



**Reference Number WD03 18052021**

Informal assessment of a self-referral for a breach of the Code of Conduct made by Councillor Michelle Wilson, Sampford Courtenay Parish Council, referred to in this assessment as the Subject Member.

**Criteria: The Complaint is about (one or more) named Councillors of the Council or a relevant Parish/Town Council**

The Subject Member was a member of Sampford Courtney Parish Council at the time of the alleged conduct.

**Criteria: The Councillors were Councillors at the time of the alleged Complaint.**

Yes

**Assessment**

The informal assessment of this matter is based on the information provided by the Subject Member as part of the self-referral to the Monitoring Officer by the Subject Member due to advice in a letter dated 18 May 2021 from a lawyer acting for the National Association of Local Councils (NALC) which relates to a payment made to the local Church which NALC consider was ultra vires.

As part of this self-referral, I have reviewed the letter of advice from NALC dated 18 May 2021, the timeline of events, minutes of meetings relating to this matter and the comments made by the Subject Member.

As part of the consideration of the facts the meeting history and the minutes that refer to this matter make it clear that this was a decision that was made by the Parish Council and therefore the original awarding of funds, and then the subsequent withdrawal of these funds is a decision made by the members acting collectively as the Parish Council.

Whilst it is accepted that the Subject Member may have been instrumental in the payment process any ultra vires acts would be acts of the Parish Council as a whole and not an individual member as the decision was taken by the Parish Council and it is not considered that this amounts to a breach of the Code.

In setting this out the opinion of NALC has of course been noted as part of this assessment however the ethical standards complaints process cannot deal with any matters which have been decided if they are the decision of the Parish Council.

With regards to the comments within the letter from NALC that members of the Parish Council should refer themselves to the Monitoring Officer;

Under the Localism Act 2011 each Council in England has the ability to adopt their own Code of Conduct and within the South Hams Code of Conduct there is the following provision at 4.1(b)

*(b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council*

I have reviewed the Code of Conduct for Sampford Courtney Parish Council and have noted that there is not a provision similar to paragraph 4.1(b) within it and there is no obligation to self-refer in their current or to even have regards to this advice. Even if there were the obligation to 'have regards' to the advice, the Subject Member would not need to act on it.

Whilst I have noted the comments made by the Subject Member, she has apologised for this and even though I am not of the view that the actions of the Subject Member are a breach of the Code of Conduct it is appreciated that the self-referral was made in good faith and that the Subject member was willing to take individual responsibility for her actions.

However, as is set out above, the ethical standards complaints process cannot deal with any matters that have been decided by a Council as a whole and to consider the actions of the members acting as a collective would be to make a finding on the legitimacy of the decision and if it was lawful or not and neither this process or the District Council has that power.

Therefore, the decision at the informal assessment stage is that the Subject Members has not breached the Code of Conduct.

Simon Mansell Cornwall Council

For the Monitoring Officer

South Ham District Council

15 November 2021