

# **SOUTH HAMS DISTRICT COUNCIL**

**REPORT OF AN INVESTIGATION UNDER SECTIONS 60 AND 66 OF THE  
LOCAL GOVERNMENT ACT 2000 INTO AN ALLEGATION CONCERNING  
COUNCILLOR DAVID CAWLEY, A MEMBER OF DARTMOUTH TOWN  
COUNCIL, DEVON**

**SBE 17956.07**

**By**

**Colin Miles  
Investigating Officer  
Corporate Services (SHDC)**

## **CONTENTS**

Executive summary

Details of the allegation

The relevant sections of the code of conduct

The parties concerned

The evidence obtained

The issues

Conclusions

Appendices

## **Executive Summary**

1. This report deals with an allegation by Cllr. Brian Boughton against Cllr. David Cawley
2. Allegation: That Cllr. Cawley failed to properly register a financial interest.
3. Finding: That Cllr. Cawley did fail to properly register a financial interest.

## **Details of the Allegation**

4. At the March 2006 meeting of the Dartmouth Town Council, a financial statement was presented to the Members detailing payments made between 01/02/2006 and 28/02/2006. One such payment was in the sum of £211.50 (inc £31.50 VAT). This statement is appended to this report at appendix 1. The payment was made on 03/02/2006 to a Private Limited Company known as Timestep Electronics Limited and whose registered address is Viewpoint House, Yorke Road, Dartmouth.
5. Cllr. Cawley is a remunerated Director of the above company and resides at Viewpoint House, these facts are not in dispute.
6. By a letter dated 14<sup>th</sup> March 2006, Cllr. Boughton made certain allegations against Cllr. Cawley for alleged breaches of the Members' Code of Conduct, to the Standards Board for England and Wales.
7. On 4<sup>th</sup> May 2007 the Standards Board referred one allegation for local investigation by the Monitoring Officer of South Hams District Council, this being the failure to properly register a financial interest.

## **The Code of Conduct and Relevant Sections**

8. The Town Council adopted the Model Code of Conduct (SI 2001 No.3576) in its entirety and unamended pursuant to sections 51(2) and (5) of the Local Government Act 2000.
9. The relevant paragraphs are 12(e), and 14 and are to be found in part 3 of SI 2001 No.3576.
10. The relevant paragraphs are set out below:

## Paragraph 12

Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the monitoring officer of the responsible authority of -

- (a) any employment or business carried on by him;
- (b) the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;
- (c) the name of any person, other than a relevant authority, who has made a payment to him in respect of his election or any expenses incurred by him in carrying out his duties;
- (d) the name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (e) a description of any contract for goods, services or works made between the authority and himself or a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above;**
- (f) 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;
- (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
- (h) the address or other description (sufficient to identify the location) of any land in the authority's area in which he has a licence (alone or jointly with others) to occupy for 28 days or longer.

## Paragraph 14

**A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 12 and 13 above, provide written notification to the monitoring officer of the responsible authority of that change.**

## **The Parties Involved**

11. Councillors Brian Boughton, David Cawley, and Mr. Chris Horan, Clerk to the Town Council.

## **The Evidence Obtained**

12. Cllr. Cawley was originally a co-opted member of the Town Council and served in that capacity for the last three years, prior to having recently been elected to the Town Council May 2007. He completed a General Notice of Registrable Interests in July 2005 (appendix 2). In this register, he declared his interest in Timestep Electronics Ltd.
13. On 15<sup>th</sup> June 2007 I interviewed Cllr. Boughton at the offices of South Hams District Council. He spoke at length about the history leading up to his complaints and about all his listed allegations. He raised various conduct issues relating to Cllr. Cawley, the Town Clerk and other councillors. He was very concerned about the payment of £211.50 and especially the fact that it had not been declared. He also highlighted some probity issues concerning members of the Town Council. I advised him that the investigation must be conducted within the boundaries dictated by the Standards Board. I understand that Cllr. Boughton has made further complaints to the Standards Board regarding some of these issues.
14. On the 4<sup>th</sup> July 2007, I met with Chris Horan, the Town Clerk, at Dartmouth Guildhall. Mr. Horan informed me that the Council's IT system had "crashed" just before Christmas 2005 and he was very concerned about the loss of IT support over the Christmas period and into the New Year. He contacted the Council's suppliers, who are based in Torquay, for a quotation of costings and time. The suppliers indicated costs of £50.00 collection fee, a call-out fee and £50.00 per hour labour costs. There was no guarantee at this stage that the IT systems would be "up and running before New Year".
15. Mr. Horan was fully aware that Cllr. Cawley had some extended knowledge of computers, both hardware and operating systems. He contacted Cllr. Cawley to see if he could assist. It was agreed that Cllr. Cawley would fix the Council's IT system before the New Year and at a reduced cost. There was no ongoing contractual obligation between the Council and Cllr. Cawley and both parties viewed this to be a "one-off", although Cllr. Cawley had previously been involved in and helped out with the Council's IT systems and website, but at no cost to the Council.
16. Mr. Horan genuinely believes that Cllr. Cawley assisted in dire circumstances but as a consequence of this complaint, he will not ask Cllr. Cawley to assist again, should the need arise.

17. Mr. Horan has been advised by Allan Goodman, South Hams District Council's Internal Audit Manager, that he needs to be able to demonstrate the need for such expenditure and be able to evidence the decision making process.
18. Mr. Horan stated that all new members to the Council are given an information pack which contains, amongst other things, the Code of Conduct and information relating to standards generally. He cannot recall if this was the case with Cllr. Cawley, as originally, Cllr. Cawley was a co-opted member, but he is aware that Cllr. Cawley has completed two General Notice of Registrable Interests.
19. Mr. Horan also explained that there was some history concerning members of the Town Council and the Standards Board.
20. I interviewed Cllr. Cawley on the 4<sup>th</sup> July 2007 at Viewpoint House, Yorke Road, Dartmouth. During this interview Cllr. Cawley admitted that he had failed to register the financial interest but was unsure as to the extent that he was required to make such declarations. Due to the time of year and with the passage of time, the matter had slipped from the forefront of his mind. He added that in his two previous registrations, he had made what he believed to be the required declarations. These declarations are not in dispute.
21. I referred Cllr. Cawley to the Code and in particular, the 28 day period for registration of such interests. He stated that he was unaware of the timescales but was aware of the Register.
22. He further stated that he had not received any formal training on the Code, and believed that he had "slipped through the net" as originally he was a co-opted member and when elected, was not perceived to be a new member. He believes that only new members receive training on the code.
23. Cllr. Cawley said that there has never been a contract between himself and his company with the Town Council and had only helped out as and when required.
24. Cllr. Cawley alluded to a history of complaints emanating from Dartmouth Town Councillors about their fellow councillors, and has been involved himself.

### **The Issues**

26. The facts, which appear not to be disputed, are that Cllr. Cawley received remuneration from the Town Council in the sum of £211.50, for works and services, whilst subject to the obligations of the Code of Conduct. It is accepted that Cllr. Cawley is a

remunerated Director of Timestep Electronics Limited and should have declared in the Members' Register of Interests, within 28 days that he had received the payment.

## **Conclusions**

27. Paragraphs 12 and 14 of the code are plainly drafted and there appears to be no doubt and no ambiguity as to the meaning.
28. It may be the case that Cllr. Cawley was helping out at a difficult time and that his services may well have been less costly to the Town Council, but in the absence of a written quotation from a third party, we cannot be certain.
29. There is obviously a breakdown in good relations between some councillors of the Town Council but this complaint must be viewed in isolation.
30. There are a range of possible sanctions that can be imposed if it is found that Cllr. Cawley has breached the Code, and these are as follows:
  - No sanction
  - Censure
  - Apology
  - Training
  - Mediation
  - Suspension (2 or 6 weeks, 1,2 or 3 months)
31. Based on the above findings of fact and evidence, and research conducted, I recommend that Cllr Cawley undertake training on the existing Code of Conduct, and when replaced by the new code, training on this code. The training to be conducted by the Clerk to the Town Council and evidenced in writing to the Monitoring Officer of South Hams District Council.

Colin Miles  
Investigating Officer  
16<sup>th</sup> August 2007

## **APPENDICES**

- Appendix 1 Financial statement presented to Members of the Town Council at the March 2006 meeting
- Appendix 2 General Notice of Registrable Interests – July 2005
- Appendix 3 Cllr Cawley's response to Report – Form A