

**STANDARDS COMMITTEE - WRITTEN DECISION NOTICE OF HEARING
IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE CODE OF CONDUCT**

Case reference number:	703/4/31
Name of authority:	Oxford City Council
Subject member, who the allegation has been made about:	Councillor Shah Khan
Member representative	N/A
Name of the person(s) who made the original allegation:	Councillor David Williams
Investigating officer(s):	Nick Graham
Investigating officer representative:	N/A
Date of hearing:	15 September 2011
Chair of the standards committee hearing:	John Lay
Standards committee members attending the hearing:	John Lay (Chair), Meryll Dean, Chris Ballinger (Independent Members) Councillors Gill Sanders, Mike Gotch and Dick Wolff (Local Authority) Nils Bartleet and Fred Mogridge (Parish Council Representatives)
Legal advisor to the hearing :	Helen Lynch
Clerk for the hearing:	Alec Dubberley
Date of report:	13 July 2011

Summary of the allegation:	It was alleged that the Subject Member failed to declare a personal and/or prejudicial interest at a meeting of Full Council on the 21 February 2011 when the budget setting item was discussed and determined on the grounds that an item for consideration in the Council's budget concerned taxi licence fees and the subject member holds such a licence.
Code of Conduct:	Oxford City Council Members' Code of Conduct paragraphs 9(1) and 10(1).
Hearing panel's decision on any procedural matter:	The Committee confirmed with the Subject Member and the Clerk to the Committee that the pre-hearing process had been completed. There was no dispute as to the finding of facts contained within the Investigating Officers' report dated 13 July 2011. The Committee also confirmed that the subject member was content for the complaint against him to be considered at the same time as similar complaints against two other Councillors at one hearing.
Summary of the evidence considered and representations made:	The Committee invited the Investigating Officer to introduce his report and summarise his findings. The Subject Member was invited to make representations to the Committee. The Subject Member confirmed that he agreed with the conclusions of the Investigating Officer and acknowledged that it had been a mistake not to declare a personal interest. The Subject Member apologised for his failure to declare a personal interest in the budget item and had nothing further to add.
Findings of fact:	The Committee accepted the findings of fact as set out in the Investigating Officer's report as these were accepted by the Subject Member.
Findings as to whether or not the member failed to follow the Code of Conduct including the reasons for that finding:	<p><u>Paragraph 9(1): Declaring Personal Interests</u></p> <p>The Committee found that Councillor Khan had breached paragraph 9(1) of the Oxford City Council's Code of Conduct in that he failed to declare a personal interest at the meeting of Full Council on 21 February 2011.</p> <p>The Committee concluded that because Councillor Khan holds a dual Hackney Carriage and Private Hire license he should have declared a personal interest because, as part of the budget proposals, the authority proposed to make a series of amendments to the fees and charges made for services connected to taxi licensing. The Committee concluded that regardless of the length of the report, the Subject Member ought to have known that taxi licence fees were referred to in one or two lines of the report.</p> <p>The Committee also concluded that the Subject Member must have been aware of the interest as he had declared his employment as a Hackney Carriage Taxi Driver on his Register of Interests form. The Code requires that where a Councillor has a personal interest in any business of the authority and attends a meeting at which the business is</p>

	<p>considered, the Councillor must disclose that interest.</p> <p><u>Paragraph 10(1): Declaring Prejudicial Interests</u></p> <p>The Committee found that Councillor Khan did not fail to declare a prejudicial interest at the same meeting of Full Council on 21 February 2011. Therefore there was no breach of paragraph 10(1) of the Members' Code of Conduct.</p> <p>The Committee concluded that the subject member would have been exempt from declaring a prejudicial interest by virtue of paragraph 10(2)(c)(vi) of the Code of Conduct. Paragraph 10(2)(c)(vi) states that Councillors are exempt from declaring a prejudicial interest when "setting the Council Tax precept under the Local Government Finance Act 1992." The Committee considered that the process of setting the Council's annual budget and the Council tax are inextricably linked. The Committee also had regard to Standards for England Guidance, which states that members do not have a prejudicial interest in a general motion to adopt an annual budget, the details of which are set out in an Officer report.</p>
Penalties applied:	<p>The Committee took into account the guidance provided by Standards for England when considering sanctions.</p> <p>It took into account that subject member had acknowledged his failure to declare a personal interest at Full Council and accepted his apology.</p> <p>The Standards Committee decided to censure Councillor Khan for failing to declare a personal interest at the meeting of Full Council on 21 February 2011.</p>
Recommendations to the authority:	<p>The Committee instructed Jeremy Thomas as Monitoring Officer to issue a guidance note to Councillors accompanying the next budget council agenda papers explaining the need to declare personal interests in all matters contained within the budget. The Committee asked that the note includes an explanation of the exemptions under paragraph 10(2)(vi) of the Code of Conduct to be included in the guidance.</p>
Right to appeal:	<p>Under the provisions of Regulation 8(4) of the Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003, the member concerned may apply, within 28 days, for permission to appeal against the Committee's decision.</p>

Signed *John Lay*
Chair of the Standards Committee

Dated: **23 September 2011**

**Standards Committee
Oxford City Council
St Aldate's, Oxford, OX1 1BX**

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