

ADDRESSEE ONLY

Councillor J Bennett
18 Riviere Towans
Hayle
TR27 5AF

Your ref:

My ref:

Date:

SM/KN/006060/23

27 July 2010

Dear Councillor Bennett

Allegation under the Code of Conduct

Ref: CC023

Further to the assessment sub committee hearing held on the 22 July 2010 I enclose herewith a copy of the signed decision notice which sets out what will happen next.

Yours sincerely



Simon JR Mansell MBE

Principal Legal Officer Corporate Governance

F.Inst.L.Ex

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Enc



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DECISION NOTICE

REFERRAL FOR ACTION OTHER THAN INVESTIGATION

Reference: CC023/10

Important – The Assessment Sub Committee in directing the Monitoring Officer to take other action has made no finding of fact or a decision as to whether the alleged conduct occurred or that the subject member has failed to comply with the Code of Conduct. In making this direction, the Assessment Sub Committee is satisfied that even if a breach of the Code was found the proposed action would be proportionate.

Complaint

On 22 July 2010 an Assessment Sub Committee of the Standards Committee of Cornwall Council considered a complaint from Mr D McGeorge concerning the alleged conduct of Councillor J Bennett of Hayle Town Council. A general summary of the complaint is set out below:

- It is alleged that Councillor Bennett as a member of both the Hayle Harbour Trust Ltd (formed in April 2010) and the Friends of Hayle Harbour (formed in January 2010) has failed to declare a personal or prejudicial interest in matters concerning Hayle Harbour and in particular failed to declare a prejudicial interest at a Town Council meeting on the 17 June 2010. Further it appears that when an email letter was sent complaining about the attitude of Councillor Bennett in a letter published in the Cornishman and on the Friends of Hayle Harbour webpage, the comments on the webpage were amended apparently without other councillors being shown or given a chance to comment on the email.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Assessment Sub Committee decided to refer the matter to the Monitoring Officer for action other than investigation.

The Assessment Sub Committee resolved that the Monitoring Officer be directed to write to the Clerk of Hayle Town Council to request the Clerk to remind Members of Hayle Town Council of the procedures relating to personal and/or prejudicial interests and the importance of declaring any interests.

Potential breaches of the Code of Conduct identified

Although there is no finding of fact or a decision as to whether the alleged conduct occurred or that the subject members have failed to comply with the Code of Conduct, we have identified below the paragraphs of the Code of Conduct which may apply to the alleged conduct.

- Paragraph 5, if the allegation were proved it appeared the subject Member had brought his office or authority into disrepute while acting in his official capacity.
- Paragraph 9(1), if the allegation were proved it appeared the subject Member had failed to declare a personal interest.
- Paragraph 12(1), if the allegation were proved it appeared the subject Member had failed to withdraw from the room or chamber where a matter in which you have an interest was being discussed.

Reasons for decision

The reasons for the decision were that:

- The named Member was in office at the time of the alleged conduct and the Code was in force at the time.
- The other action directed was considered to be the most appropriate and proportionate approach.

This decision notice is sent to the complainants, the member against whom the allegation was made and the Clerk to Hayle Town Council.

What happens now?

Action other than investigation – an officer will be appointed by the Monitoring Officer who will write to the Clerk of Hayle Town Council to request that they remind Members of Hayle Town Council of the procedures relating to personal and/or prejudicial interests and the importance of declaring interests.

Terms of reference

The legislative framework for ethical standards charges the standards Committee of Cornwall Council with promoting and implementing the local referral process for Code of Conduct complaints against members of Cornwall Council as well as members of the Parish, Town and City Councils within the Council's area.

Additional help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

We can also help if English is not your first language.

SJR Mansell MBE



Principal Legal Officer
On behalf of the Chair of the Assessment Sub Committee
Date: 27 July 2010

