



Standards Consideration and Hearings Sub-Committee held on Tuesday 21 July 2009 at 10.00am in the Council Chamber, District Council Offices, St Peter's Street, St Albans, Hertfordshire AL1 3JE

FULL DECISION:

Reference: CO2307-2008-1-004

Date of Full Decision Notice: 22 July 2009

Authority	St Albans City & District Council
Subject member:	Councillor Derek Hills, a member of Wheathampstead Parish Council
Complainant:	Councillor Chris Oxley, a member of St Albans City & District Council
Standards Committee member who chaired the hearing:	Mr Jagat Chatrath, Independent member of and Chair of the Standards Committee
Standards Committee members who took part in the hearing:	Dr Samitha De Silva independent member, District Councillors Martin Leach and Pat Garrard and Parish Councillor John Bell
Monitoring Officer:	Mike Lovelady, Head of Legal & Democratic Services
Local Investigator who investigated the matter:	Mr George Coleby
Clerk of the hearing:	Jill Durham, Democratic Services Manager
Date of hearing:	21 July 2009
Date of Investigator's report:	7 May 2009
Summary of the Complaint:	
<p>Councillor Chris Oxley, a member of St Albans City & District Council, alleged that Councillor Derek Hills, a member of Wheathampstead Parish Council, failed to declare an interest at a meeting of the parish council, in late 2006 or early 2007, when the parish council considered a proposed lease relating to paragraph 8 of the parish council's code of conduct. Councillor Oxley alleged that Councillor Hills had a personal interest in the lease as he was also a</p>	

member of the county council.

Councillor Oxley alleged that Councillor Hills was closely involved in negotiations between the parish council and the county council, despite having a conflict of interest, and that he failed to advise the parish council or the public of potentially adverse ramifications of the parish council entering into the lease.

Relevant section or sections of the Code of Conduct:

Paragraph 8 of the 2002 Wheathampstead Parish Council Code of Conduct (failure to declare a personal interest) , paragraph 10(a) of the 2002 code or 12 (1) (a) (ii) of the 2007 code (failure to withdraw from a relevant meeting despite having a prejudicial interest), paragraph 10 (b) of the 2002 code or paragraph 12 (1) (c) of the 2007 code, paragraph 5 (a) of the 2002 code or paragraph 6 (a) of the 2007 code (using position as a member improperly to confer on or secure an advantage for self or another), paragraph 4 of the 2002 code or paragraph 5 of the 2007 code (bringing office or authority into disrepute).

Summary of evidence considered and representations made:

The evidence considered was set out at Section 4 of Mr Coleby's written report which was attached in full to the committee's agenda.

Councillor Hills did not attend the hearing and neither was he represented. Accordingly no representations were made on his behalf.

The findings of fact, including the reasons for them:

Findings of fact:

In February 2005 Hertfordshire County Council decided to sell the site of the Education Development Centre, Wheathampstead, for housing development, but not the playing fields, which were at the time leased to Wheathampstead Parish Council, under a 7 year lease. The existing lease included certain rights regarding renewal of the lease under the Landlord and Tenant Act 1954.

Councillor Hills was not involved in the decision to sell the land.

On 26 January 2006, Councillor Hills declared a personal interest at a meeting of Wheathampstead Parish Council, when the county council's outline planning application for the site was discussed.

Following the county council's offer to the parish council to lease the playing fields to the parish council, Councillor Hills attended several meetings with county council representatives to discuss the new lease. Councillor Hills attended these meetings in his role as a parish councillor, in order to represent the parish council's views.

Although Councillor Hills' participation in the negotiations with the county council was not formally approved by the parish council, members were aware of his involvement in the negotiations and did not object to his involvement.

As a result of these meetings it was agreed that the parish council would enter into a lease for the playing fields, which would have a term of 25 years but would exclude the provisions of sections 24 and 28 of the Landlord and Tenant Act 1954.

The parish council's solicitors were informed of and involved in the negotiations concerning the lease, and information on progress of the negotiations was made available to members of the parish council.

The proposed lease for the playing field and related issues were discussed at parish council meetings on 30 March 2006, 29 June 2006, 28 March 2007, and 31 May 2007. Councillor Hills did not declare an interest at any of these meetings.

On 26 July 2007, Wheathampstead Parish Council adopted the revised Model Code of Conduct under the Local Authorities (Model Code of Conduct) Order 2007.

On 31 March 2008 Councillor Hills, and Councillor Stammers, the Chairman of the Parish Council, signed an agreement to surrender and vary the existing lease for the playing field and to enter into the new 25 year lease.

Councillor Hills addressed the parish council meeting on 31 July 2008 about a matter relating to the lease and did not declare a personal interest.

Councillor Hills' membership of the county council was recorded in his register of interest form held by Wheathampstead Parish Council dated 27 April 2002. It was also included in his register of interest forms, dated 10 May 2007 and 6 August 2007 respectively, albeit in the wrong part of the form.

Reasons for findings of fact:

The sub-committee was satisfied that the evidence of Mr Coleby was not disputed and was fully supported by documentary evidence and interviews.

The finding as to whether the member failed to follow the Code, including the reasons for that finding:

Findings as to whether the member failed to follow the Code:

- That Councillor Hills had failed to comply with paragraph 8 of the 2002 code of conduct and paragraph 9 (1) of the 2007 code of conduct
- That Councillor Hills had failed to comply with paragraph 13 (b) of the 2002 code of conduct and paragraph 13 (1) (b) of the 2007 code of conduct
- That Councillor Hills had not failed to comply with paragraphs 4, 5(a), 10 (a) or 10 (b) of the 2002 code of conduct or paragraphs 5, 6 (a), 12 (i) (a) (ii) or 12 (1) (c) of the 2007 code.

Reasons for that finding:

As set out at Section 7 of Mr Coleby's report which was attached in full to the committee's agenda.

The sanctions imposed, if any, including the reasons for any sanctions:

Sanction imposed:

That the member undertakes 1:1 training with the Monitoring Officer specifically on the provisions of the code concerning disclosure of interest.

Reasons:

Having regard to the following issues of mitigation:-

- The committee agreed with the Investigator's conclusion that Councillor Hills's failure to comply with paragraph 13 (b) of the 2002 code of conduct and paragraph 13 (1) (b) of the 2007 code of conduct was a genuine error.

- Councillor Hills stated when interviewed that he probably would declare an interest if a similar situation arose in future.

- There is no allegation or evidence that Councillor Hills gained personally from the parish council's decision to enter into the lease with the county council.

- The committee agreed with the Investigator's conclusion that Councillor Hills was at all times acting in the interests of the parish council and the residents of the council's area.

The right to appeal:

A member subject to a standards committee finding may apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding.

The President must receive the member's written application within 21 days of the member receiving notice of the standards committee's decision. In this application, the member (appellant) must outline the reasons for the proposed appeal and apply for any sanction imposed to be suspended, if appropriate. They must also indicate whether they want the appeal carried out in writing or in person.

When deciding whether to grant permission to appeal, the President will consider if there is a reasonable chance of the appeal being successful, either in whole or in part. The President will give the appellant concerned their written decision within 21 days of receiving the application. The President will also give their written decision to:

- Standards for England
- the standards Committee of any authority concerned
- any parish or town councils concerned
- the complainant.

If the President refuses to give permission, they will explain the reasons for that decision.