

**DECISION OF SOUTH STAFFORDSHIRE DISTRICT COUNCIL'S STANDARDS AND RESOURCES  
(HEARINGS) SUB-COMMITTEE**

**22 OCTOBER 2018**

**DECISION REGARDING COMPLAINT BY WARREN FISHER AGAINST PARISH COUNCILLOR  
DAVID CLIFFT – ESSINGTON PARISH COUNCIL**

In attendance:

**District Councillors:** Bob Cope, Lin Hingley, Alan Hinton, Diane Holmes,  
David Lockley and Robert Reade

**Parish Councillor:  
(non-voting)** Sandra Oliver (Himley) and Mary Roberts (Wombourne)

**Officers:** David Pattison (Monitoring Officer), Lorraine Fowkes (Deputy  
Monitoring Officer)

**Complainant:** Warren Fisher

**Investigator:** Tim Darsley

**Independent Person:** Steven Cork

**Hearing**

The Hearing took place in accordance with the District Council's arrangements for dealing with Member Code of Conduct complaints as approved at the Standards and Resources Committee on 19 July 2018.

The complaint before the Standards and Resources (Hearings) Sub-Committee ("the Sub-Committee") concerned the following allegations made by Mr. Fisher against Cllr. David Clift (in his capacity as a parish councillor at Essington Parish Council) ("Cllr. Clift").

Mr. Fisher alleged, in his complaint that Cllr. Clift was in breach of the Code of Conduct as a parish councillor as he had, according to the complainant, breached disclosable pecuniary interest regulations namely the relevant authority's (Disclosable Pecuniary Interest) Regulations 2012 under the Localism Act 2011 and other aspects of the Code of Conduct. This was on the basis that:

1. Cllr. Clift had failed to declare an interest (on either his Disclosable Pecuniary Interest form or at any meeting) in relation to his interest in Essington Independent Residents Group in breach of the Disclosable Pecuniary Interest rules (as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the Localism Act 2011).

2. Cllr. Clift had breached the Essington Parish Council's Code of in relation to Essington Independent Residents Group by failing to declare this as an "other interest".
3. Cllr. Clift had failed to declare that he was a Director of Wyrley Juniors Football Club Ltd (Company No. 7692057) either on the Disclosable Pecuniary Interests form or at any relevant meeting in breach of the Disclosable Pecuniary Interest rules (as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the Localism Act 2011).
4. Cllr. Clift had failed to declare an interest in Wyrley Juniors Football Club Ltd. (either on his Disclosable Pecuniary Interests form or at any relevant meeting) as an "other interest" in breach of the Code of Conduct – whereas Cllr. Clift was a Director of Wyrley Juniors Football Club Ltd. (Company No. 7692057).

In accordance with the Council's arrangements, considered representations from the following:

- The complainant
- The Investigator
- Cllr. Clift (in writing)

The Sub Committee noted that Cllr. Clift did not wish to attend the meeting but instead had tendered his comments in writing which were duly considered by the Sub Committee. The Sub Committee decided to proceed in Cllr. Clift's absence.

#### Findings as to whether there has been a breach of the Code of the Conduct

The Sub Committee carefully considered the representations from the complainant, the Investigator and Cllr. Clift. The Sub-Committee also considered the views of the Independent Person.

The Sub Committee concurred with the Investigator's findings, namely that:

##### **1. Essington Independent Residents Group**

As regards Essington Independent Residents Group the Sub Committee found that there was no breach of the rules regarding the Disclosable Pecuniary Interest Regulations in that Cllr. Clift did not hold an office for gain or reward (as set out in the Regulations).

Conclusion - no breach.

On the second allegation regarding the breach of the Code of Conduct concerning Essington Independent Residents Group the Sub Committee considered that in accordance with paragraphs 20 and 21 of the Code of Conduct that there was no breach of the Code of Conduct in this case in that it would not have been reasonable or practicable in the circumstances for Cllr. Clift to have declared his membership of Essington Independent Residents Group as it would have factored into almost everything.

Conclusion – no breach.

## 2. **Wyrley Juniors Football Club**

The second issue related to a football club, Wyrley Juniors Football Club (“the Football Club”) which is a charity with seven trustees, Cllr. Clift is not a trustee. The Football Club established a trading arm, in 2011, Wyrley Juniors Football Club Ltd., with one share, held by the Football Club.

The Sub Committee noted that the Football Club was a tenant of Essington Parish Council. There was a lease to that effect in 15 August 2005. Cllr. Clift was, until recently, the Chairman of the Parish Council’s only Committee – the Management Committee. The Management Committee dealt with the various tenancy matters including the tenancy between the Parish Council and the Football Club. Issues relating to the Football Club were considered at all nineteen meetings that took place in 2016, 2017 and 2018. Cllr. Clift was present at all nineteen meetings and was the Chair of the Committee at seventeen. He did not declare any interests at any of the meetings.

Cllr. Clift’s position was that he became a Director of Wyrley Juniors Football Club Ltd. in (2012). He states that soon after that date he parted company with the Club following a dispute between a resident and one of the lead members of the Football Club. Cllr. Clift wished to distance himself from the Football Club. His position is that he has had no role as a Director and that he had believed he was no longer a Director and had been removed.

The Sub Committee decided that whilst the decisions of the Management Committee of the Parish Council bear legally on the Football Club in practice they will have almost the same impact on Wyrley Juniors Football Club Ltd. The Sub Committee therefore found that effectively Cllr. Clift was sitting and voting on the Committee which was managing and enforcing the lease of the Club which owned the company of which he was a Director.

The Sub Committee concluded that as at the date of the Hearing Cllr. Clift remained a Director of Wyrley Juniors Football Club Ltd. and that he had not declared an interest. The Sub Committee found that there was a clear conflict of interest arising from Cllr. Clift’s position on the Parish Council and his Directorship of Wyrley Juniors Football Club Ltd. and that this should in accordance with paragraph 20 and 21 as an “other interest” and he should not have taken part in considering any items relating to the Football Club.

**Conclusion** - The Sub Committee concluded that Cllr. Clift has not been as open as possible about his actions he has therefore failed to act in accordance with Standard 5 concerning openness. He has not promoted leadership by example nor acted in a way that preserved the confidence of others. He has therefore failed to act in accordance with Standard 6 paragraph concerning leadership. He therefore breached the Code of Conduct.

The Sub Committee concluded that Cllr. Clift’s Directorship of Wyrley Juniors Football Club Ltd., is not a disclosable pecuniary interest, as set out in the rules. The key was that in

this case the landlord was Essington Parish Council and the tenant was the Football Club. Cllr. Clift was a Director of Wyrley Juniors Football Club Ltd. and was therefore the tenant. In addition Cllr. Clift was not paid or remunerated in any way in connection with his position as a Non-Executive Director of Wyrley Juniors Football Club Ltd. and although his position can be regarded as an office it was not carried on for profit or gain and as such was not required to be included in that category of the register. As such Cllr. Clift's Directorship of Wyrley Juniors Football Club Ltd. did not constitute a disclosable pecuniary interest and was not therefore required to be entered into the Register of Interests of Essington Parish Council.

**Conclusion** – no breach.

### Sanctions

The Sub-Committee then considered the potential sanctions having found that there was a breach of the Code of Conduct regarding the failure to disclose interests concerning Cllr. Clift's Directorship of Wyrley Juniors Football Club Ltd. The Investigator's view was that the Sub-Committee should consider making the breach of the Code of Conduct public and writing to the Parish Council recommending that they require Cllr. Clift to undergo training.

The Sub-Committee retired and considered that the appropriate sanctions were as follows:

1. That Cllr. Clift should receive training, in his capacity as a Parish Councillor relating to the Code of Conduct and the need to declare relevant interests.
2. The Sub-Committee also considered that the note of the Hearing should not be subject to restrictions in accordance with the Local Government Act 1972 and should be sent to the Parish Council and also made available on South Staffordshire Council's website.

The matter then concluded and the Monitoring Officer was asked to contact Cllr. Clift to let him know of the result.

Following the Hearing it should be noted that Cllr. Clift has resigned as a Parish Councillor.