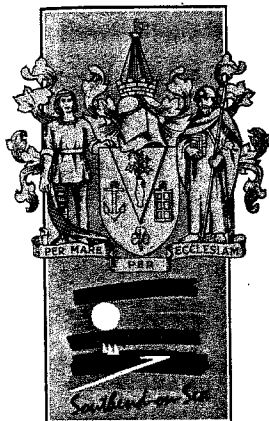


Southend-on-Sea Borough Council

Chief Executive & Town Clerk's Department
PO Box 6, Civic Centre, Victoria Avenue, Southend-on-Sea, Essex, SS2 6ER



Chief Executive & Town Clerk
J.K.M. Krawiec LL.B., Solicitor

Borough Treasurer & Deputy Chief Executive
D. Andrews CPFA, DMA, ATII

Deputy Town Clerk
J.K. Williams BA (Hons.) Solicitor

This matter is being dealt with by: Mr Williams

Direct Line: 01702 215102

Please quote the following reference: JKW/LL/91/6

Facsimile: 01702 215110

Your ref:

Switchboard: 01702 215000

Date: 12 February 2004

E-Mail: johnwilliams@southend.gov.uk

Document Exchange: 2812 Southend

Dear Councillor

Members' Code of Conduct

I am writing to Members to draw their attention to two issues relating to the Members' Code of Conduct:-

- (a) The Court of Appeal in Richardson v. North Yorkshire County Council has recently made it clear that a Councillor who has a prejudicial interest in a matter cannot attend a meeting in a private capacity. This is consistent with advice I have given previously. A note on the case prepared by the Standards Board for England is attached at Appendix 1.
- (b) The Standards Board for England has recently issued guidance about registering and declaring membership of the Freemason's Grand Charity (not membership of the Freemasons society itself) and political party council associations. A copy of this guidance, which is also on the Standards Board's web site, is attached at Appendix 2. A number of Members have already notified me in writing of their membership of a political party council association.

If you have any queries please do not hesitate to contact me.

Yours sincerely,

John Williams
Deputy Town Clerk and Monitoring Officer

proposed extension. His home was very close to the proposed extension of a quarry and was one of a handful of properties liable to be most affected by the development. Under the Code of Conduct, a councillor with a prejudicial interest is barred from attending a meeting where that interest is being discussed. Councillor Richardson claimed such a ban was unjust and denied his rights to represent his community and his rights as a private individual. The following issues were raised in the case.

What is the meaning of 'member' in paragraph 12(1) of the Code of Conduct?

Counsel for Councillor Richardson argued that 'member', in this context, applied only to members who were part of the decision-making body. As Councillor Richardson was not on the planning committee he was not covered by the provisions of the Code of Conduct at the planning meeting, and therefore should have been able to attend the meeting.

The Appeal Court concluded that 'member' in paragraph 12(1) means all members of the council, not just a member of the relevant committee.

Is a member, notwithstanding paragraph 12, entitled to remain at a meeting in a representational capacity?

The Appeal Court concluded that a member with a prejudicial interest in a matter has no right to attend a meeting by virtue of his representative role. It decided that the Secretary of State was entitled to introduce a code of conduct which had the effect of restricting a member's right to represent their constituents. It rejected the argument that a knowledgeable member of the public would reasonably have regarded Councillor Richardson as simply putting forward the views of the people he represented, or making a contribution to the debate based on his perception of the public interest,

Court of Appeal ruling on prejudicial interests

A recent case for the Court of Appeal gave a very clear ruling on whether a councillor with a prejudicial interest could, nevertheless, attend a council meeting in a private or representational capacity. The case, *Richardson and Another vs. North Yorkshire County Council and The First Secretary of State*, concerned a planning application for a quarry extension.

Councillor Richardson was both the county councillor and parish councillor covering the area of the

rather than being influenced by the potential impact of the development on his own home. It stated that the personal interest was a highly-material, additional consideration, however conscientious a councillor might be in his representative role and his concern to protect the public interest.

Is a member, notwithstanding paragraph 12, entitled to remain at a meeting in a personal capacity?

Counsel argued that, even if Councillor Richardson did have a prejudicial interest, he did not want to attend the meeting as a councillor but wanted the right to attend as a member of the public and be able to make the same representations as an ordinary member of the public.

The Appeal Court ruled that a member of an authority attending a council meeting couldn't divest himself of his official capacity as a councillor, simply by declaring his attendance in a private capacity. He is still to be regarded as conducting the business of his office. Only by resigning can he shed that role.

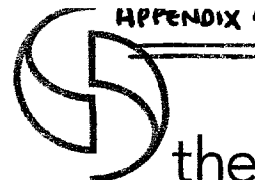
Was Councillor Richardson affected to a greater extent than his constituents, many of whom were opposed to the development?

The Appeal Court decided yes. There was a group of people in the village, including Councillor Richardson, who were nearest to, and most liable to be affected by, the development. They therefore had a greater and special interest in the outcome of the planning application than other residents of the parish.

Was Councillor Richardson properly regarded as having a prejudicial interest?

Councillor Richardson claimed that he had been unlawfully excluded from the meeting. The Appeal Court said the initial and principal judgement on whether there is a prejudicial interest is for the individual councillor himself. But there comes a point at which it would clearly be irrational, and therefore unlawful, for the councillor to conclude that he does not have a personal interest under paragraph

8(1) and therefore, as the case may be, a prejudicial interest under paragraph 10(1).



the
Standards Board
for England

05 February 2004

059703

Mr John Williams
Southend on Sea Borough Council
Po Box 6
Civic Centre
Victoria Avenue
Southend on Sea
Essex
SS2 6ER

SOUTHEND BOROUGH COUNCIL CHIEF EXECUTIVE & TOWN CLERKS DEPARTMENT	
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1st Floor
Cottons Centre
Cottons Lane
SE1 2QG

Enquiries: 0845 078 8181
Fax: 020 7378 5155

enquiries@standardsboard.co.uk
www.standardsboard.co.uk

Dear Mr Williams

Code of Conduct: Register of Interests

I am writing to clarify two issues regarding the Register of Interests for members. These are to do with membership of the Freemasons and political party councillor associations.

I should be grateful if you could pass on this advice to members (and, where appropriate, parish members) accordingly.

(1) Registering and declaring membership of the Freemasons.

Following recent discussions with the United Grand Lodge of England, we wish to clarify the issue of freemasonry and the register of interests.

It is necessary for Freemasons to declare membership of the Freemason Grand Charity under paragraph 15 (c) of the Code of Conduct, which states that members need to register with their authority membership of bodies that are "directed to charitable purposes."

All Freemasons pay an annual subscription fee to their own individual Masonic lodge, part of which automatically goes to the Grand Charity. Therefore Freemasons are obliged under the Code of Conduct to register their membership of the Grand Charity and to declare this interest where appropriate.

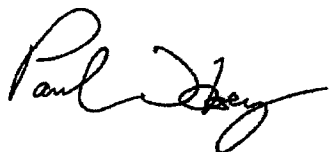
(2) Registering and declaring membership of political party council associations.

Following a recent enquiry from the Conservative Party about membership of the Conservative Councillors' Association, we wish to clarify that membership of councillor associations should be registered with the authority under paragraph 15 (d) of the Code of Conduct.

Political party councillor associations fall under paragraph 15 (d) and membership of political party councillor associations therefore need to be registered.

This information will be placed on our website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Hoey', written in a cursive style.

Paul Hoey
Head of Policy & Guidance