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First conviction of a councillor under the Localism Act 2011

Fundamental changes to the regulation of standards of conduct for elected and co-opted local government members were introduced in 2012 by the Localism Act 2011. These included a requirement for local government members to register pecuniary and other interests and the creation of a new criminal offence of failing to register relevant interests. Clearly, in relation to a criminal prosecution, the Crown Prosecution Service must be satisfied that there is sufficient evidence for a realistic prospect of conviction and that it is in the public interest to prosecute.



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Although the criminal sanction provisions came into force almost three years ago, a former leader of Dorset County Council is thought to have recently become the first member to be found guilty of an offence under the pecuniary provisions of section 31 of the LA 2011 (that is having a disclosable pecuniary interest in a matter considered at a meeting). According to various reports, the charge brought against the individual, a serving member at East Dorset district council, was that on 25 February 2013 he was present at a meeting about the East Dorset Core Strategy and, despite having a disclosable pecuniary interest in a matter that was considered at that meeting and without reasonable excuse, he participated in the vote taken at the meeting. At that time, he was a non-executive director of a housing charity and although he was not in receipt of a salary, he had received various remuneration payments for the years 2010 to 2013 totalling some £29,920. In accordance with section 30 of the LA 2011, he had listed that interest in pecuniary interest forms submitted to the district council and the County Council in 2012.

In relation to the charges that were brought against him, two of which were subsequently dropped, the defendant member had pleaded not guilty to one requisition under sections 31(3) and (4) of the LA 2011 and 34(1)(b) and (3) of the LA 2011. At the hearing of the case, the district judge noted that the defendant member was of good character and that, in the member's view, the matters that were considered at the meeting on 25 February 2013 in relation to the East Dorset Core Strategy were broad in nature and did not concern detailed issues of planning and ownerships. However, the district judge concluded that before the meeting the defendant member should have taken time to consider his position. The LA 2011 was clear that, having declared his interest as a non-executive director of the housing charity, he could not take part in that meeting. As the district judge pointed out, the defendant member could have done one of two things.

He could have obtained a dispensation from section 31(4) by virtue of section 33 of the LA 2011. That section empowers an authority, upon receipt of a written request, to grant dispensations for up to four years for a member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest if, having regard to all relevant circumstances, the authority considers that:

- Not granting the dispensation is likely to impede the particular business transaction.
- Without the dispensation, the representation of different political groups on the body would be so upset as to alter the outcome of any vote on the matter.
- The granting of the dispensation is in the interests of individuals living in the authority's area.
- It is otherwise appropriate to grant a dispensation.

Secondly, it would not have been unreasonable for the defendant member to have consulted with the monitoring officer to obtain his advice on the issue, particularly given that the onus is on the local authority member to deal with such matters.

However, the defendant member had not sought a dispensation or obtained advice on his position from the monitoring officer. On the evidence, the district judge found that the defendant was prevented by the LA 2011 from taking part in the meeting on the 25 February 2013 and, without a dispensation, he could not take part. At that meeting, the East Dorset Core Strategy had been considered. The housing charity, for which the member was a non-executive director, had responded to the consultation about the Core Strategy, owned land that was being considered and was part of the details contained in the Core Strategy, and indeed the defendant member had previously attended a meeting of the charity at which its long-term use of the land was discussed. The district judge was clear that it was not a reasonable excuse to effectively fail to consider those matters in the defendant member's knowledge and it was incorrect to assert, as he had, that the Core Strategy had no relevance to the pecuniary matters considered at a meeting.

Section 31(4) of the LA 2011 imposed a positive duty on him not to participate and vote. Although there was no evidence before the court, that the defendant member's participation in the meeting resulted in any direct benefit to him, the provisions of the LA 2011 made it clear that he should not have taken part or voted at that meeting.

Section 34 of the LA 2011 creates a criminal offence where a member fails, without reasonable excuse to comply with the requirements to declare disclosable pecuniary interests or takes part in council business at meetings. The district judge indicated that the defendant member had failed to satisfy the court that what he did amounted to a reasonable excuse. He was therefore given a six-month conditional discharge and was ordered to pay £930 in costs (the lowest penalty that the court could impose); he has been allowed to remain an elected member.

This is an interesting case given that it appears to be the first that has gone to trial. The publicity that the case has generated is likely to

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