial interest was declared members would not take part in the debate but would remain in the room.
 - f. She has had discussions since these incidents with the Monitoring Officer, and is now aware of the requirement to withdraw if an interest is

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- prejudicial and has started to remind Councillors of their responsibility to do so.
- g. She advised that in her opinion Councillor Cook and the applicant were probably more than just acquaintances and she was aware that their wives were also friendly, and that they all went out for dinner together
3. Councillor Cook was also interviewed on 15 May 2006 and gave the following information
 - a. Clavering is a small village of about 900 residents, so he tends to know a lot of people in the village
 - b. As a matter of course he gets the vice chair to chair the planning part of the Parish Council meetings, to share out the responsibilities a little
 - c. He considered the applicant, Peter Briggs as a personal friend. They don't see each other as often as they used to, but they go for a drink together occasionally, have been away for a long weekend together a few years ago, and Peter Briggs has carried out work for him as a plumber.
 - d. He advised that in fact, Peter Briggs's father was on the parish Council for many years, having only recently retired
 - e. In respect of the particular applications, he declared a personal interest by virtue of their friendship and took no part in the discussion but remained in the room on both occasions.
 - f. After the second meeting, he was advised that he should have withdrawn and reported himself to the Standards Board and apologised at the next Parish Council meeting.
 4. During a further interview on 5 June, he provided the following additional information:
 - a. He probably met up with Peter Briggs about once a month for a drink, and they do go to each others houses for dinner now and then.
 - b. With regards to the actual applications, he had been unaware of them until they came up at the meetings as they had not spoken about them before. They have spoken about them since the permission has been granted
 - c. The only training he had on the Code was from the Monitoring Officer in 2005
 - d. He advised that he hadn't understood the difference between prejudicial and personal interests but believes he understands now that any personal interest is automatically prejudicial where planning is concerned. He is also now aware of the requirement to withdraw from the meeting in case his presence could be seen as seeking to exert influence on the committee's decision.
 - e. He also advised that he has never taken part in any of the discussion where he has declared a personal interest.

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5. In respects of the alleged claim, I can make the following findings of fact based on the interviews undertaken and the documents made available to me
 - a. The Clavering Parish Council Code of Conduct was adopted in 2002
 - b. Councillor Cook is the Chairman of Clavering Parish Council and was appointed in May 2004
 - c. He has been a Councillor on the Parish Council for 3 years
 - d. He had training on the requirements of the Code of Conduct once in July 2005.
 - e. At the meeting of 7 November 2005, Councillor Nigel Cook declared a personal interest in the planning application UTT/0235 by virtue of being a friend of the applicant, and took no part in the discussion but remained in the meeting room
 - f. At the meeting of 6 March 2006, Councillor Nigel Cook declared a personal interest in the planning application UTT/0235 by virtue of being a friend of the applicant, and took no part in the discussion but remained in the meeting room
 - g. Councillor Cook does know the applicant, Peter Briggs and considered him a friend
 - h. Councillor Cook was advised by the Parish Clerk following the meeting on 6 March 2006 that he should have withdrawn from the meeting during the consideration of that planning application
 - i. Councillor Cook reported himself to the Standards Board for failing to withdraw from a meeting when he had a prejudicial interest
 - j. He apologised at the meeting of the Parish Council on 3 April 2006
 - k. Both planning applications related to permission for the erection of a replacement garage / workshop
6. The Investigations Officer has two questions that need to be answered:
 - a. Did the alleged conduct occur?
 - b. Did it amount to a breach of the Code of Conduct
7. From the findings of fact and on Councillor Cook's own admission he did not declare a prejudicial interest and withdraw from the meeting either on the 7 November 2005 or 6 March 2006.
8. The finding on whether there is a breach of the code involves two considerations
 - whether he had a personal interest
 - whether the personal interest was such that it became a prejudicial interest

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9. In order for Councillor Cook to have a personal interest it is necessary to consider whether he was in fact a friend of Peter Briggs and whether the decision on the planning application affected Peter Brigg's well-being or financial position to a greater extent than other tax payers.
10. Guidance from the Standards Board on whether a relationship can be considered a friendship indicates you should consider the following matters: how often they meet, where do they meet, did they know on another's families, did they visit each other's homes? From the findings of fact it would appear that their relationship did amount to friendship as they meet regularly and have done over a period of years, they have been away for a long weekend together, they do attend each others homes for dinner and their wives are also friendly. Councillor Cook by his own admission also considered Peter Briggs to be his friend.
11. It can also be clearly accepted that a decision on a planning matter in relation to an individual's property has to affect their well-being and / or their financial position more so than the other council tax payers of the area. On this basis I find that Councillor Cook did have a personal interest in the decision on the planning applications
12. In respect of whether the interest was a prejudicial one, it is necessary to consider whether a reasonable and objective observer with knowledge of the relevant facts would view the interest as so significant that it would impact on the Member's judgment.
13. I would consider the fact that they and their families were good friends and that the decision impacted on the Briggs family directly as it related to an application at the property they owned, an observer would reasonably regard the interest as being such that it would prejudice the Member's decisions.
14. In fact Councillor Cook himself felt it was appropriate to not take any part in the discussion indicating that the interest was such that it was likely to be viewed as impacting on the impartiality of his judgment.
15. I would not however consider that Councillor Cook in anyway sought to influence the decision on this matter at either meeting. He did not chair or take part in any of the discussion and his failure to leave the meeting room was not a deliberate attempt to seek to exert influence by remaining in the room but arose from a lack of understanding of the requirements of the Code.
16. I would therefore conclude that there has been a failure to comply with paragraph 10 of Clavering Parish Council's Code of Conduct in that Councillor Cook failed to declare a prejudicial interest in a matter and to withdraw from the meeting room on 2 occasions, being the meetings of the 7 November 2005 and the 6 March 2006.

Powers of the Committee

17. The Committee should decide if it accepts this report or it wishes to have further investigations made. If the report is accepted the Committee should

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consider whether it concurs with the Investigating Officer's view on whether there has been a failure to comply with the Code of Conduct.

18. If the Committee accepts that there has been a failure to comply with the Code of Conduct the Committee can impose one, or any combination of the following:
 - a. Take no further action
 - b. Censure the Member
 - c. Restrict the Member's access to the premises and resources of the Clavering Parish Council for up to three months, ensuring that any restrictions are proportionate to the nature of the breach and do not unduly restrict the member's ability to perform her duties as a member
 - d. Order the Member to submit a written apology in a form satisfactory to the Standards Committee
 - e. Order the Member to undertake training specified by the Standards Committee
 - f. Order the member to participate in a conciliation process specified by the Standards Committee
 - g. Suspend or partially suspend the member for up to three months
 - h. Suspend or partially suspend the member for up to three months or until such time as the Member submits a written apology that is accepted by the Standards Committee
 - i. Suspend or partially suspend the member for up to three months or until such time as the Member undertakes training or conciliation ordered by the Standards Committee
 - j. Write to the Ethical Standards Officer requesting that the original allegation be referred back to him for investigation giving the Standards Committee's reasons for this decision