

Complaint by Dermot Daly

Summary of the complaint

Statement: Within item 185 of the agenda for the Ordinary council meeting of Bottesford Parish Council on 9th January 2017, Cllr Donger failed to declare a pecuniary interest, when the major contractor was his father-in-law. Furthermore, Cllrs Wright, Shephard, Gough and Bayman were complicit in a significant breach of councillor conduct and regulatory financial control.

Result A: Cllr Donger significantly failed in his requirement to uphold the principles of public office as a parish councillor.

Result B: Cllr Wright significantly failed in his requirement to uphold the principles of public office as a parish councillor.

Result C: Cllr Shepherd failed in her requirement to uphold the principles of public office as a parish councillor.

Result D: Cllr Gough failed in his requirement to uphold the principles of public office as a parish councillor.

Result E: Cllr Bayman, as Chairman, failed to lead the parish council in an appropriate manner relating to a significant breach of conduct and regulatory prudence.

Details pertaining to the complaint

An extract taken from item 185 of minutes to ordinary meeting of Bottesford Parish Council on 9th January 2017 [item 185 of appendix 04] states...

Cllr Wright then went through the quotes which he and the Clerk had obtained earlier in the week. None of the contractors were named to anyone in the room except everyone was told they were all from Bottesford.

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|-------------------------|---------------------------|
| 1. Studwall | £3000.00 estimated |
| 2. Electrics | £1229.90 plus VAT |
| 3. Move radiator | £150.00 |
| 4. Total | £4379.90 |

Cllr Wright proposed acceptance of the quotes, seconded Cllr Shephard. 4 in favour, three against. Motion carried.

Fact: The parish council has previously, in line with the recommended process in its adopted financial regulations, obtained three quotes for items of work exceeding £500 in value. This can be evidenced in previous minutes. Only one quote was obtained for each of the items in this project and in one case it was only an estimate that was obtained.

The financial regulations are quite clear in that: ***10.3. All members and Officers are responsible for obtaining value for money at all times. An officer issuing an official order shall ensure as far as reasonable and practicable that the best available terms are obtained in respect of each transaction, usually by obtaining three or more***

quotations or estimates from appropriate suppliers, subject to any de minimis provisions in Regulation 11(I). [Appendix 03]

Fact: It was not explicitly announced by Cllr Wright, who talked to the agenda item, that the quotes were obtained by the clerk, in fact it was stated that he (Cllr Wright) had the discussions with the potential contractors and obtained the quotes. This means that the extract from the parish council minutes is factually incorrect and can be evidenced through a publicly available recording of the proceedings [http://www.fobpc.org.uk/meetings/BPC_170109_ORDINARY.m4a].

This is not a financially sound action and could result in unfair advantage and financial wrongdoing. The financial regulations clearly state under paragraph 11.1.8 that **where the value is below £5,000 and above £500 the Clerk or RFO shall strive to obtain 3 estimates** [appendix 03]. This means that by negotiating quotes and estimates and not allowing the clerk to obtain such quotes Cllr Wright has placed himself in a situation that could result in unfair advantage and financial wrongdoing.

Fact: The Clerk and the RFO(Responsible Finance Officer) are one and the same in these circumstances. Represented by Mrs Kathryn Price, the Clerk of Bottesford Parish Council.

Fact: By not divulging the identity of the contractors Cllr Wright potentially placed Cllr Donger in a situation of pecuniary interest. He has further placed other parish councillors in a position to exacerbate their breaking of councillor conduct principles.

Fact: Cllr Donger failed to declare a pecuniary or similar interest either at the beginning of the meeting in the allotted agenda item [item 174 of appendix 04], or during the item 185 [of appendix 04]. It seems unlikely that Cllr Donger would not know that his father-in-law (appendix 01 and appendix 02), Mr Chris Greasley, was estimating for the work. By not declaring an interest in this item Cllr Donger placed himself in a situation that could result in unfair advantage and financial wrongdoing.

The financial regulations are quite clear in that: **5.9. Members are bound by the Code of Conduct as adopted by the council and shall not be involved in any discussion decision, vote or signature when a decision to authorise or instruct payment is made in respect of a matter in which they have a disclosable pecuniary interest, unless a dispensation has been granted.** [Appendix 03]

The clerk confirmed the contractors involved in the project through the following email extract [appendix 05]:

The information you require is:

Ian Smith Electrical Ltd – electrical work, Chris Greasley – building work, Steve Palmer – Plumbing.

I hope this information is satisfactory. There is a notice outside my office informing the public of this as well as we like to be transparent.

Yours

Kathryn Price, Clerk, Bottesford PC

Fact: This was further compounded by the fact that, unlike the majority of votes in most other parish council meetings, this vote went with the approval on a 4:3 majority [item 185 of appendix 04] but had almost resulted in a tie and the need for a casting vote by the

chairman, which is unheard of in Bottesford parish council. After some debate, it was actually Cllr Donger who made it a 4:3 vote in favour of his father-in-law's estimate.

Fact: Yet more significance must be placed on this issue as the agreement was not even based on a quote, it was based on an estimate. Cllr Wright clearly stated that the cost for the work could exceed this estimate

[http://www.fobpc.org.uk/meetings/BPC_170109_ORDINARY.m4a]. This creates a higher degree to the potential for financial wrongdoing and is totally unsafe when dealing with public funds.

Fact: The financial regulations clearly state that a piece of work must not be broken down into constituent parts in order to avoid the £5,000 limit at which further regulatory controls are applied. The regulation states ***Contracts may not be disaggregated to avoid controls imposed by these regulations*** [Appendix 03].

The cost of this project is quite clearly stated in the minute [item 185 of appendix 04] as £4,379.90 plus the VAT element on the electrics item of £245.98 giving a total of £4,625.88 . If the actual value of the studwall and any extra directions given during the execution of the project were to exceed 12.5% increase from the £3,000 estimate then the £5,000 higher financial regulation limit will have triggered forcing the 'three quotes required' process (see regulation paragraph 4.1.1 [appendix 03]).

In fact, subsequent discussions, quotes and actions (beyond the original submission date of this complaint) are uncovering further work such as floor sanding, cupboard moving, personal alarm system, painting and decorating, that would most definitely take the full value of the project well above the £5,000 limit that requires more stringent financial control through the three sealed bid system.

Fact: There was no application by the parish council to waive financial regulations as set out in 11.1.3 [appendix 03], When applications are made to waive financial regulations relating to contracts to enable a price to be negotiated without competition the reason shall be embodied in a recommendation to the council.

Fact: The actions of Cllr Donger, Cllr Wright, Cllr Shepherd and Cllr Gough by voting in favour of the action on this item can be seen as financially unsound and irresponsible when dealing with public funds as the necessary financial regulations were not followed which may result in financial wrongdoing. This is contrary to the core principles of councillor conduct and contrary to the relevant financial regulations.

These actions could be seen by some members of the public as being at best financially foolhardy and at worst conspiring to defraud the public purse.

Non-compliance to the relevant code of conduct principles

[Appendix 06]

Principle 1 – Selflessness

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

This principle has not been upheld by Cllr Donger or Cllr Wright as an advantage has been conveyed to the suppliers of the quotes and estimates in this case, especially for the father-in-law of Cllr Donger, through their respective inaction and action.

Principle 2 – Integrity

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

This principle has not been upheld by Cllr Donger or Cllr Wright as an advantage has been conveyed to the suppliers of the quotes and estimates in this case, especially for the father-in-law of Cllr Donger, through their respective inaction and action.

Principle 3 – Objectivity

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

This principle has not been upheld by Cllr Donger, Cllr Wright, Cllr Shepherd or Cllr Bayman as by voting in favour of this agenda item an advantage has been conveyed to the suppliers of the quotes and estimates in this case, especially for the father-in-law of Cllr Donger, through their respective action.

Principle 4 – Accountability

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

This principle has not been upheld by Cllr Wright as by withholding the identity of the contractors from the public and so in the minutes of the meeting, he has failed to be fully accountable to the electorate.

Principles 5 and 6 – Openness and Honesty

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in Part 3 of this Code.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the relevant legislation in existence at the time.

This principle has not been upheld by Cllr Donger as he has not declared an interest in this agenda item despite being related to the main contractor providing an estimate for the work.

This principle has not been upheld by Cllr Wright as by withholding the identity of the contractors from the public and so in the minutes of the meeting, he has failed to be open with the electorate.

Principle 7 – Leadership

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

These principles articulate the fundamental values of public service that underpin the conduct of members. The following provisions of the Code of Conduct for members are derived from those principles and provide a set of enforceable minimum standards for the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

This principle has not been upheld by Cllr Bayman who has, as Chairman, failed to lead the parish council in an appropriate manner relating to a significant breach of conduct and regulatory prudence. He has failed to see the minimum standards expected by the electorate in his duties as a leader of the parish council.

Signed : Mr. Dermot Daly

Date : 22nd February 2017

Appendices enclosed with complaint form :-

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| Appendix 01 | Extract from Facebook |
| Appendix 02 | Disclosable Pecuniary Interest form – Councillor Leigh Donger |
| Appendix 03 | Bottesford Parish Council Financial Regulations |
| Appendix 04 | Bottesford Parish Council Minutes of 9 January 2017 |
| Appendix 05 | Email from Bottesford Parish Clerk to Mr Dermot Daly dated 17 February 2017 listing Contractor names |
| Appendix 06 | Bottesford Parish Council Code of Conduct |