

Complaint against Cllr Mrs P Young of Hawkwell Parish Council – SC0045

Summary of Complaint

The complaint was received on the 22 February 2017 in relation to Cllr Mrs Pauline Young at Hawkwell Parish Council for the following:

1. Failure to declare a Disclosable Pecuniary Interest on the 2 February 2015 at the Parish Council's planning meeting
2. Failure to notify and register her Disclosable Pecuniary Interests as a company director for Coles and Young Ltd and owner of land to the rear of 421 Ashingdon Road.

Background

2 February 2015 – the Parish Council's Planning Committee made representations on a planning application for land to the rear of 421 Ashingdon Road. No objections were expressed for this application. However, they are not the Local Planning Authority in this instance and have no decision making powers in respect of planning applications.

March 2016 – Cllr Mrs Young and her husband became directors of a development company. This company's website provides for the business' vision as having a "focus on building sustainable single storey and smaller homes to meet the needs of an all inclusive generation". The website gives information of two current projects in progress; one in Ashingdon and one in Eastwood.

November 2016 - Cllr Mrs Young and her husband are registered as owners of land to the rear of 421 Ashingdon Road.

The Parish Council's Code of Conduct states that a member must register within 28 days of becoming aware of the new Disclosable Pecuniary Interest.

However, the member is only under a legal duty to notify and declare any new interests when they are the subject of a matter which comes before the Parish Council (section 31 Localism Act 2011).

I contacted Cllr Mrs Young on the 16 March to inform her of the complaint and the issues raised by the complainant. I explained the need to register the interests and that I will be informally investigating. I did advise that prior to the conclusion of the complaint she is to register her interests and that of her husband also.

Cllr Mrs Young responded on the 17 March as follows

"As per our discussion I can confirm that I am a Director of Coles and Young Ltd since its incorporation on 7th March 2016 and that my husband and I did complete the purchase of a piece of land to the rear of 421 Ashingdon Road on 28th October 2016. I can also confirm that I have not used my position on the Hawkwell Parish Council planning committee to influence any decisions and seek to gain advantage, I have and always will act professionally in accordance with relevant standards to

respect and honour the interests of the local community and always taking account of the residents needs first.

Following the incorporation of the company I did verbally advise this to my Clerk at our AGM Agenda item 4 (Update of Register of Members Interest/General Notice of Registrable Interests) I mentioned to the Clerk about my company position but we were both unsure on declaring this since it had no gain or profit there was also the issue that I no longer lived within the Parish and so how did all this affect my position to sit on council. As the Clerk and I were both unsure on several points the clerk agreed to speak with EALC and determine what we needed to do; this unfortunately took some time then with council recess it was not until Sept FC mtg. that I signed a new register form based on the information provided by EALC however whilst we updated the form to remove my Hawkwell address both myself and the Clerk generally forgot about the possible requirements to add details about the company.

My Husband and I (not the company) purchased the land in October 2016 and it was following the November 2016 FC meeting that I mentioned verbally outside of the meeting to the clerk about being the owner of a piece of land off Ashingdon road and that we needed to update my registration form again to reflect this, whilst the clerk acknowledged this information from me and indicated agreement that yes we should update I am not so sure she realised that the land fell within the Hawkwell Parish and hence the relevant urgency of updating the form. Unfortunately again the timing of this from both the Clerks and my perspective with her time being totally focussed on other council matters including updating the form got forgotten. I am equally accepting of the fact that I should have chased the clerk to amend the form with a relevant DPI and I will now action as a priority the updating of this form to reflect all current interests.

In response to the complaint:

- 1. I rightly did not disclose an interest during the meeting on 2nd Feb 2015 which the application for 421 Ashingdon Road was discussed because I did not have an interest.*
- 2. The registration of the interests of myself and my husband with regard to our new company as required under the Code of Conduct were a genuine oversight, forgotten by myself largely because it has been inactive until February 2017 and from the Clerks perspective genuinely not realising the land fell within the Hawkwell Parish. In my defence the company had not been actively trading since its incorporation in March neither has it or does it currently have any gain or profit for either me or my husband it is quite the contrary in fact because it is costing us far more than anticipated in monetary terms and other external influences that continue to cause us undue stress and anxiety; so I was unsure if it actually needed to be declared. But now in accordance with your advice it is something that needs to be included and I will update the register with my Clerk at the earliest opportunity for my company and the ownership of land.*

Furthermore our new homes development company is only involved with the building of new dwellings having a focus on sustainable single storey and smaller homes to

meet the needs of an all-inclusive generation and I am not aware of any planning applications that have come before the Parish in the last 12 months where the public could perceive that I have used my position to influence decisions and to seek to gain any advantage.

I trust the above explains things satisfactorily and I do apologise for the oversight which I hope we can conclude through the completion of a new declaration."

The Clerk to Hawkwell Parish Council responded stating:

"Cllr Mrs Young has explained in her response that she verbally mentioned to me during the Annual Meeting in May 2016 that she needed to declare her company position but unfortunately I don't specifically recall this being mentioned; perhaps because at that point in the meeting I was collecting in members' signed statements to say that there had been no change in the declaration signed in May 2015. The Annual Meeting is quite hectic from an administration/clerking point of view so I must have missed this point and unfortunately it wasn't followed up by either of us during the next few months. I believe this sequence of events to be a genuine oversight on both our parts and I apologise for this.

I will ensure that Cllr Mrs Young completes a new Register of Members."

It is confirmed that Cllr Mrs Young has now fully notified and declared her interests and I have received a copy of the notice.

Monitoring Officer's conclusion

1. Failure to declare a Disclosable Pecuniary Interest on the 2 February 2015 at a planning meeting

There is no breach under the Code as it is clear that, at the time of the meeting, there were no interests to declare.

2. Failure to notify and register her Disclosable Pecuniary Interests as a company director for Coles and Young Ltd and owner of land to the rear of 421 Ashingdon Road.

There has been some miscommunication between Cllr Mrs Young and her Clerk as to the registration of the interests at the Annual Council meeting on the 9 May 2016. I understand that at the time Cllr Mrs Young required clarification with regards to her interests and asked the Clerk for advice. The Clerk does not specifically recall this.

Cllr Mrs Young has explained her version of events in her email of the 17 March and explains that this is a genuine oversight for which she apologises. She has confirmed that she will complete a new register of interests.

Cllr Mrs Young has further confirmed that she is not aware of any planning applications considered by the Parish Council that may have affected her interests in the last 12 months.

When speaking to the Clerk she firmly believes that this was a genuine oversight on the part of the Councillor. Cllr Mrs Young is usually very conscientious and reliable.

Cllr Mrs Young has breached the Parish Council's Code of Conduct in that she failed to notify and register her interest within 28 days of becoming a company director in March.

However, there is no evidence that she has failed to comply with her legal duty under the Localism Act whereby she is required to advise about the interests when they are the subject of a matter which comes before the Council.

I confirm that I have spoken to the Independent Person with regards to this complaint. Following the conversation, I provided the Independent Person with a copy of the complaint, Cllr Mrs Young's response, the Clerk's response, the Parish Council's Code of Conduct and the Land Registry search.

Having read all the documentation, the Independent Person concurs with my recommendation as set out below.

Recommendation and sanctions

Failure to notify and register her Disclosable Pecuniary

Having considered the matter and taking into account Cllr Mrs Young's apology, I am of the opinion that this is an oversight by the Councillor and, in a small part, of the Clerk. In addition, there has been no evidence of breach under the Localism Act 2011.

I am of the opinion that it would not be in the public interest given the financial expense and resources to formally investigate further or refer to the standards committee.

It should be made clear that there has been a breach under the Parish's Code of Conduct but there has been no breach of legal duty under the Localism Act 2011.

I am of the opinion that this complaint can be resolved informally.

It therefore strongly recommended that:

Cllr Mrs Young attends the District Council's standards and code of conduct training. The date is to be confirmed and the Councillor will be informed by the Monitoring Officer.

23 March 2017.