

FINAL REPORT

SBE CASE NO: SBE 1533606

MEMBER: Parish Councillor J Willcock

AUTHORITY: Little Paxton Parish Council

ALLEGATIONS: It is alleged that the above-named Member acted contrary to paragraphs 3 (a), 7 (1), 8, 9 (1) and 10 (a) of the Parish Council's Code of Conduct.

DATE REFERRED TO DISTRICT COUNCIL'S MONITORING OFFICER: In accordance with section 60 (2) of the Local Government Act 2000, the case was referred to the Monitoring Officer, Huntingdonshire District Council for investigation in a letter dated 20th July 2006.

APPOINTMENT OF INVESTIGATING OFFICER: On 26th July 2006 the Monitoring Officer appointed Ms Christine Deller, Democratic Services Manager, Huntingdonshire District Council to investigate the allegation.

DATE OF DRAFT REPORT: 17TH OCTOBER 2006

SUMMARY

The complainant, Mrs Susan Dean of 29 Lakefield Avenue, Little Paxton had alleged in a complaint sent to the Standards Board for England dated 19th June 2006 that Councillor J Willcock had failed to declare an interest in the matter of the erection of a fence adjoining the Parish Council's playing field, that Councillor Willcock passed correspondence to the complainant's neighbours, Mr and Mrs D Dring, without the knowledge of the Parish Council and without the neighbours making proper requests for the information and that Councillor Willcock was very good friends with the complainant's neighbours.

As a result of these actions, it has been alleged that Councillor Willcock failed to comply with Sections 3 (a), 7 (1), 8, 9 (1) and 10 (a) of Little Paxton Parish Council's Code of Conduct adopted by the Council at its meeting held on 7th May 2002 which requires that -

3 (a) - a Member must not disclose information given to him/her in confidence by anyone, or information acquired which she/he believes is of a confidential nature, without the consent of a person authorised to give it, or unless she/he is required by law to do so;

7 (1) - a Member must regard him/herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, rate payers, or inhabitants of the authority's area, the well being or financial position of him/herself, a relative or a friend;

8 - a Member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered, must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent;

9 (1) – a Member with a personal interest in the matter also has a prejudicial interest in that matter, if the interest is one in which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member’s judgement of the public interest; and

10 (a) – a Member with a prejudicial interest in any matter must withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless she/he has obtained dispensation from the Standards Committee of the responsible authority.

RESPONSES TO ALLEGATIONS

In a letter from the Standards Board for England dated 20th July 2006, the allegations were referred for investigation to the Monitoring Officer, Huntingdonshire District Council in accordance with Section 60 (2) of the Local Government Act 2000.

In accordance with the procedure for the investigation of allegations, Councillor Willcock submitted a written statement in which he denied having breached the Code of Conduct. No other written material has been submitted.

INVESTIGATION: PROCEDURE

Four interviews were conducted by the Investigating Officer: one with Mrs Jenny Gallatly, Clerk to Little Paxton Parish Council on 29th September 2006, others separately with Councillor J Willcock, against whom the allegations had been made on 4th October 2006, with Councillor A Denison, Chairman of the Parish Council on 11th October 2006 and with Mrs S Dean, the complainant, on 12th October 2006. In response to an approach from the Investigating Officer, Mr D Dring, the principal witness chose to respond to questions on his involvement in the case via e-mail. This exchange took place over the period 29th September – 12th October 2006. On 29th September, the Investigating Officer accompanied Mrs Gallatly on a visit to the Playing Field and to the location of the fence involved in the case.

A written note of the material points of the interviews conducted was sent to each party together with a request that one copy be returned, signed as a correct record with such corrections or amendments as the interviewees felt necessary. Copies of the interview notes are appended together with other documents that are relevant to the investigation –

- ◆ A location map of Lakefield Avenue, Little Paxton on which can be identified the home addresses of Councillor J Willcock, Mr and Mrs D Dring and Mrs S Dean and the juxtaposition of the playing field with the properties owned by these individuals;
- ◆ A written statement produced by Councillor J Willcock in respect of the allegations made against him received by the Monitoring Officer on 27th July 2006;
- ◆ A copy of the original complaint made by Mrs S Dean to the Standards Board for England dated 19th June to which are attached Minutes of Little Paxton Parish Council and relevant letters relating to the case dated over the period 4th May 2005 – 23rd May 2006;
- ◆ Also appended is a copy of a letter received from Mrs S Dean sent in response to the content of the draft report.

RELEVANT FACTUAL INFORMATION:

Mrs Gellatly, Clerk to the Parish Council has confirmed that Councillor Willcock had first signed his declaration of acceptance of office on his co-option to the office of Parish Councillor on 6th September 2001 and had agreed to observe the Parish Council's Code of Conduct. Councillor Willcock has subsequently reaffirmed his declaration and willingness to observe the Code of Conduct annually as this appears to be the practice of Little Paxton Parish Council. Councillor Willcock could not recall having received a copy of the Code of Conduct when first co-opted but both the Parish Clerk and Councillor Willcock suggested that this would not have been overlooked by the previous Clerk. Councillor Willcock had not participated in any training on the Code of Conduct despite the opportunity having been offered to him via sessions hosted by CALC and the District Council. In common with all Members of the Parish Council, Councillor Willcock had received a copy of "The Good Councillors Guide" published by the National Training Strategy For Town and Parish Councils. Councillor Willcock's financial and other interests are registered with the District Council. Councillor Willcock's registered address is 45 Lakefield Avenue, Little Paxton. When questioned, Councillor Willcock confirmed that, in his view, he understood the concept of personal and prejudicial interests as defined by the code of Conduct. It was also the view of the Parish Clerk and Parish Chairman that Councillor Willcock had a good understanding of the code. Neither the Clerk, Chairman nor Councillor Willcock's colleague Members had suggested to him that it would have been prudent to declare an interest at the meetings at which the "fence on playing field" was raised.

The background to the complaint relates to the erection of a fence on the rear garden boundary of No 31 Lakefield Avenue, Little Paxton occupied by Mr and Mrs Dring and that of Little Paxton playing field. Those parties involved following the commencement of work by the fencing contractors at No 31 Lakefield Avenue, have described the sequence of the events as they unfolded in detail in the interview notes. These accounts are broadly similar and there appear to be no discrepancies in the facts as re-counted by the Parish Clerk, Mrs J Gellatly, the Chairman of the Parish Council, Mr Denison, Mr and Mrs Dring and Mrs Dean. Whilst the dispute over the erection of the fence ultimately led to the submission of the complaint to the Standards Board for England, there is no suggestion that the Parish Council has acted improperly in their attempts to resolve the matter.

The diary of events produced by the Clerk to Little Paxton Parish Council records that the item "fence on playing field" was considered at three meetings of the Parish Council on 4th May, 2nd June and 7th July 2005. Copies of the Minutes of these meetings of the Parish Council accompanied the complaint to the Standards Board. Councillor J Willcock was present at each of these meetings. It is not recorded that Councillor Willcock declared an interest at these meetings nor did he challenge the accuracy of those minutes at subsequent meetings.

At their meeting on 7th July 2005, the Parish Council concluded their business on the item "fence on playing field" and agreed to take no further action. The vote on the item was not recorded. Councillor Willcock had suggested that he had abstained from voting although this is not recorded formally in the Minutes. The Parish Clerk has confirmed that Councillor Willcock had abstained from voting at the meeting on 7th July 2005 and that she had a record of his abstention in her hand written notes. These have been copied to

the Investigating Officer. Councillor Willcock's abstention also was recalled by the Chairman to the Parish Council, Councillor Denison.

A letter from Mrs Dean relating to the "fence on playing field" was circulated to all Members of the Parish Council present at their meeting held on 4th May 2005. Whilst the content of the letter was not read out to the meeting, the subject matter would have been apparent to those in the public gallery and the facts clearly accessible to the other parish councillors. In her letters dated 10th and 23rd May, the Parish Clerk states that the Parish Council had not received any requests from Mr and Mrs Dring to view any correspondence received from Mrs Dean nor had any such matter been released from the Parish Office.

Using and comparing the evidence gathered during the interviews, it is possible to examine the various allegations made in the complaint.

FAILURE TO DECLARE A PERSONAL INTEREST –

"A member must regard him/her having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 12 and 13 (of the model code of conduct) or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, rate payer, or inhabitants with the authorities area, the well being or financial position of him/herself, a relative or a friend. Paragraph 12 of the code requires that a member must register his/her financial interests – these interests include "the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority". (Paragraph 7(1)).

Councillor Willcock has registered his interests with the Monitoring Officer. His declaration identifies his ownership of a property at 45 Lakefield Avenue in the parish of Little Paxton. The item in respect of the "fence on playing field" considered by the Parish Council related to a property also located on Lakefield Avenue, Little Paxton. By virtue of his property ownership it is suggested that Councillor Willcock should have considered declaring a personal interest at the meetings of the Parish Council held on 4th May, 2nd June and 7th July 2005. Councillor Willcock's property abuts the playing field on which the fence under discussion had been erected. Whilst accepting that Councillor Willcock does not have a view of the rear boundary of number 31 Lakefield Avenue from his own property and that No 31 is some distance from No 45, the fact that both properties share a common boundary with the parish council's playing field is sufficient to constitute a personal interest.

There are conflicting accounts of the extent of Councillor Willcock's relationship with Mr and Mrs Dring. Whilst there is insufficient evidence to suggest theirs is a close relationship, Councillor Willcock has acknowledged, at the very least, contact with Mr Dring over Parish Council business in the past, membership of the same gym, where they would occasionally exchange pleasantries and one visit to Mr Dring's property to inspect the position of the fence. Indeed Councillor Willcock had described their relationship as a "very passing acquaintance". The Parish Clerk has suggested that Councillor Willcock would have known Mr Dring, although she could not describe their relationship as close. Similarly the Chairman of the Parish Council, Councillor Denison also has suggested that a casual friendship existed between the two men. Mr Dring also has used the phrase "acquaintance" to describe his relationship with Councillor Willcock although denies any other social contact

with him. It is interesting to note that Councillor Willcock indicates in his statement that he made no secret of the fact that he was an acquaintance of Mr Dring at meetings of the Parish Council. Both Councillor Willcock and Mr Dring admit to “chatting” outside Mr Dring’s house when Councillor Willcock had been en route to his close friend living at number 27 Lakefield Avenue. It had also been suggested by Mr Dring that the two men had bumped into each other a few times.

A Councillor has a personal interest in any matter which affects the well being or financial position of a friend. The term “friend” has presented a variety of difficulties in terms of its definition for the purposes of the Code generally, but given that Councillor Willcock had had contact with Mr Dring over parish council business and has acknowledged some, although perhaps infrequent social contact with him, it might have been prudent for him to have disclosed his acquaintance with Mr Dring via the declaration of a personal interest.

A Member with a personal interest in a matter who attends a meeting of the Authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent (paragraph 8).

There is no record in the Minutes of the meetings of Little Paxton Parish Council held on 4th May, 2nd June and 7th July 2005 that Councillor Willcock had declared a personal interest in the business relating to the “fence on playing field” by virtue of his ownership of 45 Lakefield Avenue, the location of the property on the common boundary of the playing field and his acquaintance with Mr Dring, owner of number 31 Lakefield Avenue at which location there was a dispute over the erection of a fence. It is perhaps unfortunate that Councillor Willcock chose to indicate some association with Mr Dring during the Parish Council meetings but this was not considered to be a formal declaration and therefore not recorded in the Minutes. There is also no indication that Councillor Willcock challenged the accuracy of the minutes at subsequent meetings.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Members judgement of the public interest. (Paragraph 9 (1)). A Member with a prejudicial interest in any matter must withdraw from the room or chamber where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless she/he has obtained dispensation from the Standards Committee of the responsible authority (paragraph 10 (a)).

Although it can be established that Councillor Willcock had a personal interest by virtue of his property ownership in the item “fence on playing field”, it could be argued that, in itself, that interest would not be regarded as so significant as to prejudice his judgement of the public interest. Similarly, there appears to be insufficient evidence to substantiate the view that Councillor Willcock’s relationship with Mr Dring was such that it would have affected his judgement of the Council’s business.

Councillor Willcock only contributed to debate on the “fence on playing field” issue at the meeting held on 7th July 2005. It is the view of the Parish Clerk that Councillor Willcock’s input had not influenced the Parish Council’s

decision on this item. Similarly the Chairman of the Parish Council, Councillor Denison has confirmed, that in his view, Councillor Willcock had not influenced the decision of the Parish Council in this matter. Councillor Willcock recalled that his comments on the item were based purely out of concern at the implications for the Parish Council should they pursue action against Mr Dring given the uncertainty relating to the position of the existing boundary, the action which similarly would have to be taken against other property owners and the effect any legal challenge might have had on the parish precept. Both the Parish Clerk and Parish Chairman have indicated that Councillor Willcock had deliberately distanced himself from any involvement in the "fence" issue and had not participated in any site meetings with the Deans or Dring's in which the Parish Council might have been involved. Both also have confirmed that Councillor Willcock's contribution to the meeting was confined to advice about the consequences of a decision for the Parish Council. Although Chairman of the Parish Council's Finance Committee, and whilst Councillor Willcock has acknowledged an interest in the Council's financial affairs, it was the full Council which made the final resolution in respect of the "fence item" and not the Finance Committee. Although, that part of the meeting was held in private session, the Parish Clerk, Parish Chairman and Councillor Willcock have indicated that the vote had not been recorded but that Councillor Willcock chose not to vote. Regrettably neither his abstentions, nor any others, have been recorded formally in the minutes although there is a handwritten record of Councillor Willcock's abstention in the notes of the Parish Clerk. As there is no suggestion that Councillor Willcock's personal interests were so significant as to prejudice his judgement of the public interest, no evidence to suggest that his involvement in the debate prior to the decision on the matter had influenced the deliberations of the Parish Council and given his abstention from voting on the issue, it can be concluded that Councillor Willcock's conduct did not involve a failure to declare a prejudicial interest, in which case he was not required to leave the meeting.

During the course of the investigating officer's interview with Mrs Dean, Mrs Dean alleged that Councillor Willcock had used his position as a Councillor to secure an advantage for Mr and Mrs Dring. Given the statements made by the Parish Clerk and Parish Chairman that, in their view, Councillor Willcock did not influence meetings of the Parish Council at which the fence issue was discussed and had abstained from the vote taken on that matter, there is no evidence to support this allegation.

A Member must not disclose information given to him/her in confidence by anyone, or information acquired which she/he believes is of a confidential nature, without the consent of a person authorised to give it, or unless required by law to do so (paragraph 3 (a)).

At the meeting of the Parish Council held on 7th July 2005, a letter from Mrs Dean was distributed to all members of the parish council present. Whilst the contents were not read out, the subject matter was identified during debate sufficiently well to encourage unsolicited input from the public gallery. It is also worth noting that the public gallery at that meeting was larger than normal because of the presence on the agenda of another controversial item affecting the village. It can be contended therefore, that the body of the meeting and all members of the parish council left that meeting with knowledge of Mrs Dean's concerns regarding the "fence on the playing field" issue. In the interim, whilst Councillor Willcock may have been aware that the Parish Council was engaged in ongoing correspondence with Mr and Mrs Dean, he would not have had sight of anything other than those items which might have been circulated to all parish councillors and, therefore, in the public domain. The

Parish Clerk categorically denies releasing any correspondence on the case to Councillor Willcock and it would have been impossible for Councillor Willcock to access the files concerning the “fence issue” without the Parish Clerk’s knowledge. There is no separate parish office. Documents associated with the administration of the Parish Council are held in the home of the Parish Clerk. The Chairman of the Parish Council, Councillor Denison endorses the submission of the Parish Clerk and has commented that even as Chairman he would only have access to that correspondence distributed to him in conjunction with his role as a parish councillor. Councillor Willcock has stated that he has not seen any correspondence that Mr and Mrs Dean had written to the parish council other than that officially circulated and he denied passing on any correspondence to Mr and Mrs Dring. Mr and Mrs Dring also deny receiving copies of any correspondence from Councillor Willcock.

To support her allegation, Mrs Dean has produced a copy of a letter dated 4th May 2006 from Mr and Mrs Dring. It is suggested in the first paragraph of the letter that Mr and Mrs Dring have had sight of Mrs Dean’s correspondence with the Parish Council over the last 12 months. This wording is perhaps unfortunate. Mrs Dean has interpreted these words to mean that someone associated with the Parish Council had released copies of her correspondence to Mr and Mrs Dring over a period. In an e-mail dated 29th September 2006 to the Investigating Officer, Mr Dring states that the parish council forwarded copies of responses sent to Mrs Dean to him and his wife and that it was through this avenue that he became aware of ongoing correspondence between Mrs Dean and the parish council. There are also sufficient references in the diary of events produced by the Parish Clerk to indicate that Mr Dring had been involved in an exchange of correspondence with the Parish Council sufficient to inform him of the outstanding dispute with Mrs Dean. In the absence of any other supporting evidence, it is difficult to substantiate the allegation that Councillor Willcock disclosed information to Mr and Mrs Dring given to him in confidence without consent. It is notable that the information allegedly released to Mr and Mrs Dring was that which they would already have been aware because of their continuing exchange with the Parish Council.

FINDINGS OF FACT

I have found that Councillor Willcock had a personal interest in the item “fence on playing field” which was discussed at meetings of Little Paxton Parish Council on 4th May, 2nd June and 7th July 2005. There is no record that this interest is declared. There is no suggestion of further impropriety in that a member with a personal interest can continue to participate in the meeting and to vote. It is regrettable that Councillor Willcock’s reference during the Parish Council’s meeting to an association with Mr Dring did not result in a formal declaration of a personal interest given also his reluctance to vote and his decision to abstain when the vote on the issue was taken by the Parish Council. Disappointingly, this abstention also was not recorded in the Minutes. By these actions, it could have been perceived that Councillor Willcock had an awareness that he had an interest. It is regrettable that Councillor Willcock had not participated in any training on the code of conduct as this may have assisted in clarifying his thoughts on these issues.

There is no suggestion that Councillor Willcock’s personal interest was such that it was likely to prejudice his judgement of the public interest nor any evidence to support the assertion that Councillor Willcock’s contributions to debate at meetings of the parish council when the “fence issue” was discussed improperly influenced the decision making process. Although, there

is sufficient information to suggest that Councillor Willcock was an acquaintance of Mr and Mrs Dring there is no evidence to support the allegation that a close friendship existed between the two men nor that a relationship existed which might have induced Councillor Willcock to use his position as a Member improperly to confer on or secure any advantage for another person.

In relation to the suggestion that Councillor Willcock may have disclosed information given to him in confidence without permission, it is apparent that Councillor Willcock only had access to correspondence which was already in the public domain having been circulated at parish council meetings or distributed to Members as part of their official role of councillor. Councillor Willcock could not access parish council documents without the knowledge of the Parish Clerk, neither has the Parish Clerk released information to Councillor Willcock. All Councillors would have had access to the same level of information in respect of Mrs Dean's correspondence with the Parish Council. Councillor Willcock had no additional advantage in this respect. The terminology used by Mr and Mrs Dring in their letter to Mr and Mrs Dean dated 4th May 2006 is unfortunate. There is, however, no evidence to suggest that Councillor Willcock passed the correspondence directly onto Mr and Mrs Dring but sufficient to suggest that Mr and Mrs Dring had sight of documents copied to them, quite properly, in exchanges with the Parish Council. Therefore, I believe that the allegation in respect of the disclosure of information is not proven.

RECOMMENDATIONS

Having concluded that Councillor Willcock has breached the Little Paxton Parish Council's Code of Conduct by failing to declare a personal interest by virtue of his property ownership and association with Mr D Dring, and given that these omissions may not have occurred had Councillor Willcock received training on the Code of Conduct, the Investigating Officer recommends that

- (a) arrangements be made by the Monitoring Officer for Councillor J Willcock to receive training on ethical standards and the Code of Conduct; and
- (b) the Monitoring Officer offer Little Paxton Parish Council the opportunity to receive further training on the Code of Conduct given the uncertainty, expressed during the course of the investigation, as to whether Councillor Willcock's interests were sufficient to constitute a personal interest.

Christine Deller
Investigating Officer
23rd November 2006