

Statement

- CONSERVATIVE COUNCILLORS' ASSOCIATION

This email trail evidences that I sought and obtained independent advice from the Conservative Councillors' Association concerning my position following my resignation as a trustee/director from HTH Ltd on 15th November 2014.

In spite of this evidence and that obtained from the Rt Hon Eric Pickles MP the Monitoring Officer continued to insist and advised the Chair that I should leave the council chamber and not partake in any debate or vote.

From: Mabbutt, Alan [REDACTED]
Sent: 03 March 2015 13:35
To: David Leal-Bennett
Subject: RE: Advice - URGENT re Hitchin Town Hall

Dear David,

My view has not changed. I have also consulted with a senior councillor with planning experience.

To reiterate, we certainly do not think you have a disclosable interest and our view is you never did.

On the declarable interest point of view, a past association does not apply to a current situation and you would therefore not have a declarable interest either.

We can see no reason why you cannot attend the Council meeting as a full voting member.

Kind Regards

Alan Mabbutt OBE
Nominating Officer
Conservative Party

From: David Leal-Bennett [REDACTED]
Sent: 03 March 2015 12:42
To: Mabbutt, Alan
Subject: RE: Advice - URGENT re Hitchin Town Hall

Dear Alan

Please see enclosed a briefing for Peter Lilley, with whom I spoke in detail from Heathrow on Saturday morning, I have only just returned.

Perhaps we may have a chat but hopefully the attached gives an outline. I have to say that I am appalled at the way I am being treated

You may also wish to take a look at the 'minutes' of NHDC following the Overview & Scrutiny meeting on 18th December 2014, when I was also barred.

<http://www.north-herts.gov.uk/aksnherts/users/public/admin/kab12.pl?cmte=OSC&meet=36&arc=71>

Confidential - email trail with CCA
12-Dec-14 to 03-Mar-15

I look forward to hearing from you.

Kind regards

David

From: Mabbutt, Alan [REDACTED]
Sent: 13 February 2015 15:31
To: David Leal-Bennett
Subject: RE: Advice - URGENT re Hitchin Town Hall

Dear David,

Do keep me up to date.

You would be advised not to accuse the Chairman of anything however as she will have been following officer advice and may well not have felt confident contradicting a senior officer.

As previously though, I find it difficult to understand why your presence would affect any court case adversely.

Regards

Alan

Alan Mabbutt OBE
Nominating Officer
Conservative Party

From: David Leal-Bennett [REDACTED]
Sent: 13 February 2015 15:12
To: Mabbutt, Alan
Subject: RE: Advice - URGENT re Hitchin Town Hall

Dear Alan

I did not leave and the Monitoring Office read out the advice which was as per his email:

" I write further to the previous emails below regarding Hitchin Town Hall matters when they are considered by committees of the Council.

As you know Full Council tonight is receiving a recommendation from Cabinet to increase the Capital Programme for additional costs in respect of the North Hertfordshire Museum and Community Facility project. As the decision tonight is a financial one I would strongly urge you to follow my advice set out below, declare an interest and leave the room for the duration of the item. Failure to do so puts any decision made tonight at risk.

I will also take this opportunity to remind you that if you would like to, the Code of Conduct does allow you to speak as a member of the public and listen to any other

public speeches, but it then requires that you must leave the room prior to the item being presented and debated."

The MO accepts that I do not have a pecuniary interest, (I never had) but seems intent on stopping me from attending. At a recent Cabinet meeting the reason given was because I could be called as a witness since HTH Ltd have served notice of termination of their contract!

Matters progressed and I was asked by the Chair if would leave the chamber. I thanked the MO for his advice and stated that I had my own advice which contradicted his interpretation and as such I would remain. This seemed to cause confusion and the chair walked out and suspended the meeting!

There was a lot of discussion behind the scenes and after some considerable time, during which the press were wandering around, the Chair appeared and said that, under the circumstances, the report would be deferred; the meeting then continued to complete the business on the agenda.

I, and others, found this bizarre in the extreme and so I have today emailed the Conservative Group Leader, Lynda Needham the following:

"Lynda

For the record, I believe last night was handled appalling badly by the chair and officers. It is only "advice" that is given by the Monitoring Officer and it not his place to do anything else, I am not obliged to take it especially when I have received my own advice from the highest level, of which you are well aware.

This has officer "control" written all over it and it is totally unacceptable and is contrary to the democratic process. I would remind you of Peter Lilley's comment " They seem desperate to stop anyone who has relevant knowledge from participating even in discussion on a subject!"

This was a Part 1 item and all the detail was in the public domain, the fact that there was a "financial decision" to be made, and this was used as the reason to exclude me, is totally irrelevant. The statement made to me by the MO that " Failure to do so (i.e. leave the room) puts any decision made tonight at risk" is completely ridiculous.

There was absolutely no reason to defer the report and in so doing the Chair has brought NHDC into disrepute. She has also ensured that the 'additional cost' request has been stalled through bureaucratic nonsense.

If you look at the historic public reports it is clear that this project is at least £750,000 over budget and someone needs to be held to account.

***Lynda I will NOT be intimidated, this vendetta has gone on long enough.
David"***

The MO has not contacted me today although I suspect he will.

The advice and the history of this has been long and for an official complaint I will need to take time to set this out in a clear timeline with supplementary evidence attached. You may recall that when this originally occurred, that Peter raised it with the Minister and it was discussed in Parliament, I have the Hansard record. You may also wish to know that, because of the incorrect advice I was given many months ago, I amended my

Confidential - email trail with CCA
12-Dec-14 to 03-Mar-15

annual return of pecuniary interests, this caused the then MO to obtain external legal advice and then report me to the police, as under the Localism Act I have allegedly committed a Criminal Offence, I will be seeing them next Friday for a discussion and will let you know the outcome. this is a complete waste of police time.

Regards

David

From: Mabbutt, Alan [redacted]
Sent: 13 February 2015 14:37
To: [redacted]
Subject: FW: Advice - URGENT re Hitchin Town Hall

Dear David,

I am sorry not to have responded sooner, but I have been out of the office.

I assume that you stayed in the meeting and voted? Has the Monitoring Officer contacted you since?

It would also be useful to know if he has given any of this advice in writing as I would need to see what advice he was actually giving before I could advise you where you might progress any complaint.

Regards

Alan

Alan Mabbutt OBE
Nominating Officer and Head of Local Government
Conservative Party

From: CCA
To: Mabbutt, Alan
Subject: FW: Advice - URGENT re Hitchin Town Hall

Hi Alan

Can you have a look at this and provide advice please. I have attached your advice given in December for reference.

Kind regards

Natalie

Natalie Smith
CCA Membership & Communications Coordinator

020 7984 8144 - CCA, CCHQ, 4 Matthew Parker Street, London SW1H 9HQ -
cca@conservatives.com www.conservativecouncillors.com

From: David Leal-Bennet [REDACTED]
Sent: 12 February 2015 12:27
To: CCA
Subject: Advice - URGENT re Hitchin Town Hall

Dear Allan

I refer to the CCA email response concerning this issue on 17th December 2014, and thank you for that advice.

Unfortunately this has surfaced again and I have again been emailed by the Monitoring Officer who, with the support of the Officer responsible for the Museum & Town Hall Project, seems intent on causing me as much grief as possible.

I spoke with Peter Lilley about the whole saga on Monday afternoon and he suggested that I contact you directly. I have also just forwarded this email to him:

"Dear Peter

Further to our telephone conversation, and not surprisingly, I have received another warning from the Monitoring Officer concerning the Full Council meeting tonight, see below.

I am no longer a director and my only involvement recently has been to try to get all parties together; against all odds I have succeeded in this and a mediator is to be appointed. This is important, especially as £1m of public money is at risk.

I am now being told that because there is a dispute (which could go to court) and that since I may be called as a witness against NHDC, I am prejudiced. My response, if it ever gets to that stage, is that I would tell the whole truth and to suggest otherwise is a slur on my character.

The monetary issue being discussed tonight is concerning the spend on the Project which is now over 6 months late and some £700k over the original budget.

Regards

David"

Allan, I do not propose to leave the debate and will take part although I would not propose to vote.

I have now spent many hours over this issue and it is causing me stress, it is impacting my personal life and also my political life where I am Chair of NHDC's Hitchin Area Committee.

I consider the approach of NHDC to be harassment and, as important, in direct contravention of the democratic process which should encourage robust debate.

Confidential - email trail with CCA
12-Dec-14 to 03-Mar-15

Enough is enough and I now wish, with the assistance of the CCA, to make a formal complaint at the highest level, I look forward to your advice on my stance tonight and the options open to me.

Kind regards

David

From: Anthony Roche [<mailto:Anthony.Roche@north-herts.gov.uk>]
Sent: 12 February 2015 11:37
To: 'David Leal-Bennett'
Cc: David Scholes
Subject: RE: Directorships

Cllr Leal-Bennett

I write further to the previous emails below regarding Hitchin Town Hall matters when they are considered by committees of the Council.

As you know Full Council tonight is receiving a recommendation from Cabinet to increase the Capital Programme for additional costs in respect of the North Hertfordshire Museum and Community Facility project. As the decision tonight is a financial one I would strongly urge you to follow my advice set out below, declare an interest and leave the room for the duration of the item. Failure to do so puts any decision made tonight at risk.

I will also take this opportunity to remind you that if you would like to, the Code of Conduct does allow you to speak as a member of the public and listen to any other public speeches, but it then requires that you must leave the room prior to the item being presented and debated.

Many thanks

Anthony Roche
Acting Corporate Legal Manager and Monitoring Officer

From: Anthony Roche
Sent: 29 January 2015 17:21
To: 'David Leal-Bennett'
Cc: David Scholes
Subject: RE: Directorships

Cllr Leal-Bennett

Further to the email below and the Overview and Scrutiny Committee meeting on 18 December 2014 I am sending a quick email to confirm that my advice below as to how you should approach Hitchin Town Hall matters has not changed. Please note that the Code of Conduct requirements also apply to committees you attend to observe, for example Cabinet on Tuesday night, as well as committees you are a member of.

Many thanks

Anthony Roche
Acting Corporate Legal Manager and Monitoring Officer

From: Anthony Roche
Sent: 17 December 2014 15:35
To: 'David Leal-Bennett'
Cc: David Scholes
Subject: RE: Directorships

Cllr Leal-Bennett

Thank you for your email and I note your comments.

I would be grateful if you could respond to the first paragraph of my email regarding the declaration of interest form.

With regard to your stated approach to the meeting tomorrow night I will need to consider with the other statutory officers how to protect the Council's position, given the contract dispute with HTHL.

Many thanks

Anthony Roche
Acting Corporate Legal Manager and Monitoring Officer

From: David Leal-Bennett [REDACTED]
Sent: 16 December 2014 21:03
To: Anthony Roche
Cc: David Scholes
Subject: Re: Directorships

Thank you and how predictable.
I am happy to listen to your advice but do not accept your interpretation.

David Leal-Bennett
[REDACTED]
Sent from my iPhone

On 16 Dec 2014, at 19:18, Anthony Roche <Anthony.Roche@north-herts.gov.uk> wrote:

Cllr Leal-Bennett

Thank you for your email.

I am aware of the correspondence you had with Katie on the issue of your form and it is precisely because of that I was seeking that you complete the form afresh. Given the (now) historic dispute it is beneficial to all that we have a new form that provides up to date information and draws a line under the previous correspondence. I would have no

objection to you sending me the updated form and stating that by doing so you are not conceding the point as to whether or not in your view you previously had a DPI.

With regard to your directorship of HTHL I can confirm that I have received proof of your directorship ceasing.

In my email I also offered to provide advice on your position in respect of Hitchin Town Hall matters given your change in circumstances. I note that you have not taken up that offer (although no doubt this is due to the email difficulties to which you refer). Given the subject matter of the Overview and Scrutiny meeting on Thursday it would seem sensible for me to provide that advice.

On the basis that you are no longer a director of HTHL my advice is that you no longer have a DPI (I acknowledge your differing interpretation of the DPI regulations, but that is now a moot point given the directorship has ended). This means that the potential criminal sanctions under the regulations for failure to comply are no longer applicable.

As you know under the Code of Conduct adopted by Full Council on 18 July 2013 we have a second category of interests, Declarable Interests. My advice is that due to your long standing relationship with HTHL you would be considered to have a "close association" with the organisation under 4.6 (a) and/or (b) and that additionally 4.6 (c) applies. I have reproduced in full the relevant section below.

Declarable Interests

4.6 You have a Declarable Interest in an item of business of the Council where:
(a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or your employer or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which you have been elected or otherwise of the Council's administrative area; or
(b) it relates to or is likely to affect any of the interests listed in the Appendix to this Code in respect of a member of your family (other than covered in the legislation) or your employer or a person or body with whom you have a close association; or
(c) 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 your judgement of the public interest; or

....

and that interest is not a Disclosable Pecuniary Interest.

The effect of this is set out at 7.3, 7.4 and 7.5 of the Code of Conduct. Again I have set those out in full below. My advice is that the test in 7.3 would be met, due to your long standing role on the project with HTHL and therefore whilst you can speak as a member of the public and listen to any other public speeches, you must leave the room prior to the item being presented and debated.

7.3 If you are present at a meeting of the council and you have a Declarable Interest relating to any business which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest you must not participate in the discussion or vote on the item, although you may speak as a member of the public.

7.4 If you have a Disclosable Pecuniary Interest, or a Declarable Interest which is so significant that you must not participate, you must leave the room or chamber where the meeting is being held unless you have received a dispensation from the Monitoring Officer.

7.5 If you are leaving the room or chamber in accordance with paragraph 7.4 you may listen to any speeches from the public but must leave prior to the item being presented

or in any other case, whenever it becomes apparent that that business is being considered at that meeting.

I am of course happy to advise further if that would assist. I am aware you have been in correspondence with David Scholes regarding the HTH project and therefore I have copied him in to this email.

Many thanks

Anthony Roche
Acting Corporate Legal Manager and Monitoring Officer

-----Original Message-----

From: David Leal-Bennett [<mailto:dlb@syssol.net>]
Sent: **12 December 2014 10:36**
To: Anthony Roche
Subject: Directorships

Dear Anthony

I have had a few problems with my emails lately as I am moving over to fibre, but I seem to recall you sent me a request.

As far as my disclosure form is concerned this has not changed since the HTH connection was never considered by me to be a DPI, if you check the records you will see that is the case. Katy was dealing with this and there's quite a bit of (unwarranted in my view) correspondence.

With regard to the register at Companies House I do not think it appropriate that I do a search on your behalf, that must surely be a process for NHDC to undertake.

Regards

David

David Leal-Bennett
[REDACTED]
Sent from my iPhone

Confidential - Conservatives Only