

INITIAL ASSESSMENT OF COMPLAINT

DECISION NOTICE

Subject Member: Cllr John Clark

Background

1. A complaint was received on or about 16 October 2016 from Cllr Alan Lay ("the Complainant") alleging that Cllr Clark ("the Subject Member") had breached the Members Code of Conduct by failing to declare an interest at the Economy and Environment Committee of 13 October 2016.

Summary of the Allegations

2. The Complainant alleged that the Subject Member via his businesses has a business relationship with the Fenland Association of Community Transport ("FACT") and he failed to declare this as an interest at the Economy and Environment Committee of 13 October 2016.
3. The Complainant further alleged that at that meeting an item of business was discussed which impacted upon/related to FACT and the Subject Member took part in the debate.
4. The Complainant considers that the presence and participation by the Subject Member could be questionable and could unfairly influence the outcome of the item.

Evidence Considered

5. The following documents were considered for the purposes of this complaint:-
 - a) Complaint "Is this evidence of Insider Dealing?" dated 16 October 2016 from the Complainant to Quentin Baker as Monitoring Officer;
 - b) Subject Member's Register of Interests;
 - c) Minutes of the meeting of 13 October 2016;
 - d) Members Code of Conduct.

Jurisdiction

6. For a complaint to be considered in connection with the Member's Code of Conduct, the following test must be satisfied:
 - a) the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council; and
 - b) the Subject Member had signed up to the Members' Code of Conduct in force at the time the alleged action took place; and
 - c) the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.
7. The Independent Person has concluded all three limbs of this test are satisfied in this matter.

Initial Assessment Decision

8. The Independent Person has considered whether the actions of the Subject Member described in paragraphs 3 and 4 above constitute a breach of the following provisions of the Members' Code of Conduct:
 - a) Obtaining improper advantage or disadvantage (paragraph 4.1);
 - b) Failure to declare a Disclosable Pecuniary Interests (paragraph 8.1);

- c) Failure to declare a Non Statutory Disclosable Interests (“NSDI”) (paragraph 10.2);
 - d) Nolan Principle of Selflessness;
 - e) Nolan Principle of Honesty;
 - f) Nolan Principle of Openness.
9. The Independent Person has noted that as at 13 October 2016 the Subject Member’s Register of Interests detailed 2 Garages as Disclosable Pecuniary Interests and MOTs for FACT as a NSDI and considers that on the evidence provided these are the correct declarations in the circumstances.
10. The Independent Person further notes that the Code of Conduct requires a NSDI to be declared at a meeting if not already registered. There is a prohibition on participation only where the NSDI is such as would be likely to prejudice the Member’s judgement of the public interest.
11. The item under discussion at the meeting on 13 October 2016 related to subsidies paid by the County Council in support of community transport organisations. Although FACT was not specifically mentioned in the report it is correct to conclude that it is likely that it would be indirectly affected by the decision. Further, it is possible that this would have an indirect effect in relation to the Subject Member’s MOT business.
12. The Independent Person concluded that the Subject Member had made the appropriate NSDI declarations within his Register and under the Code of Conduct was not required to declare at the meeting. In the absence of any evidence to the contrary, the Independent Person concluded that such interest was unlikely to be of significant effect and it was accordingly not a prejudicial interest which would preclude participation in the item under paragraph 10.2 of the Code or of any other part of the Code.
13. In view of the above the Independent Person considers there has been no breach of the Code of Conduct as the relevant procedures were followed.

Further Action

14. Despite concluding that there was no breach of the Code of Conduct the Independent Person nevertheless considers that advice ought to be given to the Subject Member regarding interests and that he is advised to take great care and fully consider his position when dealing with matters relating to FACT in the future.

Approved by: Gill Holmes (Independent Person)
 Quentin Baker (Monitoring Officer)

Dated: **17 January 2017**