

Decision Notice of the Maidstone Borough Council Standards Sub-Committee

Name of Authority: Langley Parish Council

Subject Member: Councillor Hans Reichert

Complainant: Mr A Monk

Case Reference Number: MBC/10/01

Chairman: Mr Don Wright

Standards Committee Members: Councillor Wendy Hinder, Parish Councillor
Bill Stead

Monitoring Officer: Mr Paul Fisher

Investigating Officer: Ms Donna Price

Date of Investigation Report: 19 August 2010

Committee Administrator: Mrs Debbie Snook

Time, Date, Place of Hearing: 10.00am on Monday 18th October 2010 at the
Town Hall, Maidstone

Summary of Complaint

The complainant alleged breaches of the Code of Conduct of Langley Parish Council. A summary of the allegations is set out below together with the numbered paragraph of the Code of Conduct:-

1. That Councillor Reichert used his position as a member of Langley Parish Council to secure an advantage for himself (Para 6a).
2. That Councillor Reichert failed to disclose prejudicial interests and withdraw from meetings when matters relating to his company were discussed (Paras 9 and 12).

Relevant Sections of the Code

Paragraph 6

You—

- (a) 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

Paragraph 9

Disclosure of personal interests

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Paragraph 12

Effect of prejudicial interests on participation

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
 - (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Summary of the evidence considered and representations made

The Chairman reminded the Sub-Committee that at an earlier meeting it had agreed with the finding in the Investigating Officer's report that there had been no breach of paragraph 6 of the Code.

The Chairman first of all formally asked Councillor Reichert if he admitted to having breached paragraphs 9 and 12 of the Code of Conduct. Councillor Reichert did admit the breaches.

Findings of fact including the reasons for them

The Sub-Committee agreed with the findings of fact as set out in the Investigating Officer's report for the reasons set out in that report.

Finding as to whether the Member failed to follow the Code

The Sub-Committee agreed that there had been no breach of paragraph 6 of the Code, but that paragraphs 9 and 12 had been breached, for the reasons set out in the Investigating Officer's report.

Sanctions imposed and reasons for any sanctions

The Sub-Committee determined that the sanction imposed for the breaches of paragraphs 9 and 12 of the Code of Conduct be that the Subject Member be censured.

The Sub-Committee believed that at the time of the breaches there was a lack of understanding of the Code of Conduct generally within the Parish Council, and usually in such circumstances it would impose a training sanction, but it recognised that Cllr Reichert had taken the initiative to attend training as had other members of the Parish Council. The Sub-Committee had listened to the advice of the investigating officer and had taken into account the guidance on sanctions issued by Standards for England. It considered that there was no intention to breach the Code, that the subject member had been naïve but not dishonest.

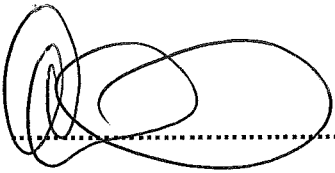
Right of Appeal

The Subject Member can give Notice of Appeal to the First-tier Tribunal (Local Government Standards England) (the Tribunal) that the Subject Member seeks permission to appeal and if appropriate apply for suspension of the sanction imposed until such time as any appeal is determined.

The Notice of Appeal must be received by the Tribunal within 28 days of the Subject Member's receipt of this Decision Notice.

The Notice of Appeal must specify:-

1. The finding against which the Subject Member seeks permission to appeal;
2. Whether the appeal is against the finding that the Subject Member has failed to comply with the Code of Conduct, or if it is against the sanction imposed, or both;
3. The grounds of the appeal;
4. Whether any application for suspension of any sanction is made; and
5. Whether or not the Subject Member consents to the appeal being conducted by way of written representations.

Signed 

Don Wright – Chairman

Date 25.10.40.