



Nigel Ward
North Yorks Enquirer
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Our Ref: BS / LEGAL-14-00004

Please ask for: Anthony Winship

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5 March 2015

Dear Nigel

**Section 29, 30 & 34 – Localism Act 2011
Register and Disclosure of Pecuniary Interests**

Thank you for your e-mail sent on 18 February 2015 and the subsequent e-mail sent on 27 February 2015.

You will be aware that your request for information under the Freedom of Information Act 2000 in your e-mail sent on 18 February 2015 was acknowledged on 18 February 2015.

I note your refusal to disclose your postal address for correspondence.

In your e-mail you have raised your concerns about the register of interests for District Councillor Lindsay Burr. You have identified the following two companies which you believe are missing from the register of interests:

- (i) Intuitions Limited with company registered number 02831784 and a registered office at 43 Tower Street Harrogate North Yorkshire HG1 1HS. In terms of the United Kingdom Standard Industrial Classification of Economic Activities (SIC) maintained at Companies House, the records for the company reveals the nature of business of the company to be (SIC): 85590 - *Other education not elsewhere classified*. Lindsay Burr was appointed as a Director of that company on 1 September 2011;
- (ii) Kirkham Henry Performing Arts CIC with company registered number 07325534 and a registered office at Kirkham Henry Performing Arts Centre, Horsemarket Road, Malton, North Yorkshire YO17 7NB . The nature of business is described as (SIC): 94990 - *Activities of other membership organisations not elsewhere classified*. Lindsay Burr was appointed as a Director of that company on 4 January 2011.

On the basis of the above omissions you have made the following request

"I now lodge a Formal Request for a thoroughgoing and impartial investigation of Councillor Lindsay BURR's Register of Interests, and where it is found that disclosable



interests have not been duly declared, a Formal Complaint under the terms of the Councillor's Code of Conduct and an immediate referral both to the RDC Standards Committee and to the North Yorkshire Police."

The key relevant facts and matters in this case are as follows :

- (i) Councillor Lindsay Burr was duly elected as a District Councillor of Ryedale District Councillor in May 2011;
- (ii) The Localism Act 2011 ("2011 Act") received Royal Assent on 15th November 2011. The 2011 Act introduced the new arrangements for Councillors to register and make disclosure of pecuniary interests ;
- (iii) The key statutory provision on the Register of Interests is section 29 of the Localism Act 2011. This provision came into full force on the 1 July 2012. Section 29 is as follows :

"29 Register of interests

(1)The monitoring officer of a relevant authority must establish and maintain a register of interests of members and co-opted members of the authority.

(2)Subject to the provisions of this Chapter, it is for a relevant authority to determine what is to be entered in the authority's register."

- (iv) The key statutory provision on the duty of Councillors to disclose pecuniary interests is section 30 of the Localism Act 2011 . This provision came into full force on the 1 July 2012. Section 30 is as follows :

"30 Disclosure of pecuniary interests on taking office

(1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given."

- (v) You will note from section 29 of the 2011 Act relating to the register of interests, that it *is for a relevant authority to determine what is to be entered in the authority's register*. The register of interest form adopted by a Council determines the level and extent of disclosure of pecuniary and other interests ;
- (vi) The format of the register of interests form adopted by Ryedale District Council on 12 July 2012 is one of the most detailed forms for any Council in the North Yorkshire area. If you compare it with other Councils in North Yorkshire you will see that Ryedale District Council has the highest level of disclosure. Ryedale District Council took this decision to seek to maintain the highest possible standards of ethical conduct;



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- (vii) You will also note from section 30 of the 2011 Act that the requirement to make a section 30 notice begins upon the Councillor taking office, namely *beginning with the day on which the person becomes a member*. The first date a Councillor takes office after the date section 30 came into force on 1 July 2012 is at a subsequent bye-election or the District Council elections on 7 May 2015;
 - (viii) The principal public purpose of the duty of Councillors to complete the register of Members Interests and the duty to make disclosure of pecuniary interests on taking office is to ensure that local authority decision making is made on the basis of relevant considerations in the public interest and also to ensure that local authority decision making is not influenced by irrelevant considerations such as the private interests of a Councillor. The register and disclosure requirement was intended to ensure that there is disclosure by Councillors of private interests. If such private interests exist then a Councillor must not participate in any decision making at Council or Committee on that issue where the Councillor has a private interest.
 - (ix) An example of Councillor declaring a disclosable pecuniary interest and leaving the Committee room was that of Councillor Burr declaring and leaving the Council Chamber when a planning application in relation to the redevelopment of ATS site at Norton for housing was before the Planning Committee in December 2014 and January 2015. As a Member of the Planning Committee, Councillor Burr declared an interest as an owner of the application site and left the Council Chamber for that item at both Planning Committee meetings. This was recorded in the minutes of the Planning Committee meetings.
 - (x) It is accepted that Intuitions Limited should have been disclosed on the register of interests since Councillor Burr is a remunerated director. Councillor Burr has therefore updated her register of interests form
 - (xi) You will also note that Kirkham Henry Performing Arts CIC is a Community Interest Company. A Community Interest Company (or CIC) is a relatively new type of company established by the Companies (Audit, Investigations and Community Enterprise) Act 2004 and regulated by The Community Interest Company Regulations 2005. The CIC model is designed to provide an effective legal form for enterprises which aim to provide benefit to the community or to trade with a "social purpose," rather than to make a profit.
 - (xii) Councillor Burr is understood to hold a Directorship for the Kirkham Henry Performing Arts CIC in a voluntary capacity and received no payment. Notwithstanding that the interest will be disclosed on the register of interest form even though there is no remuneration.

Against this background the following key points can be made:



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- (i) In relation to Intuitions Limited, Councillor Burr has updated the register of interests for Ryedale District Council by entering details of that interest on the register.
 - (ii) In relation to the Directorship for the Kirkham Henry Performing Arts CIC Councillor Lindsay Burr has updated the register of interests even though she receives no remuneration.
 - (iii) Councillor Burr is on record as properly withdrawing from the Planning Committee meetings in December 2014 and January 2015 when the ATS planning application was considered and accordingly has a track record of declaring and leaving the meeting when she has a disclosable pecuniary interest in Council business.

You will appreciate that Officers of any Council including Ryedale District Council must make decisions which are measured, balanced and proportionate.

Having carefully considered your complaint the facts of this case do not warrant an investigation.

The reasons for this decision is that it is not considered to be an appropriate use of the District Councils resources to investigate this matter any further because the omissions have been remedied by updating the register of interests.

Council Officers will not therefore be referring this case to North Yorkshire Police as you request.

I have contacted the District Council's Independent person about this case and the contents of this letter are informed by his comments

Yours sincerely

K.A.Winship
Council Solicitor and Monitoring Officer