

**REPORT OF AN INVESTIGATION UNDER SECTION 66 OF THE
LOCAL GOVERNMENT ACT 2000, BY DAVID GREIG, PARISH
LIAISON OFFICER, INTO AN ALLEGATION CONCERNING MRS
CHERRY GRANT, A FORMER MEMBER OF TRULL PARISH
COUNCIL**

STANDARDS BOARD REFERENCE SBE 12579.05 TRULL PARISH COUNCIL

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1. Allegation to be investigated

- 1.1** The Standards Board for England has, under section 60 (2) of the Local Government Act 2000, referred an allegation of a breach of Trull Parish Council's Code of Conduct by former Parish Councillor Mrs Cherry Grant to the Monitoring Officer for investigation.

1.2 The allegation to be investigated is that Mrs Grant:

Failed to declare an interest and withdraw from the Chamber at a parish council meeting on 14th September 2005, contrary to paragraph 10 (a) of the Code.

2. Code of Conduct

2.1 The Parish Councils Model Code of Conduct for Trull Parish Council came into force with effect from the 27th May 2002.

2.2 Paragraph 7 of the Code of Conduct states that; (1) “A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 12 and 13 of the Code, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers, or inhabitants of the authority’s area, the well-being or financial position of himself, a relative or friend or-

((b) any person who employs or has appointed such persons, (c) any firm in which they are a partner, or any company of which they are directors;

(c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(d) any body listed in sub-paragraphs (a) to (e) of paragraph 13 below in which such persons hold a position of general control or management.

(2) In this paragraph-

(e) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons;”

2.3 Paragraph 8 of the Code of Conduct states that;

“a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest become apparent”.

2.4 Paragraph 9(1) of the Code of Conduct states that;

“A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member’s judgement of the public interest”.

2.5 Paragraph 10 of the Code of Conduct states that;

“A member with a prejudicial interest in any matter must -

(a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the authority’s Standards Committee of the responsible authority; and

(b) not seek improperly to influence a decision about that matter”.

3. Background

3.1 Mrs Cherry Grant became a Parish Councillor following her co-option to the Parish Council on the 17th July 2003.

3.2 Mrs Grant signed a written undertaking to comply with the Code of Conduct on the 17th July 2003.

3.3 On the 14th September 2005 it is alleged that Mrs Grant, then a member of Trull Parish Council, breached the Parish Council’s Code of Conduct.

3.4 It is alleged that she failed to declare a personal and prejudicial interest in a planning application (42/2005/031) reported to the Parish Council on that evening for its comments.

3.5 The planning application was one submitted to TDBC, as Planning Authority, relating to Chilliswood Farm, Trull, of which Mrs Grant’s husband (Mr Graham Grant) is alleged to have been part owner, at that time.

3.6 The application was for the change of use of a barn to light industrial and storage use.

3.7 Mrs Grant remained present and spoke during the course of this discussion.

3.8 The PC resolved to defer a decision on the application to its next meeting on the 19th September so as to obtain further information from TDBC.

3.9 Mrs Grant’s Register of Members Interests was completed on the 17th July 2003 and showed her to be an employee of Queen’s College and H & EJ Grant Ltd. and as owning no buildings or land in the Parish.

3.10 Mrs Grant resigned from the Parish Council on the 17th October 2005.

3.11 An allegation was made to the Standards Board for England by Mrs Anne Leamon, who was present as a member of the public at the meeting of the 14th September 2005, that Mrs Grant had breached Trull Parish Council’s Code of Conduct by failing to declare a personal and prejudicial interest and withdraw from the meeting.

- 3.12 Following an initial consideration of the allegation by the Standards Board for England the matter was referred to the Monitoring Officer, under statutory powers, for local investigation.

4. The Investigation

- 4.1 The Parish Liaison Officer, David Greig, was instructed by the Monitoring Officer to initiate the appropriate investigation by interviewing the interested parties on his behalf.

5. Evidence available

- 5.1 Interviews were carried out with Mrs Cherry Grant, the former member about whom the allegation was made and Mr Steve Watts the Clerk to the Parish Council. Telephone conversations were held with Mrs Anne Leamon, the complainant and Mr Keith Saunders, a former parish councillor who was present at the meeting of the 14th September 2005.
- 5.2 Documentation was also received from the Standards Board for England detailing the complaint, which included a copy of the original complaint form and a letter dated the 16th September 2005 from the complainant, Mrs Leamon, to Cllr Geoff Hewett, the Chairman of the Parish Council.
- 5.3 A copy of Mrs Grants' Register of Members Interests, dated the 17th July 2003 was also available.
- 5.4 The Clerk to the Parish Council made available both the Agenda for and Minutes of the Parish Council meeting of the 14th September 2005, together with Minutes of their subsequent meeting of the 19th September 2005.
- 5.5 The Planning File relating to application 42/2005/031 was available for the purposes of this investigation.

6. Findings of Fact

- 6.1 Planning Application 42/2005/031 was submitted to TDBC by Messrs Humberts and states that Mr D Grant was the owner of the land, Chilliswood Farm, to which the application refers. Subsequent clarification with Mrs Grant states that the property is in fact owned by H&EJ Grant Ltd whose directors are David and Graham Grant. Mrs Cherry Grant is married to Mr Graham Grant.
- 6.2 Mrs Grant's signed Register of Members Interests also shows her to be an employee of H&EJ Grant Ltd.
- 6.3 At a meeting of Trull Parish Council on the 14th September 2005 a planning application, 42/2005/031 for change of use of an agricultural barn at Chilliswood Farm owned by H&EJ Grant Ltd., came before the Parish Council for comment. (For information - Parish Councils are not statutory consultees on planning

matters but TDBC, as Planning Authority, are required by law to notify Parish Councils of local applications and invite comments.)

6.4 Mrs Cherry Grant, then a member of Trull Parish Council, whilst acknowledging her interest in the subject under consideration, remained in the meeting whilst the application was considered by the Parish Council.

6.5 No decision was taken by the Parish Council, on the 14th September 2005, who deferred further consideration of the application to a later meeting.

7. Reasoning as to whether there has been a breach of the Parish Council's Code of Conduct.

7.1 It is clear from the findings of fact in **5** above, that Mrs Cherry Grant, as an employee of H&EJ Grant Ltd and wife of a director thereof, had both a personal and prejudicial interest, as defined in sections 7 and 9 (1) of the Parish Councils model Code of Conduct, which applied to Trull Parish Council from the 27th May 2002, in planning application 42/2005/031.

7.2 Under section 8 of the Code of Conduct "a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest become apparent". It is evident from interviews with the Clerk to the Parish Council that Mrs Grant acknowledged her interest in the matter and enquired as to whether she could remain in the meeting and I consider that Mrs Grant did not breach this section of the Code of Conduct although it is not evident whether a clear, formal declaration of interest was made or the interest was acknowledged before or after the meeting officially opened. It should however be noted that no formal allegations have been made in this regard.

7.3 Under section 10 of the Code of Conduct "a member with a prejudicial interest in any matter must -

(a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the authority's Standards Committee of the responsible authority; and

(b) not seek improperly to influence a decision about that matter".

It is clear that Mrs Grant did not withdraw from the room whilst the matter was being considered and she was therefore in breach of section 10 (a) of the Code. There is no evidence to suggest that any improper influence was exerted by Mrs Grant and I do not consider that she was in breach of section 10 (b) of the Code although no such allegation has been made.

8. Mitigating Factors

- 8.1** It is clear from the interviews carried out that the meeting of the 14th September fell well below the usual standards of this Parish. The Clerk admits the meeting was ‘chaotic’ and the change of venue and absence of certain experienced parish councillors led to an atmosphere where unsatisfactory decisions were made and unlawful actions taken.
- 8.2** Mrs Grant acknowledged her interest in the application and attempted to clarify what action she should take. Unfortunately the advice she was given by the Clerk and others at the meeting was incorrect and although compliance with the provisions of the Code of Conduct can only be made by the member concerned and decisions thereon cannot be subrogated to others, she was acting in what she perceived to be good faith and without the intention to influence any decision of the Parish Council. I do not consider that she deliberately attempted to conceal her prejudicial interest for any ulterior motive.
- 8.3** Mrs Grant duly declared, without apparent prompting, the appropriate interests when the application came before the Parish Council at their second meeting of the 19th September 2005 and, as required by the Code of Conduct, left the room whilst the matter was being considered. She clearly demonstrated her understanding of her legal obligations at this second meeting.
- 8.4** In my capacity as Parish Liaison Officer I have attended numerous meetings of Trull Parish Council since the Code of Conduct came into operation and experienced their procedures in planning matters. At no time have I had any cause for concern and consider that, on the occasions of my visits, members of the Parish Council have always demonstrated compliance with the Code of Conduct.

Appendix 1

SBE 12579.05 TRULL PARISH COUNCIL

Meeting with Steve Watts, Clerk to the Parish Council, WSDC Offices, Williton, 23rd March 2006.

He stated that this was an unusual PC meeting. It was a special meeting of the Planning Advisory Group, to look at 3 planning applications (Agenda attached). It was held in the Church Rooms rather than the usual Memorial Hall.

There was a charged atmosphere as there were several opposing factions in the community involved. All this, he admits, led to the usual procedures as to the running of the meeting becoming overtaken by events.

Planning Applications in the Parish are usually presented at PC meetings by Cllr. Don Archer who was unable to be present. In addition the Chairman Geoff Hewett was absent.

The planning applications were presented by Cllr. Keith Sanders (resigned from the PC in Sept/Oct 2005) and the meeting was chaired by Cllr. Sid French, a long-standing councillor.

The Clerk admits that prior to the meeting, whilst seating was being set up, an informal discussion took place, initiated by Cherry Grant, as to whether she had an interest and could take part. The Clerk is unsure whether she was told she could take part or not but was not told to leave the meeting. She agreed at that stage that she would not take part in any vote.

The Clerk confirmed that all parties were aware of the provisions of the Code of Conduct but admits it was a 'chaotic' meeting which fell well below their usual standards and deflected normal procedures.

Cherry Grant, he confirmed, remained at the table throughout the meeting and at no time made a formal public declaration of interests.

Mrs Ann Leamon, a member of the public, spoke on 05/031 when the public were invited to speak. The Clerk indicated that this was not the right time to comment on the

application as the PC had not, at that time had their formal presentation. The Chairman however confirmed she could continue and she proceeded to complete $\frac{3}{4}$ of her case.

There followed the formal presentation by Keith Sanders and a discussion amongst parish councillors on a very complex interpretation of B1/B2 use (which Keith Sanders had been unable to clarify with Planners). Cherry Grant took part in the discussion and obtained from her husband in the audience what was thought by the Clerk to be a packet of photographs which she used to clarify points under discussion.

It was clear that the PC was unable to come to a decision and the matter was deferred until 19th September.

At the second meeting, held on the 19th September, Cherry Grant declared an interest and left the room. (See Agenda attached)

Cherry Grant was co-opted to the PC following the May 2003 PC elections when insufficient nominations were received to fill all vacancies. *(Note: she would not therefore have attended the formal training sessions when the Code became law)*

David Greig, 24th March 2006

Appendix 2

SBE 12579.05 TRULL PARISH COUNCIL

Meeting with Mrs Cherry Grant, Monday 3rd April, 11 am.

I confirmed that her co-operation in this investigation and any subsequent Standards Committee Hearing was entirely her decision but she stated that she wished the matter to be finalised after such a delay and was happy to talk to me.

She confirmed the basic facts as set out in the various witness accounts and letter of complaint.

Following her enquiry as to whether she should leave the room at the start of the meeting she was advised by Cllr Sid French, who was acting as Chairman, that he thought that as there was no vote required it would be in order for her to remain and the Clerk, although unsure when asked to confirm this, stated that he 'supposed it was OK'.

Mrs Grant confirmed that it was a chaotic meeting, called especially, in a different location, without the usual Chairman and also without the usual 'presenter' of planning matters to the Parish Council.

She was aware of the requirements of the Code of Conduct and only the advice she received caused her to remain in the meeting. If she had been asked she would have departed without hesitation. Indeed when the matter came up at the next meeting she declared the appropriate interest and absented herself from the meeting without prompting.

Mrs Grant stated that if, at any time she had been asked or advised to leave the meeting she would have done so without hesitation.

The document she obtained from her husband was a print out of the plan from the TDBC planning website which she showed to clarify some confusion as to the location of the planning site, having taken no part in the discussion prior to this.

Mrs Grant stated that she was pleased to have been co-opted to the PC, her father having been a long-standing parish councillor in the past, and regretted that she had found it necessary to resign.

I confirmed that the only outcome of the investigation could be:

No evidence of a breach of the Code

A breach of the Code but no action is necessary

A breach of the Code with censure of the former member

and we had no power to investigate other allegations apart from that referred by the Standard Board for England.

David Greig, 3rd April 2006

Telephone conversation with Mrs Grant 4th April 2006

Seeking clarification of ownership of the land subject to application 42/2005/031.

She confirmed that owners are H&EL Grant whose directors are David and Graham Grant. Her husband is Graham Grant.

David Greig 04/04/06

Appendix 3

SBE 12579.09 TRULL PARISH COUNCIL

Telephone conversation with Mrs Anne Leamon, 9.10 am, 24th March 1006.

Mrs Leamon confirmed that her allegations, as set out in her letter to the PC Chairman Geoff Hewett, 16th September 2005 remained unchanged and agreed that a formal interview with her at this stage would not be necessary.

She expressed surprise that the law required the investigation to go ahead in the light of Mrs Grant's resignation from the PC.

I confirmed she would hear from us again when the investigation had reached the appropriate stage.

David Greig, 24th March 2006