



Uttlesford District Council

Chief Executive: Dawn French

Standards

Date: Friday, 28 October 2016
Time: 09:30
Venue: Committee Room
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: Councillors K Artus, D Jones, J Loughlin and Mr D Pearl (Independent Person).

AGENDA

PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest

- 2 Allegation of a breach of the Code of Conduct 3 - 16

MEETINGS AND THE PUBLIC

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The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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Committee: STANDARDS

Agenda Item

Date: 28 OCTOBER 2016

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Title: REPORT: ALLEGATION OF A BREACH OF THE CODE OF CONDUCT BY CLLR PAUL GADD, SAFFRON WALDEN TOWN COUNCIL

Author: Simon Pugh, Interim Head of Legal Services Item for decision

Summary

1. This report is to report the outcome of an investigation into an allegation that Cllr Paul Gadd breached the Code of Conduct of Saffron Walden Town Council ("SWTC"). The investigation concluded that Cllr Gadd has breached the Code. It asks the Committee to decide whether or not to accept the findings of the investigation. If the Committee finds that Cllr Gadd has breached the Code, members are asked to decide what sanction, if any, should be imposed.

Recommendations

2. That members determine whether to accept the findings of the Investigating Officer's report and, if they do, what sanction (if any) to impose.

Financial Implications

3. None

Background Papers

4. The Investigating Officer's report is attached to this report, as is the SWTC Code of Conduct. The report refers to an agreement between SWTC and WAR to share costs relating to a planning appeal. This is a background paper. The report also refers to the complaint submitted by Mr Andrew Ketteridge. This contains exempt information relating to third parties and is not attached to this report. However, the Investigating Officer's report sets out the nature of the complaint.

Impact

- 5.

Communication/Consultation	None
Community Safety	None

Equalities	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Investigation into an alleged breach of the Code of Conduct

Facts

6. A complaint was made that Cllr Gadd did not declare an interest in a matter considered by SWTC.
7. In summary, Uttlesford District Council refused planning consent for a development off Thaxted Road in Saffron Walden. The developer appealed against this refusal and the matter was referred for a hearing before a planning inspector. UDC decided not to defend its decision at the appeal hearing.
8. SWTC and a campaigning group called "WeAreResidents" ("WAR") applied successfully to take part in the appeal hearing. They agreed to share the cost of resisting the planning appeal on a 50:50 basis. Ultimately the appeal was refused.
9. Cllr Gadd is a member of SWTC and of WAR.
10. SWTC wrote to UDC on two occasions in 2015 requesting UDC to meet the costs of SWTC and WAR in resisting the appeal. The letters were authorised by SWTC's Planning and Road Traffic Committee. Cllr Gadd was not present when the first letter was authorised but was at the Committee meeting that authorised the second letter. He did not declare his interest through membership of WAR.
11. The Investigating Officer has concluded that this amounts to a breach of SWTC's Code of Conduct. Cllr Gadd should have declared this as a local non-pecuniary interest under para 7.4 of the Code and part 2 of the Appendix.
12. Cllr Gadd cannot attend the meeting but has confirmed by email that he accepts the finding in the report and is happy with the factual content of the report.

12. The complainant also is unable to attend the meeting owing to a prior commitment.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Decisions by the Standards Committee are open to challenge by way of judicial review.	1 – Given the circumstances, the risk of legal challenge is low. There is also no reason to believe that there would be grounds for legal challenge.	2 – There is some expense in defending legal challenges.	The best mitigating action is to ensure that the Committee reaches a reasonable decision, in a fair manner, which takes account of all relevant considerations and disregards any considerations that are not relevant.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

CONFIDENTIAL

**Final Report of an Investigation under the Localism Act 2011 by Colleen O'Boyle,
Monitoring Officer of Epping Forest District Council, on behalf of Uttlesford District
Council into a complaint made concerning Saffron Walden Town Councillor P.Gadd.**

Complaint reference 1/2016/PLP

Complainant: Andrew Ketteridge.

1.0 Summary of report

- 1.1 This report considers complaints made by Mr Andrew Ketteridge on the 7th January 2016. It considers membership, or otherwise, of a group known as WeAreResidents.org (WAR) and whether appropriate declarations were made relating to that group at Saffron Walden Town Council (SWTC) meetings by Cllr P. Gadd.
- 1.2 The report outlines the relevant circumstances and draws upon the written complaint of Mr Andrew Ketteridge, a Statement from Councillor Gadd, the Code of Conduct at the relevant time of both SWTC, research of minutes referred to in the complaint, a legal agreement between SWTC and WAR relating to the sharing of costs of defending the planning appeal and the instructions from UDC relating to membership or otherwise of WAR.
- 1.3 The Complaint and Statement together with the legal agreement between SWTC and WAR relating to the sharing of costs of defending the planning appeal are attached as Appendices. The Code of Conduct for SWTC is available on line via the website.
- 1.4 An interview was conducted by me at the Uttlesford District Council Offices on the 21st June 2016. I am grateful for the cooperation of Cllr Gadd and the helpful staff on reception.
- 1.5 The report finds a breach of the SWTC Code of Conduct

2.0 Introduction

- 2.1 I have been instructed by Uttlesford District Council (UDC) through the Public Law Partnership to conduct an investigation into the complaint at Appendix 1. Following the acceptance of that investigation I am instructed to draft a report of the outcome in so far as it relates to Cllr Gadd. I am the Monitoring Officer for Epping Forest District Council and have held that position for 16 years. I am also a qualified Solicitor with 31 years' post qualification experience in local government.
- 2.2 I have been directed by the complainant to the extracts from the District Council the SWTC Code of Conduct. I have considered the extract as well as the remainder of the Code. From those considerations, measured against the evidence I have seen, I have set out the allegation against Cllr Gadd together with my conclusion.
- 2.3 In considering the issues I have made no reference to nor been influenced by political allegiance as my sole focus is to examine conduct in relation to the adopted Code.
- 2.4 Councillor P Gadd is alleged to have failed to declare his interest as a member of WAR at SWTC meetings (paras 7, Appendix 1 and 2 of the SWTC Code of conduct refer).

3.0 Findings of Fact.

- 3.1 It is common ground that Kier Homes applied for planning permission for a residential development off Thaxted Road, Saffron Walden, Essex which was refused by the District Council Planning Committee on the 30th April 2014.

- 3.2 Keir Homes appealed that decision.
- 3.3 The District Council made a subsequent decision not to defend the appeal.
- 3.4 SWTC and WAR applied to be party to the appeal proceedings (a Rule 6 application).
- 3.5 By a legal agreement between SWTC and WAR the two parties agreed to share the costs of defending the appeal 50:50 with an upper limit of £50,000 total.
- 3.6 The appeal by Kier Homes was dismissed.
- 3.7 SWTC wrote to the District Council on 21st July 2015 and again on the 7th September 2015 seeking payment of £42,585.10 to SWTC and WAR for their costs in defending the planning appeal.
- 3.8 The letters were written by the town clerk at the relevant times following authorisation by the SWTC Planning & Road Traffic Committee meetings of 16th July and 6th August 2015, respectively.
- 3.9 Councillor Gadd was not present at the meeting of the Town Council Planning & Road Traffic Committee meeting of 16th July 2015 but he was in attendance on the 6th August 2015. On that occasion an item which resulted in the decision to write again to the District Council was made. Cllr Gadd did not declare his interest.
- 3.10 Councillor Gadd had made a declaration in his register of interests that he was the Secretary of WAR – but did not express that at the meeting of the 6th August 2015 as referred to above.
- 3.11 The outcome of that meeting was confirmatory of an earlier decision (16th July 2015) at which Councillor Gadd had not been present.

4.0 Application of the Codes

- 4.1 Declaration of interests -by virtue of his membership of WAR and role as Secretary of that body, I find that Councillor Gadd did fail to disclose a Local non pecuniary interest at the Planning and Road Traffic Committee meeting of SWTC on the 6th August 2015 as required by the SWTC Code of Conduct.

6.0 Overall Findings

- 6.1 Councillor Gadd breached the SWTC Code of Conduct by failing to declare a local non pecuniary interest at the meeting of the Planning and Road Traffic Committee on the 6th August 2015 by virtue of his membership of WAR.

Saffron Walden Town Council (./)

Toggle Menu



Code of Conduct

Saffron Walden Town Council
Local Code of Conduct

In accordance with S.26 to 37 of the Localism Act 2011 on 11th December 2014 Saffron Walden Town Council resolved to adopt this Local Code of Conduct for the purposes of discharging its duty to promote and maintain high standards of conduct within its area.

Until otherwise amended or replaced by a decision of the Council, the Local Code of Conduct set out below shall hereafter apply to all elected members and any co-opted members entitled to vote on any decisions of the council or its committees, sub committees or joint committees when acting in their capacity as a member of the Council.

Preamble

The Local Code of Conduct shall be interpreted in accordance with the following seven principles of public life identified by the Committee on Standards in Public Life chaired by Lord Nolan:

Selflessness - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

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.

Leadership - Holders of public office should promote and support these principles by leadership and example.

CODE OF CONDUCT APPLICABLE TO TOWN COUNCILLORS IN SAFFRON WALDEN

1. You must treat others with respect.

2. You must not:-

(1) do anything which may cause your authority to breach any of the Council's duties under the Equality Act 2010

(2) bully any person;

(3) intimidate or attempt to intimidate any person who is or is likely to be—

(a) a complainant,

(b) a witness, or

(c) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(4) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your council.

3. You must not:-

(1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the authority; or
- (2) prevent another person from gaining access to information to which that person is entitled by law

4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

5. You:-

- (1) must 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; and
- (2) must, when using or authorising the use by others of the resources of your authority—
 - (a) act in accordance with your authority's reasonable requirements;
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

6. When reaching decisions on any matter you must have regard to any relevant advice provided to you by :-

- (a) your council's Responsible Financial Officer; or
- (b) your council's Town Clerk,
- (c) your council's head of paid service; or
- (d) any other officer, where that officer is acting pursuant to his or her statutory duties.

6.1 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

7. Registration of interests

7.1. You must register within 28 days of becoming a member of the Council (and notify the relevant Monitoring Officer of any changes within 28 days) any Disclosable Pecuniary Interests (DPIs) you have for publication in the Register of Members' Interests. (See Appendix)

7.2. You may not at any time discharge any function or participate in any Council business or discussions, or vote on any issues that relate to or concern any of your DPIs where you are aware that you have a relevant DPI. You may not remain in the chamber or meeting room or in the public gallery when any matter that relates to any of your DPI is under discussion or debate unless you have requested a dispensation in writing to the Proper Officer as soon as possible before the meeting, or failing that, at the start of the meeting for which the dispensation is required, and a written dispensation has been granted by the Council (or Committee or Proper Officer where council has delegated the function).

7.3. You must register within 28 days of becoming a member of the Council (and notify the relevant Monitoring Officer of any changes within 28 days) any Local Non-Pecuniary Interests (LNPIs) set out in Part 2 to Appendix A to this code, but you may participate in any discussions or debates relating to or concerning any of your LNPIs after the date of registration.

7.4. You must declare any DPIs or LNPIs to a meeting where business is relevant to those interests, including those interests that are already registered with the relevant Monitoring Officer or where registration is pending.

7.5. You must register, within 28 days, any gifts and hospitality of £25 or more received by you in accordance with the instructions issued within your Council by the relevant Monitoring Officer.

7.6. The Council's Register of Interests will be available for inspection at the Uttlesford District Council offices by prior arrangement during normal office hours, and will be published on that Council's website.

8. Sensitive Interests

You may also apply to the relevant Monitoring officer for non-publication of the full details of any of your DPIs or LNPIs where you reasonably believe that publication of the details of a particular DPI or LNPI could result in your being subjected to violence or intimidation. In considering such applications the relevant Monitoring Officer shall have regard to any representations made by you in determining whether he or she considers the relevant DPI or LNPI should be treated as a Sensitive Interest and excluded from the published version of the Register of Members' Interests.

Appendix

Part 1

Description of categories of Disclosable Pecuniary Interests

You have a Disclosable Pecuniary Interest in any business of the Council if it is of a description set out in 1-7 below and is either:

- (a) An interest of yours
- (b) An interest of your spouse or civil partner
- (c) An interest of a person with whom you are living as husband and wife or as civil partners

And, in the case of paragraphs (b) and (c), you are aware they have the interest.

In these descriptions the term 'relevant person' is used to mean you as a member and any such person as set out in paragraphs (b) and (c).

1. Any employment, office, trade, profession or vocation carried on for profit or gain.
2. Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
3. Any beneficial interest in securities of a body where -
 - (1) that body (to your knowledge) has a place of business or land in the area of the Council, and
 - (2) either:
 - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant persons has beneficial interest exceeds one hundredth of the total issued share capital of that class.
4. Any contract which is made between the relevant person, or a body in which they have a beneficial interest, and the Council-
 - (1) under which goods or services are to be provided or works are to be executed; and
 - (2) which has not been fully discharged.

5. Any beneficial interest in any land in the Council's area.
6. Any tenancy where to your knowledge (a) the landlord is the Council and (b) the tenant is a body in which a relevant person has a beneficial interest.
7. Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.

Part 2

Description of categories of Local Non-Pecuniary Interests

1. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
2. Any body-
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
 of which you are a member or in a position of general control or management;
3. Any person from whom you have received a gift or hospitality with an estimated value of at least £25.

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13/09/2016

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More (news/a/join-our-focus-groups-on-the-s.walden-neighbourhood-plan/)

Stay safe and well with the Winter Warmers (news/a/stay-well-this-winter/)

12/09/2016

Health and wellbeing events 2016

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Bandstand in Jubilee Gardens (news/a/bandstand-in-jubilee-gardens/)

11/09/2016

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Upcoming Events

