



PRIVATE AND CONFIDENTIAL

Complaint Reference: ES0010.363

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for East Suffolk Council, into allegations concerning Councillor Alice Taylor, a Member of Lowestoft Town Council.

20 April 2021

VOLUME 1 REPORT

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Volume 2

Appendix A Schedule of evidence taken into account and list of unused material

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1. Executive Summary

- 1.1 The Excelsior Trust is a charitable organisation that provides sailing experiences for young and disadvantaged people, schools and corporate groups, as well as sailing opportunities for individuals. In 2000, the Trust purchased a redundant shipyard on Lake Lothing, Suffolk as a permanent refit and operating base for Excelsior.
- 1.2 On Friday 25 May 2018 Councillor Taylor was invited and sailed with the Excelsior Trust. On that sailing she received a free meal.
- 1.3 In her Register of Interests dated 18 February 2020, Councillor Taylor declared a Local Non-Pecuniary Interest (LNPI) as a Member of the Excelsior Trust. Councillor Taylor also declared that she had received a gift (hospitality) from the Excelsior Trust.
- 1.4 The Excelsior Trust other than a Board of Trustees do not have membership other than becoming a Friend and making donations. Councillor Taylor is not on the Board of Trustees and is not a Friend.
- 1.5 On 26 May 2020, Councillor Taylor attended the Lowestoft Town Council Meeting. At that meeting Councillor Taylor failed to make any declaration of interest in relation to the Excelsior Trust during item 22 (Declarations of Interests and Dispensations), nor did she make any declaration during the discussion of item 25.4dii (To adopt the grant awarding policy (post Covid-19)).
- 1.6 During the debate on item 25.4dii, Councillor Taylor advocated for the Council's Covid grant policy to be amended to concentrate available funds on supporting heritage and cultural organisations which may not be eligible for other grant funding.
- 1.7 In her speech to full Council, Councillor Taylor referred to the Excelsior Trust in support of her proposal. Councillor Taylor also referred to the Excelsior Trust in responding to a question during the debate on item 25.4dii.
- 1.8 We have concluded that Councillor Taylor: -
 - (a) was invited to sail with the Excelsior Trust on Friday 25 May 2018. On that trip she received a free meal;
 - (b) declared that she was a Member of the Excelsior Trust on her Register of Interests dated 18 February 2020. This declaration was incorrect;
 - (c) attended the Lowestoft Town Council meeting on 26 May 2020. At that meeting she failed to declare her membership of the Excelsior Trust.
- 1.9 Our conclusion is that Councillor Taylor has breached the code of conduct by failing to declare a Local Non-Pecuniary Interest at the Council meeting on 26 May 2020. However, we have established the declaration in her register of interests was incorrect as there is no membership of the Excelsior Trust. Had Councillor Taylor declared the interest she would still have been able to make the comments attributed to her on the matter. For those reasons we have concluded that there has been a technical breach of the Code of Conduct.

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2. Councillor Taylor's official details

- 2.1 Councillor Alice Taylor is an Independent Member of Lowestoft Town Council and represents the Kirkley Ward.
- 2.2 Councillor Taylor was first elected in May 2018 and at that time signed her declaration of office. Councillor Taylor has received Code of Conduct training.

3. Relevant legislation and protocols

- 3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.
- 3.2 Section 28 of the Act provides that the Authority must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-
- (a) Selflessness;
 - (b) Integrity;
 - (c) Objectivity;
 - (d) Accountability;
 - (e) Openness;
 - (f) Honesty;
 - (g) Leadership.

- 3.3 The Authority adopted a Code of Conduct (attached at WC 1) on 16 May 2017. The following paragraphs are included:

“Until otherwise amended or replaced by a decision of the Council, the Suffolk Local Code of Conduct set out below shall hereafter apply to all elected members and any co-opted members entitled to vote on any decisions of the council or its committees, sub committees or joint committees when acting in their capacity as a member of the Council.

7.3 You must register within 28 days of becoming a member of the Council (and notify your Council’s Monitoring Officer of any changes within 28 days) any non statutory Local Non Pecuniary Interests (LNPIs) set out in Appendix A to this code but you may participate in any discussions or debates relating to or concerning any of your LNPI’s after the date of registration.

7.4 You must declare any DPI’s or LNPI’s to a meeting where business is relevant to those interests, including those interests that are already registered with the Monitoring Officer or where registration is pending.

Appendix A

Part 2
Description of categories of Local Non Pecuniary Interests

- (1) *Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;*

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- (2) *Any body-*
- (a) *exercising functions of a public nature;*
 - (b) *directed to charitable purposes; or*
 - (c) *one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which you are a member or in a position of general control or management;*
- (3) *Any person from whom you have received a gift or hospitality with an estimated value of at least £25.”*

4. The Evidence Gathered

Our appointment

- 4.1 The Council's arrangements for dealing with standards complaints state that the Monitoring Officer of the Council, in consultation with the appointed Independent Person (IP), shall decide whether or not to investigate a complaint.
- 4.2 In consideration with the IP, Hilary Slater the Monitoring Officer (MO) of the Council decided to refer for investigation allegations set out in a complaint made by Ms Wendy Brooks. She instructed Wilkin Chapman LLP on 29 January 2021 to carry out that investigation.
- 4.3 Wilkin Chapman LLP is a solicitor's firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Jonathan Goolden and Dave Hayward.

The Complaint

- 4.4 The complaint (attached at WC 2) was considered and subject of an initial investigation by the MO as part of the Council's arrangements. The Initial Assessment Decision letter dated 12 October 2020 (attached at WC 3) sets out that investigation and the MO's decision.
- 4.5 In summary, the allegation against Councillor Taylor is that she breached the Suffolk Code of Conduct in failing to declare a Local Non-Pecuniary Interest (LNPI) in the Excelsior Trust (ET), at the Lowestoft Town Council meeting on 26 May 2020 (Notice to Members and Agenda attached at WC 4).
- 4.6 In that meeting she advocated for heritage organisations to be given priority when applying for grants under the emergency Covid 19 rules. Councillor Taylor had declared a LNPI in ET on her Register of Interests. It was alleged that she sat on the Board of the ET and had received a gift.

Monitoring Officer's Investigation

- 4.7 In determining the facts, the MO established that in her Register of Interests, dated 18 February 2020 (attached as part of WC 2), Councillor Taylor declared a LNPI as a Member of the ET.
- 4.8 In addition to this the MO also established that at the Lowestoft Town Council meeting on 26 May 2020, Councillor Taylor failed to make any declaration of interest in relation to the ET during item 22 (Declarations of Interests and Dispensations), nor did she make any declaration during the discussion of item 25.4dii (To adopt the grant awarding policy (post Covid-19)).
- 4.9 However, during the debate on item 25.4dii, Councillor Taylor advocated for the Council's Covid grant policy to be amended to concentrate available funds on supporting heritage and cultural organisations which may not be eligible for other grant funding. In her speech to full Council, Councillor Taylor referred to the ET in support of her proposal. Councillor Taylor also referred to the ET in responding to a question from Councillor Patience during the debate on item 25.4dii. (YouTube link attached at WC 5)

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- 4.10 The MO's Initial Assessment Decision letter recommended that Councillor Taylor should apologise to the complainant Wendy Brooks and also that she should check her Register of Interests to ensure that they are accurate and up to date.
- 4.11 Responding to the MO's findings and recommendations (in summary) Councillor Taylor stated that:
1. *She did not presently sit on the Board of the ET.*
 2. *She put ET on her Register of Interests in an abundance of caution and upon advice as she is endeavouring to promote a maritime festival.*
 3. *Whilst she is a big supporter of Lowestoft's maritime heritage, museums, drivers and trawlers, she is not a trustee, board member, employee or official member of any of them. Her relationship with the museums and historical ships is not "significant".*
 4. *The gift referred to by Mrs Brooks was a bacon roll (which Councillor Taylor did not eat), some cheese and a cup of tea; a lunch provided to Councillor Taylor and her husband as part of an outing arranged by the ET to celebrate the award of an ET scholarship to a local youth. The food did not have an estimated value of over £25, although, again, in an abundance of caution, Councillor Taylor declared the hospitality.*
 5. *At the meeting of full council on 26 May 2020, where Covid-19 grants were discussed, Councillor Taylor advocated for the town's heritage and cultural sector, referring to the ET and Marina Theatre as examples.*
 6. *Ms Brooks and her associate Councillor Pearce, have a personal and ongoing vendetta against Councillor Taylor and are using the Code of Conduct complaints process to harass, bully and intimidate her.*
 7. *Councillor Taylor fully and categorically denied any breach of her duties to declare LNPIs related to the ET."*

This investigation

- 4.12 Despite the reasons set out by Councillor Taylor it is evident that the facts of this case are not in dispute and as such this investigation has been limited to a consideration of the evidence already established by the MO including the complaint.
- 4.13 It was considered necessary however, to allow Councillor Taylor to respond to the allegations as part of this investigation. As such, with the agreement of the MO, Councillor Taylor was interviewed via Microsoft teams on 16 February 2021 and a recording was made from which a transcript was produced.
- 4.14 In addition to this the Investigator has spoken with Mr Jamie Campbell, Chair of the Board of Trustees. Mr Campbell confirmed that other than the Board of Trustees and opportunities to become a Friend of the Trust and donating money, there is no membership of the ET.
- 4.15 Copies of the above, together with other relevant documents are annexed to this report and listed in a Schedule of Evidence at Appendix A.

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4.16 We wish to record our thanks for the co-operation and courtesy shown to us by all those we had cause to contact during the investigation.

Councillor Alice Taylor

4.17 Councillor Taylor was interviewed by Dave Hayward via Microsoft Teams on Tuesday 16 February 2021 (attached at WC 6). She stated:-

- (a) she was an Independent Councillor for Lowestoft Town Council and represented Kirkley ward. She had first been elected in May 2018;
- (b) she had signed a Declaration of Office when she first became a councillor. She could not recall physically signing further Declaration of Office when she was re-elected two years later due to the Covid-19 pandemic;
- (c) she had received code of conduct training;
- (d) the Excelsior Trust was a historical boat that had been refurbished and was a registered charity. They took disadvantaged kids out;
- (e) it went between Great Yarmouth and Lowestoft but was usually at the Heritage Quay in Lowestoft although they had other places where they berthed both in town and in Great Yarmouth;
- (f) she had offered her encouragement and advice but had never been involved. She had never gone to a meeting;
- (g) she had friends that belonged to the Excelsior Trust and because she had been in marketing and advertising and because of her experience with other groups in the town they would call her to ask her questions. That was the extent of her involvement;
- (h) Excelsior Trust had an open day and as a ward member she had been invited to say nice things to the kids and wave them off, and that was basically what she had done;
- (i) after that she had had no real involvement at all;
- (j) she had tried to be super, super honest on her Register of Interests and her big mistake was putting that on there. She had gone out to the Excelsior Trust on that invitation, on that day. No one had been charged anything and she had been given a bacon butty for breakfast;
- (k) she had not known that any declaration had to be worth more than twenty five pounds so she had just put it on there;
- (l) she had never been a member of the Excelsior Trust. There is no register of members;
- (m) [REDACTED] She had not known or understood that you did not put every little thing down. She had forgotten it was anything over £25 so she admitted that mistake;

- (n) she had never sat on the Board of Excelsior Trust and had never been asked to do so. The gift she had received was the bacon butty. She had a copy of the invitation (attached at WC 7) which had been in May 2018 yet the complaint came two years later;
- (o) she had argued for Excelsior Trust to be given priority when applying for a grant because other businesses had money coming in from the government but heritage organisations, like the Excelsior Trust, did not have the same money coming in at that time;
- (p) all she had been saying was that things changed a little bit and that those grants should look at that;
- (q) she had mentioned Excelsior Trust because at that time, along with the Mincarlo and other boats around there, were not eligible for heritage lottery grants and that had just been her example. They did not benefit from the same government money that had been going out for small businesses;
- (r) she had not declared a local non pecuniary interest because she hadn't thought she had to;
- (s) she believed Miss Brooks had known she wasn't a Trustee when she had written her complaint. All she had to do was go on Companies House and she had done that before;
- (t) they had a 'friends' group for Kensington Gardens, a local gardening group. Excelsior Trust don't have a 'friends' group where she could sign in, get a card or give them two pounds, like the local archaeological society and places like that;
- (u) on her Register of Interests under the heading 'member' it lists Friends of Kensington Gardens, Kirkley Village Business Association, Jack Rose Society, Lowestoft History, Archaeology Society and Excelsior Trust;
- (v) she had just listed all the organisations she talked to and had some involvement with. She had not been to a meeting regarding the Jack Rose Society for three years but you pay two pounds to sit and listen to a lecture and she would go to those. There was no membership of Friends of Kensington Gardens but she had been to some of their meetings and had been there to plant tulips. That's the level they're talking about;
- (w) the Excelsior Trust had no membership list and there were no meetings and that's really what it was. She had been asked to go to a Christmas party but had not attended. She saw the Chair in the street and talked to him, that was all;
- (x) she had received an email on 22 May 2018 to attend the Excelsior Trust event on 25 May 2018. They had invited her to go and see the boat because she had never been on it before. They had taken the boat out, ran around the first buoy and went back and in order for her to be on the boat, for their insurance purposes, she had to have a ticket;
- (y) she assumed the only reason they would have invited her was because she represented Kirkley Ward;

- (z) it had nothing to do with the Council but Excelsior Trust gave out scholarships so they could go out and have their two or three week thing. They had had a couple of different people go on board for the same thing. They had had the parents of the kids too;
- (aa) it had never crossed her mind that something that had happened two years before would make her obligated to declare a non pecuniary interest at that point. Excelsior Trust was just one example of several given that she had not thought of as being that important;
- (bb) when she had updated her Register of Interests following the Council meeting on 31 July 2020 she had become a volunteer for Excelsior Trust. By that time she had been asked for some advice;
- (cc) she had not gone out and done anything and had only been on the boat that one time. She had been asked for some advice regarding publicity because the boat was coming up to its hundredth anniversary and they had talked about putting together some sort of festival or fete;
- (dd) on her Register of Interests there was something called the Vessel Festival. Her advice at the time had been to keep them separate and have two separate things going on;
- (ee) that had been when she had started to become involved with the Excelsior Trust in the sense of the Vessel Festival and doing a maritime festival there in town;
- (ff) as a result of being invited onto the boat and receiving the bacon butty she had declared a membership of Excelsior Trust on her Register of Interests but she didn't call it a membership, she hadn't know where to put that on her Register, it was just like an open house;
- (gg) there was a thing called the Inspiration Trust that did stuff with kids and they asked councillors to attend when they got their certificate, someone would hand you a cup of tea and then you would leave. That's exactly how she had felt about that;
- (hh) prior to declaring her volunteer status for Excelsior Trust she had not done anything else with them;
- (ii) she had told the Trustees there was a complaint against her to make sure there was no confusion;
- (jj) she had been on the steering group for the First Light Festival which had been very successful. She had also volunteered for Lowestoft Summer Festival but that was no longer happening. With that background when they started talking about having a celebration for Excelsior they had talked to her about it and that was when she had become more active;
- (kk) she was not a Trustee. She had thought the best thing was to have a charitable trust for the festival and a charitable trust for Excelsior so she had volunteered. She didn't get any money for it, all she'd got out of it was a bacon sandwich;

5. Summary of the material facts

- 5.1 Councillor Taylor is a Member of Lowestoft Town Council and represents the Kirkley Ward.
- 5.2 The Excelsior Trust is a charitable organisation that provides sailing experiences for young and disadvantaged people, schools and corporate groups, as well as sailing opportunities for individuals. In 2000, the Trust purchased a redundant shipyard on Lake Lothing, Suffolk as a permanent refit and operating base for Excelsior.
- 5.3 On Friday 25 May 2018 Councillor Taylor was invited and sailed with the Excelsior Trust. On that sailing she received a free meal.
- 5.4 In her Register of Interests dated 18 February 2020, Councillor Taylor declared a Local Non-Pecuniary Interest (LNPI) as a Member of the Excelsior Trust. Councillor Taylor also declared that she had received a gift (hospitality) from the Excelsior Trust.
- 5.5 The Excelsior Trust other than a Board of Trustees do not have membership other than becoming a Friend and making donations. Councillor Taylor is not on the Board of Trustees and is not a Friend.
- 5.6 On 26 May 2020, Councillor Taylor attended the Lowestoft Town Council Meeting. At that meeting Councillor Taylor failed to make any declaration of interest in relation to the Excelsior Trust during item 22 (Declarations of Interests and Dispensations).
- 5.7 Councillor Taylor failed to make any declaration during the discussion of item 25.4dii (To adopt the grant awarding policy (post Covid-19)).
- 5.8 During the debate on item 25.4dii, Councillor Taylor advocated for the Council's Covid grant policy to be amended to concentrate available funds on supporting heritage and cultural organisations which may not be eligible for other grant funding.
- 5.9 In her speech to full Council, Councillor Taylor referred to the Excelsior Trust in support of her proposal. Councillor Taylor also referred to the Excelsior Trust in responding to a question during the debate on item 25.4dii.

6. Ms Brooks' and Councillor Taylor's additional submissions

- 6.1 The following comments were received from Ms Wendy Brooks on the draft version of this report:-

"Thank you for your thorough investigation. One point that Cllr Taylor has been vague on is that in 2018 she was Mayor of Lowestoft Town council, not simply a ward councillor, and she spoke with Lawrence Villuamy of Excelsior Trust about how she could help as Mayor to separate the Vessels Festival, her idea, from Excelsior Trust is nonsense, the centenary meant they were intertwined.

Thank you.

*Kind regards
Wendy Brooks"*

"As someone who has done a day say with ET the food is more lavish than Cllr Taylor states, but it is certainly not the reason, I raised my complaint about not declaring a LNPI.

*Kind regards
Wendy Brooks"*

"Sorry to email you again but Cllr Taylor was Mayor from May 2019-20 when she forged a close relationship with Lawrence Villuamy of ET and launched the Vessels Festival as a CIC as part of the ET Centenary celebrations.

*Kind regards
Wendy Brooks"*

<https://find-and-update.company-information.service.gov.uk/company/13127468/officers>

Alice Taylor was a member of the steering group which was set up to organise the Vessels Festival for the Excelsior's 100th anniversary. This was something she did in her own time not as a Councillor. Alice set up a Vessels Festival website and a company called Lowestoft Maritime Festivals. The company is registered at her home address and she is a Director of the company. This is why I think Councillor Taylor's failure to declare an interest at this meeting was not just technical. At the time she was personally involved in organising the Vessels Festival which included fundraising.

*Kind regards
Wendy Brooks"*

- 6.2 No comments were received from Councillor Taylor on the draft version of this report

Response to comments

- 6.3 Wendy Brooks has provided a response to the draft report. Having considered this response we note that her comments focus on Councillor Taylor's relationship with the Excelsior Trust when she was Mayor in 2019 - 2020 and the fact that she launched the Vessels Festival as a CIC as part of the Excelsior Trust Centenary Celebrations.

- 6.4 Research has identified that Councillor Taylor is a Director of Lowestoft Maritime Festivals CIC. However, this company was not incorporated with Companies House until 12 January 2021 some eight months after the Council Meeting. In addition to this we do not consider that Councillor Taylor's position as Mayor in 2019 – 2020 has any bearing on our findings.
- 6.5 Having considered the comments made by Ms Brooks we have not found anything which would change the conclusions in our report.

7. Reasoning as to whether there have been failures

Capacity

- 7.1 Section 27(2) of the Localism Act 2011 requires the Authority to adopt a code of conduct "dealing with the conduct that is expected of members of the Council *"when acting in their capacity as a member of the Council"*".
- 7.2 The Council's Code of Conduct reflects the requirement of Section 27(2) of the Localism Act.
- 7.3 The Authority's code is expressed to apply whenever a member is acting in their capacity as a member of the Council. We therefore first have to consider whether Councillor Taylor was acting in an official capacity at the time of the alleged incidents.
- 7.4 Though relating to the former 2007 model code of conduct, the Upper Tribunal decision in *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC) is a helpful distillation of the previous High Court cases on capacity – *Livingstone v Adjudication Panel for England* [2006] EWHC 2533 and *R(Mullaney) v Adjudication Panel for England* [2009] EWHC 72. The principles stated in *MC* are:-
- (a) was the councillor, as a matter of ordinary English, actually conducting the business of their authority, including the business of the office of councillor?
 - (b) a fact sensitive approach is required to the above;
 - (c) the question is one for the tribunal to determine, not a reasonable observer.
- 7.5 In *McTigue v Middlesbrough Council* (2009) APE 421 (a decision of the former Adjudication Panel for England), Councillor McTigue made a series of postings on the forum of the Middlesbrough Evening Gazette using the pseudonym "Indie" which related to wheelie bin collections and were alleged to be insulting of a local resident. Councillor McTigue argued that she was not acting in her official capacity as all her comments on the forum were made in her private time and all using the pseudonym "Indie". The tribunal:-
- "...accepted that even if it became clear from the forum that an individual who was posting on the forum was a councillor, the Code of Conduct would not automatically be engaged. The question was whether in the postings on the forum the councillor was deemed to be, or gave the impression that he or she was, "acting in the role of councillor". This was fact-sensitive and would very much depend on the content of the postings."*
- 7.6 The tribunal concluded that Councillor McTigue had given the impression that she was acting as a councillor, giving examples of a number of posts where she had referred to her work as a ward member.
- 7.7 Care must be taken in applying a tribunal case from a period when the relevant code of conduct (that set out in a national model) was expressed to apply not only when a member was carrying out their role as such but also when they gave that impression. However, *McTigue* is helpful in providing an example of how the principles of *MC* can be applied. When Councillor McTigue posted on the forum as "Indie" she was not acting as a Councillor when commenting about matters in general. Despite the lack of identification as a Councillor in her user name, she was acting as a Councillor when the content of her posts concerned ward matters.

- 7.8 As MC states, the question is whether as a matter of ordinary English was the Councillor actually conducting the business of their authority, including the business of the office of councillor? The substance of an interaction, rather than outward appearance, is decisive.
- 7.9 In this case it is evident that when completing her Register of Interests Councillor Taylor was acting in her capacity as a councillor. It is also evident that Councillor Taylor was present at the Full Council meeting on 26 May 2020 when she addressed the Council on matters concerning the Excelsior Trust and grants under the emergency Covid 19 rules. It is clear that these discussions were entered into in her capacity as a councillor.
- 7.10 We therefore conclude that Councillor Taylor was acting in an official capacity at the Full Council Meeting and was subject of the Code of Conduct.

Register of Interests

- 7.11 Paragraph 7.3 of the code states: -

"You must register within 28 days of becoming a member of the Council (and notify your Council's Monitoring Officer of any changes within 28 days) any non statutory Local Non Pecuniary Interests (LNPIs) set out in Appendix A to this code but you may participate in any discussions or debates relating to or concerning any of your LNPI's after the date of registration."

- 7.12 Therefore, under this part of the code there is a requirement to declare other interests in addition to those defined as Disclosable Pecuniary Interests. However, following registration Members may participate in any discussions or debates relating to or concerning any of their LNPIs.

Local Non-Pecuniary Interest

- 7.13 Appendix A of the code provides a description of categories of LNPIs, it includes:

- (1) *Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;*
- (2) *Any body-*
 - (a) *exercising functions of a public nature;*
 - (b) *directed to charitable purposes; or*
 - (c) *one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which you are a member or in a position of general control or management;*
- (3) *Any person from whom you have received a gift or hospitality with an estimated value of at least £25."*

- 7.14 Q62 of The Standards for England Case Review 2010 (published 2011) defines the term “directed to charitable purposes” It states: -

“The reference to any body “directed to charitable purposes” was clearly intended to cover more than organisations that fall within the legal definition of a charity. Any organisation directed towards charitable purposes (as that term is commonly understood), to any significant degree, comes within the scope of these words. Therefore, membership of Rotary or Lions clubs are likely to require registration”

Excelsior Trust

- 7.15 The Excelsior Trust is a charitable organisation (founded in 1983) and registered with the Charity Commission (285899). The Trust provides sailing experiences for young and disadvantaged people, schools and corporate groups, as well as sailing opportunities for individuals.
- 7.16 From this we can determine that the Excelsior Trust is a body directed to charitable purposes and as such any membership would require registration.

Member of Excelsior Trust

- 7.17 Appendix A of code states ‘of which you are a member or in a position of general control or management.’ The term ‘member’ is not defined.
- 7.18 The Oxford English Dictionary provides two helpful definitions of the term ‘member’.
- A person, animal, or plant belonging to a particular group;
 - A person, country, or organization that has joined a society, or team.
- 7.19 From the above it is evident that there was a requirement to register any membership or positions of general control or management. In this case Councillor Taylor declared a LNPI as a Member of the Excelsior Trust in her Register of Interests on 18 February 2020.
- 7.20 It is evident however that other than being a Member of the Board of Trustee’s, which Councillor Taylor is not, there is no membership of the Excelsior Trust. There are however opportunities to become a Friend and donate. Again, this is something that Councillor Taylor has not done.
- 7.21 What has been established is the fact that on 25 May 2018 Councillor Taylor was invited to sail with the Excelsior Trust. She believes that this invite was given in her capacity as the Ward Councillor.
- 7.22 Councillor Taylor has stated that it was as a result of this invite and subsequently sailing with the Excelsior Trust that she declared this as a LNPI on her register of interests. This declaration in our view was incorrect.

7.23 Paragraph 7.4 of the Code states:-

“You must declare any DPI’s or LNPIs to a meeting where business is relevant to those interests, including those that are already registered with the Monitoring Officer or where registration is pending.”

7.24 Meeting is not defined within the code however Q106 of the Standards for England Case Review 2010 does provide guidance as to what is meant by a “meeting”. It states:-

“Meeting” means any meeting of:

- *the authority*
- *the executive of the authority*
- *any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees”*

7.25 From this it is obvious that at the Lowestoft Town Council meeting on 26 May 2020 was a meeting for the purpose of the Code.

7.26 Q92 of the Standards for England Case Review 2010 provides guidance as to what stage of a meeting a member should disclose a personal interest. It states:-

“Subject to two exceptions (see Q94 below), a member should declare the existence and nature of a personal interest as soon as consideration of the business which gives rise to the interest starts, or as soon as it becomes apparent that they have an interest in it, if this is later.

Standards for England is aware that many authorities deal with declarations of interest by an agenda item at the start of the meeting. Standards for England does not consider that this will generally be of any practical significance. There is no substantial conflict between authorities continuing to have a ‘declaration of interests’ agenda item and the Code of Conduct.

If members are concerned about their position they can choose to make their declaration when the item of business giving rise to the interest is reached on the agenda of the meeting.”

7.27 Question 94 provides guidance of when a declaration of an interest is not necessary. It states:-

“A member may have already made a written declaration of an interest, which then arises at a meeting. This does not remove the need for that member to declare the existence and nature of that interest at the meeting.

The Code of Conduct’s requirements about declaring interests aim to support an open and transparent system of local democracy. Consequently, a member’s interests should be accessible to members of the public and the press.

Given this, a verbal declaration is normally required at any meeting where a matter arises in which a member has an interest.

However, if an interest arises under paragraph 8(1)(a)(i) and (ii) a member only needs to declare a personal interest if they decide to speak.

If the interest concerns “sensitive information” which a member does not need to include on their register of interests, they need to declare the existence of that interest but do not need to specify the nature of it.”

- 7.28 In this case Councillor Taylor failed to make any declaration of interest in relation to the Excelsior Trust during item 22 (Declarations of Interests and Dispensations), nor did she make any declaration during the discussion of item 25.4dii (To adopt the grant awarding policy (post Covid-19)).
- 7.29 It is evident that during the debate on item 25.4dii, Councillor Taylor advocated for the Council’s Covid grant policy to be amended to concentrate available funds on supporting heritage and cultural organisations which may not be eligible for other grant funding. In her speech to full Council, Councillor Taylor referred to the Excelsior Trust in support of her proposal. Councillor Taylor also referred to the Excelsior Trust in responding to a question from Councillor Patience during the debate on item 25.4dii.

Conclusions

- 7.30 Councillor Taylor was invited to sail with the Excelsior Trust on 25 May 2018.
- 7.31 Councillor Taylor declared that she was a Member of the Excelsior Trust on her Register of Interests dated 18 February 2020. This declaration was incorrect.
- 7.32 Councillor Taylor attended the Lowestoft Town Council meeting on 26 May 2020. At that meeting she failed to declare her membership of the Excelsior Trust.

Other Matters Considered

- 7.33 Although not considered or determined by the MO the complainant also alleged that Councillor Taylor had received a gift. This gift being directly related to her involvement with the Excelsior Trust.
- 7.34 This gift is declared within Councillor Taylor’s register of interest dated 18 February 2020, where in response to question LNPI 2 – The name of any person from whom you have received a gift or hospitality with an estimated value of at least £25. Councillor Taylors states;–

“Daphne Wile (gift)/Excelsior Trust (hospitality).”

- 7.35 In responding to this allegation she stated that the gift referred to was:-

“a bacon roll (which Councillor Taylor did not eat), some cheese and a cup of tea; a lunch provided to Councillor Taylor and her husband as part of an outing arranged by the ET to celebrate the award of an ET scholarship to a local youth. The food did not have an estimated value of over £25, although, again, in an abundance of caution, Councillor Taylor declared the hospitality”

- 7.36 Q74 of the Standards for England Case Review 2010 provides guidance on when members have to declare all “gifts or hospitality” they receive. It states:-

“A member only has to declare those gifts or hospitality received as a member.

The member must apply honesty and common sense when they consider how receipt of a gift might be interpreted. For example, if the member is the chair

of the planning committee and a birthday present arrives from an applicant just before a planning application is due to be considered, then the member needs to think about how this would be interpreted by a reasonable member of the public.

A member should register gifts and hospitality if they could reasonably be viewed as relating to a member's official duties. This will not normally include gifts from friends or family."

- 7.37 The Standards for England advises that members should declare the source of gifts and also provides a useful definition to the term 'hospitality'. It states:-

"Hospitality can be defined as any food, drink, accommodation or entertainment freely provided or heavily discounted."

- 7.38 Q79 provides guidance on how members should assess the value of hospitality received. It states:-

"Standards for England believes that the best way to preserve transparency is for members to assess the hospitality on offer, whether it is accepted or not.

This is because it would clearly not be in the member's interests to be drawn into arguments about how much they themselves ate or drank at a particular occasion. For example,

members may find themselves at a function where relatively lavish hospitality is on offer but they choose not to accept it. A member may go to a champagne reception but only drink a glass of orange juice.

As a guide the member should consider how much a person could reasonably expect to pay for an equivalent function or event run on a commercial basis. Clearly where the member is in any doubt the prudent course is to register the hospitality."

- 7.39 Q80 of the Standards for England Case Review 2010 provides guidance to members when hospitality is extended to them in the course of their authority's business, such as official dinners or business lunches.

"The focus of the Code of Conduct is on the source of the hospitality and its nature. Standards for England does not consider that hospitality should be registered where it is provided by the authority or where it is clearly ancillary to the business being conducted, such as an overnight stay for an away-day. Therefore, hospitality at a civic reception or mayor's ball would not need to be registered.

However, the hospitality should be registered if it is provided by a person or body other than the authority, and is over and above what could reasonably be viewed as ancillary to the business conducted. Members might meet dignitaries or business contacts in council offices. However, if such meetings take place in other venues, such as at cultural or sporting events, this should be registered as hospitality."

- 7.40 In this case it is evident that the hospitality did not exceed £25 and as such the declaration of the gift according to the code was not required.

- 7.41 However, the Standards for England guidance does suggest that members should register gifts and hospitality if they could reasonably be viewed as relating to a member's official duties. In this case Councillor Taylor believes that her invite to sail on 25 May 2018 was in her capacity as the Ward Councillor. As such, we consider that her subsequent declaration in her register of interests was correct.

8. Conclusion

- 8.1 Councillor Taylor has breached the code of conduct by failing to declare a Local Non-Pecuniary Interest at the Council meeting on 26 May 2020. However, we have established the declaration in her Register of Interests was incorrect as there is no membership of the Excelsior Trust. Had Councillor Taylor declared the interest she would still have been able to make the comments attributed to her on the matter. For those reasons we have concluded that there has been a technical breach of the Code of Conduct.

Wilkin Chapman LLP Solicitors

20 April 2021