



Standards Decision Notice

Case: 2022/C03

Subject Member: Cllr Vicky Johns
Authority: Ottery St Mary Town Council
Complainant: Peter Faithful

Brief statement of allegation:

The allegation is that Cllr Johns did not;

1. Include a disclosable pecuniary interest on her register of interest, namely a relevant person's employment in Section 1 and that person's contract with the Council in Section 4.
2. Include personal interests on her register of interest, namely her Council appointed positions on the Thomas Axe Charity and the Police Councillor advocate scheme.
3. Declare a disclosable pecuniary interest in two meetings;
 - a. the P&L Committee meeting of 20th January 2022 where an item concerning a relevant person carrying out an assessment for, and being paid by, the Town Council was considered.
 - b. the Council meeting of 7th February 2022, which considered the recommendations from the P&L Committee of 20th January 2022 and more specifically the recommendation in relation to the relevant person carrying out the assessment and being paid for it.
4. Failing to take the appropriate steps where there was a disclosable pecuniary interest in a matter – namely leaving the room for the consideration of the item - at the two meetings identified above.

Relevant paragraphs of the Code of Conduct:

Registration of Interests

6. You must, within 28 days of-
- (b) your taking office as a Member or Co-opted Member of the Council, whichever is the later, and annually thereafter, provide written notification to the Clerk of:
 - (i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife or as if you were civil partners); and

(ii) any other personal interest laid down by the Council, as set out at paragraph 7 below.

6.1 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Clerk.

6.2 Whether or not an interest within paragraphs 7.1 to 7.6 below has been entered onto the Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered in line with para 8 below, where the matter is not a 'sensitive interest'.

7. The interests you must register are:

Disclosable Pecuniary Interests

7.1 those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/ 1464) as set out below, namely:

(a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person.

...

(c) any contract which is made between you, or so far as you are aware a relevant person (as defined at Para 2 above) (or a body in which the relevant person has a beneficial interest) and the Council:

- (1) under which goods or services are to be provided or works are to be executed;
- and
- (2) which has not been fully discharged.

Personal Interests

7.2 Those other personal interests laid down by the Council, namely your membership of any body to which you have been appointed by the Council or exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including your membership of any other local Authority, any political party or trade union.

Declaration of Interests and participation at meetings

8.1 Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at para 6(b)(i) and you must also observe the restrictions the Council may also place on your involvement in matters where you have a personal interest as defined by the Council and shown at paras 7.2 to 7.7 above.

8.2 Where you have any interest in any business of the Council and you attend any meeting at which that business is to be considered, you must:

- (a) disclose to that meeting the existence and nature of that interest but where your interest is sensitive you are not required to disclose the interest but merely the fact there is an interest in the matter concerned.
- (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you.
- (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you unless you have obtained a dispensation from the Council's Clerk or the [the relevant Council committee];
- (d) not seek to influence improperly any decision about that business.

Subject member comments:

Cllr Johns has responded and her points (where relevant) can be summarised as follows;

Comments provided during Stage 2 – Standards Assessment Sub Committee

- *I am now aware that I should have updated my Register of Interest pertaining to my partner's assistance to the Council and have now duly done so. This was a simple oversight and not some kind of conspiracy, at every single meeting within the Town Council remit I have stated that my husband is assisting the council. At no point has this not been disclosed, nor have I taken part in any of the discussions or voted on anything to do with his obligations to the council.*

Register of Interests

- *In relation to the charity and a council appointed position I accept that I am the Council representative on these groups but am not sure how that is a personal interest as I am on there solely as the Town Council representative.*

Not disclosing interests at meetings

- *I continuously inform the Council of my relationship to my partner, it is no secret and his business has been listed under my register of interests since I joined the Council. The Chair of the relevant committee was asked if I should leave the meeting and as finance was not being discussed the decision was made that it was not necessary due to no pecuniary interest being involved. I continuously mention my interests and abstain from any vote that may be pecuniary, I would have stated why I was abstaining, so surely that is declaring my interest?*

Comments provided during Stage 3 – Monitoring Officer investigation

- *As far as I'm aware I have stipulated at every meeting my relationship with my partner and have never taken part in any discussion or vote which may relate to him or his business. In fact at Ottery it has become a running joke that I declare my interest and relationship with my partner even when it is not necessary. As stipulated by the minutes I did not take part in the discussions or vote.*
 - *I have re-read the minutes from both meetings and the frustrating thing is that in the Full Town Council minutes on 7th Feb 2022 it relates to work at the Council offices which my partner was never paid to do. He was asked for his advice in relation to building maintenance at various properties that the Council own and was doing it free of charge. It was mentioned in a Property and Land meeting that perhaps he should be paid for his expertise and at that point I declared an interest as he is my partner however as everyone in the meeting knew he was my partner and no actual finance, apart from the fact that some type of fee should be paid, was discussed I didn't leave the meeting but I did not partake in the discussion or vote.*
 - *At the full Town Council meeting the recommendations were put forward by the chair of Property and Land and I did not take part in the discussions or vote again with hind sight maybe I should have left the meeting. As we are aware hind sight is a wonderful thing and we all make genuine mistakes at times. I always declare in relation to my partner and have never at any point hidden our relationship or anything he has assisted the Council with.*
-

Background / facts:

Cllr John's partner is a 'relevant person' for The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Cllr Johns' register of interest which was in place when the complaint was submitted was dated 23rd December 2021. It did not include:

- in Section 1 reference to her partner's employment
- in Section 4 reference to her partner's contract with the Council
- in Section 7 reference to her role on the Thomas Axe Charity and Police Councillor Advocate Scheme

The register of interests dated 23rd December 2021 does include in Section 3 (Securities: Interests in Companies) reference to 'RA Johns Carpentry and Property Maintenance', although it is not clear whose interest in the company is being registered.

Cllr Johns' submitted a revised register of interest dated 12th May 2022. This register included the interests identified above in Sections 1, 4 and 7.

In relation to the P&L Committee meeting of 20th January 2022:

- The minutes record Cllr Johns declaring an interest (although not what type of interests they had or what the interest actually is) in relation to the Cricket Club and Museum (PL/22/01/02) but not in relation to her partner.
- In relation to the Council Offices the minutes record discussion on the 're-decoration of exterior of the Council Offices and meeting room and Office 4'. Specifically the committee '**RECOMMENDED** that [Cllr John's partner] be asked to assess the condition of the exterior of the building as to what works were required and that he be paid for his time in doing this' (PL22/01/06). The minute also records that 'Cllr Johns took no part in the discussion when this recommendation was made'.

In relation to the Council meeting of 7th February 2022:

- Agenda item 9 relates to the P&L Committee minutes (PL22/01/01 – PL22/01/19) and 9(b) related to 'approving (if appropriate) the Recommendations from the Property & Land Committee'. The accompanying recommendation sheet included the recommendation arising from Minute PL22/01/06 quoted above.
- The minutes of the meeting do not record any declaration of interest by Cllr Johns.
- The minutes record consideration of the P&L Committee meeting of 20th January 2022 and specifically that 'the Council **RESOLVED** to approve the following recommendations from that meeting' which included in relation to the Council Offices 'for [Cllr John's partner] to assess the condition of the exterior of the building as to what works were required' (minute 22/01/06). It appears that the Council did not vote on Cllr John's partner being 'paid for his time in doing this'.
- The minutes simply record '(Cllr Johns abstained)' next to the specific wording.

Reasoning:**Register of Interests**

Cllr Johns' partner is a relevant person and therefore his interests (in terms of employment and a contract for services with the Town Council) are required by law - and therein the Code of Conduct - to be included on her register of interests.

Cllr Johns says that her partner's employment has been listed on her register of interest since becoming a councillor. However, her partner's employment is not listed in Section 1 of the register of interest in place at the time of the complaint. While the company appears

in Section 3, that section covers a different aspect of disclosable pecuniary interests, namely shareholdings as opposed to employment. Not including the partner's employment in Section 1 is a failing, which is not overcome by having the company name included in a different section. Similarly, the partner's business being well-known within Ottery St Mary / Ottery St Mary Town Council and purported declarations at meetings referencing the partner's business, do not absolve a councillor of the need to include the interest on the register of interest in the appropriate sections. Cllr Johns accepts that her partner's contract with the Council should have been included in her register of interests. It is stated that this was simply an oversight.

In relation to Cllr John's positions on the Thomas Axe Charity and Police Councillor Advocate Scheme. Cllr Johns says she accepts she is the Council representative on the two bodies but doesn't believe this is a personal interest as she is solely there as the Council's representative. Those appointments do constitute a personal interest as the Code requires a register of interests to include '*your membership of any body to which you have been appointed or nominated by the Council as its representative*' and so should be registered.

It is considered that Cllr Johns did not correctly register disclosable pecuniary interests or personal interests contrary to paragraphs 6(b)(i) & (ii) and 6.1, 7, 7.1 & 7.2 of the Code of Conduct.

Declaration of interests

At the first meeting on 20th January the matter under consideration specifically relates to Cllr John's partner carrying out an assessment of Council premises and that he should be paid for it. This amounts to a disclosable pecuniary interest because the matter is specifically about a relevant person being awarded paid work in the context of their employment. The second meeting on 7th February considered the recommendation from the first meeting. The minutes of the first meeting record Cllr John's declaring two interests (but not what type of interest they are) but either way neither relate to the partner's employment.

While Cllr Johns says that she did declare an interest in the P&L Committee when it became clear that her partner was going to be asked to do work, she does not say what type of interest she declared and there is nothing recorded in the minutes to this effect. The minute of the particular item records that Cllr Johns '*took no part in the discussion when this recommendation was made*'. At the Council meeting, the minutes do not record Cllr Johns making any declaration of interest and Cllr Johns doesn't suggest that she did. The recommendation from the P&L committee - which references the partner carrying out works and being paid for it - was the matter being considered by Council. The minutes simply record '*(Cllr Johns abstained)*'. While the Council resolution accepts the P&L Committee recommendation and resolves to ask Cllr John's partner to '*assess the condition of the exterior of the building as to what works were required*', it does not reference him being paid for it. It is not clear from the minutes why that aspect of the resolution was not carried forward. However, little turns on this because there remained a disclosable pecuniary interest in the matter as it still related to the partners employment and in any event Cllr John's partner being paid was the starting position when the debate on the matter commenced. On the basis of the information available, it is not considered that Cllr Johns did appropriately declare a disclosable pecuniary interest.

Even if Cllr Johns appropriately declared a disclosable pecuniary interest at the P&L Committee (and / or the Council meeting), the law (and code of conduct) requires a person to leave the meeting when they have a disclosable pecuniary interest. Simply abstaining or not taking part in the discussion is not enough. Cllr Johns accepts that she didn't leave either meeting.

It is considered that Cllr Johns has not appropriately declared a disclosable pecuniary interest and / or taken appropriate steps where she had a disclosable pecuniary interest in two meetings contrary to paragraphs 6.2, 8.1 & (the second) 8.2 of the Code of Conduct.

Further comments

Most importantly, it is not considered that Cllr Johns had any intent to seek or confer any sort of advantage by not appropriately registering and declaring in relation to these matters. I am mindful of the comments of Cllrs Johns about routinely referencing / declaring her partner's employment and business and also that the minutes specifically record Cllr Johns as abstaining / not taking part in the discussion at the two relevant meetings. However, the fact the minutes record Cllr Johns abstaining / not taking part is at least tacit acknowledgment that there was a conflict between her role and ability to perform it when the Council was considering her partner's work.

Cllr Johns has also acknowledged as part of the complaint process that there were failings. It is accepted that this is in all likelihood an oversight / lack of understanding of the requirements of the Code of Conduct. It is also considered that a remedy has (at least in part) been actioned with an updated register of interest containing the partner's general employment, his contract with the Council and the membership of the external bodies in the relevant sections. Cllr Johns has also recently undergone training on a new Code of Conduct, which covered these kind of issues.

Nonetheless, while the registering / declaration of interests might be argued to be 'technical' breaches, the whole purpose behind registering and declaring interests is for members to be open and transparent about matters that affect them and to give members of the public confidence that they, and the Council, are able to act in the public interest. In this regard I also mindful that Cllr Johns is the Mayor of Ottery St Mary Town Council and therefore is someone that the public would expect to be an exemplar in terms of upholding the requirements of the Code of Conduct and acting appropriately in terms of registering and declaring interests.

Taking all of the above into account, it is considered that there should be a remedy and it is considered that Cllr Johns should make a public apology at a Town Council meeting which is recorded in the minutes.

Summary

Cllr Johns' failure to register and declare interests and act appropriately having an interest is sufficient to amount a breach of the code of conduct. A public apology at a Council meeting would be an appropriate remedy.

Independent Person's view:

I have considered the complaint and the supporting evidence, as well as the Monitoring Officer's findings. Adherence with Code of Conduct is key and Councillors must be seen at all times to do so.

I am in agreement with the outcome of the Monitoring Officer's Investigation and decision.

Decision:

Having considered the views of the Independent Person and for the above reasons, I therefore find that Cllr Johns;

- Did not correctly register disclosable pecuniary interests or personal interests and has breached paragraphs 6(b)(i) & (ii) and 6.1, 7, 7.1 & 7.2 of the Code of Conduct.
- Did not appropriately declare a disclosable pecuniary interest and / or take appropriate steps where there was a disclosable pecuniary interest in a matter being considered at two meetings and has breached paragraphs 6.2, 8.1 & (the second) 8.2 of the Code of Conduct.

Sanction (if applicable):

A public apology at a Council meeting for the above two breaches would be an appropriate remedy.

Issued by Monitoring Officer on: 8th September 2022