

Reference: CSC18741130

Complainant: Mr. David Brockless

Subject Member: Councillor Kelsie Learney, Winchester City Council.

Persons Contacted: The complainant, the subject member, Winchester Action on the Climate Crisis (WinACC), and the Independent Person, whose advice accords with this approach.

Documents reviewed: The completed complaint form and supporting documentation, the council's code of conduct, report of the Cabinet reference CAB3405 "Annual Appointments To Outside Bodies 23/24" and the minutes of the Cabinet meeting of 23 May 2023.

1. Summary

- 1.1. Councillor Kelsie Learney (the subject member) is a member of Winchester City Council. On 13 November 2023, a complaint was made regarding Councillor Learney's conduct. The complaint was shared with the subject member who made a full response to the points raised.
- 1.2. The complaint essentially highlighted a concern that Councillor Learney had not appropriately disclosed her association with WinACC at the Cabinet meeting of 13 September 2023 before a decision was taken regarding the City Council's Carbon Neutrality Action Plan (CNAP) , reference CAB3432 and available via this link: [Agenda for Cabinet on Wednesday, 13th September, 2023, 9.30 am - Winchester City Council](#)
- 1.3. The complainant felt that that Councillor Learney's actions at the meeting (thanking WinACC for their input and committing to implement their suggested changes), could be seen as favouring an organisation that she was associated with, but without, first disclosing her association with WinACC.
- 1.4. Councillor Learney advised that her association with WinACC was voluntary and was recorded and publicly made available on her register of interest form.
- 1.5. She further advised that she took no part in formulating WinACC's response to the council and any discussions regarding the Climate and Nature Action Plan (CNAP) were conducted with council officers present.
- 1.6. Before the complaint was made, she had consulted with the Monitoring Officer about the necessity of the Cabinet Member's appointment to WinACC. This aspect is being worked through in terms of WinACC's desire for the appointed Councillor being the Cabinet Member with responsibility for the Environment versus the practicalities of how conflicts can and will arise.

2. Background.

- 2.1. WinACC stands for Winchester Action on the Climate Crisis. Their website describes themselves as a local charity that work to bring communities, Councils, organisations, and people together in the Winchester District to respond to the climate crisis and create positive, sustainable change.
- 2.2. Cllr Learney was appointed as a trustee representative of the Council in May 2023 to WinACC for the current municipal year.
- 2.3. The cabinet meeting of 13 September 2023 was presented with a report titled "ADOPTION OF THE CARBON NEUTRALITY ACTION PLAN" Whilst the report author was an officer of the council, it is a report of the relevant cabinet member who in this case was Cllr Learney.
- 2.4. WinACC were referenced in the report three times and chose to attend the meeting and they contributed via the normal, public participation slot. Their contribution and Councillor Learney's response was recorded within the agreed minutes as follows:

Jo Crocker (WinACC) spoke during public participation as summarised briefly below.

She fully supported the stated aim to "go greener faster" and welcomed the CNAP as progress towards this aim. She applauded the principles and processes proposed, particularly the use of working groups. She offered WinACC's assistance in ensuring the figures used in the CNAP were accurate, clearly stated and explained. In addition, she requested that targets each year between now and 2030 be included with each of the pathways and that the wording on renewals be amended to make clear that 50MW was a minimum. In particular, she emphasised the importance of the proposed new task and finish group on renewable energy and that the CNAP should reflect the government's stated target to decarbonise the national grid by 2035.

Councillor Learney thanked WinACC for their support and confirmed that all the points raised would be addressed by minor amendments to the CNAP before publication.

- 2.5. From the video recording of the Cabinet meeting of 13 September 2023, no declaration of interest was made by Cllr Learney.
- 2.6. The Secretary to the Trustees at WinACC advised that being a trustee for WinACC is a voluntary role, WinACC pays no salary or honorarium to any trustees.

2.7. Cllr Learney does register her involvement with WinACC in her register of interests form which is displayed on the council website. In addition, WinACC displays the names and details of all Trustees including Cllr Learney on their website.

3. Code of Conduct Considerations

3.1. The complainant refers specifically to items 4.1d and 4.1g of the member code of conduct as having been breached by Councillor Learney at the September cabinet meeting.

3.2. These sections are set out below.

d) Exercising independent judgement and not compromising their position by placing themselves under obligations to outside individuals or organisations who might seek to influence the way in which the member performs their duties.

g) Contributing to making the Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding members to account, but restricting access to information when the wider public interest or the law requires it.

3.3. The role of a councillor possesses privileges and responsibilities, impacting others through their choices and councillors must refrain from exploiting these opportunities for personal or others' benefits or unfairly disadvantaging anyone. A councillor using their role for personal gain or loss, or attempting to do so, is considered improper conduct and this includes being involved in decisions that serve the councillors or another's interests.

3.4. Councillor Learney's association with WinACC is considered to be and recorded on her Register of Interests as a "**Non-Pecuniary Interest (NPI).**" The definition of a pecuniary interest is included as an appendix to this decision record, and I do not consider Councillor Learney's association with WinACC to fall within this definition and so I conclude that it is correctly recorded as a non-pecuniary interest.

3.5. The Council's code of conduct contains the following requirement regarding "Non-Pecuniary Interests" in paragraph 2.2 and 2.3

2.2 Non-Pecuniary Interests

Within 28 days of becoming a member of the Council, each member must register any Non-Pecuniary Interests (NPIs) (and notify the Council's Monitoring Officer of any changes thereafter within 28 days). These are such Non-Pecuniary Interests as from time to time are referred to on the Register of Members' Interest form. (These requirements are determined by the Council in its discretion or by legislation and statutory guidance. Members may participate in any discussions or debates relating to or concerning any NPIs after the date of registration. (See Appendix A to this Code)

2.3 Further General Guidance

a) Each member must declare any DPIs or NPIs to a meeting where business is relevant to those interests, including those interests that are already registered with the Monitoring Officer or where registration is pending."

4. Conclusion

- 4.1. Councillor Learney was acting in her capacity as a Councillor at the cabinet meeting in September 2023 and so was subject to the requirements of the code of conduct.
- 4.2. Councillor Learney had registered her association with WinACC in her register of interests, this had also been recorded in the minutes of the Cabinet meeting in May 2023 and available on WinACC's website. I believe that a reasonable observer would say that Councillor Learney's association with WinACC was in the public domain.
- 4.3. This association is regarded as a non-pecuniary interest and in line with paragraph 2.3 of the code of conduct (above) should have been declared at the meeting and it was not. It therefore amounts to a breach of the code of conduct.

5. Recommendation

The Independent Person has been consulted and has agreed that there has been a breach of the code of conduct and that this can be dealt with by the Monitoring Officer through informal resolution.

Councillor Learney is asked to apologise to the complainant for this breach and given the circumstances to also apologise to her cabinet colleagues.

6. Right of Appeal

There is no right of appeal for the complainant or for the Subject Member but in accordance with the attached guidance notes, if you feel that the authority has failed to deal with your complaint properly, you can make a complaint to the Local Government Ombudsman

Lisa Kirkman

Monitoring Officer

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Decision made: 28 March 2024

Decision noted by the Audit & Governance Committee: 18 July 2024

Decision published: 24 July 2024

Appendix A

Description of categories of Disclosable Pecuniary Interests

A member has a Disclosable Pecuniary Interest in any business of the Council if it is of a description set out in 1 - 7 below and is either:

- a) An interest of the Member
- b) An interest of the Member's spouse or civil partner
- c) An interest of a person with whom the Member is living as husband and wife or as civil partners

And, in the case of paragraphs (b) and (c), the Member is aware that they have the interest.

In these descriptions the term "relevant person" is used to mean the individual as Member and any such person as set out in paragraphs b) and c).

1. Any employment, office, trade, profession, or vocation carried on for profit or gain.
2. Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out their duties as a Member, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
3. Any beneficial interest in securities of a body where –
 - i) That body (to their knowledge) has a place of business or land in the Council and
 - ii) Either:
 - a) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
4. Any contract which is made between the relevant person, or a body in which they have a beneficial interest, and the Council:
 - i) Under which goods or services are to be provided or works are to be executed; and
 - ii) Which has not been fully discharged.
5. Any beneficial interest in any land in the Council's area.
6. Any tenancy where to the Member's knowledge:
 - a) The landlord is the Council and
 - b) The tenant is a body in which a relevant person has a beneficial interest.

7. Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.