

Understanding predetermination and bias

Case study A

Councillor A is the chair of the Stour District Council planning committee. He is an experienced chair and an astute attender of training sessions on the Code, planning and probity.

Councillor A is also active in the local Rotary Club.

At its next meeting, the planning committee is to consider a highly controversial planning application for an energy from waste facility. The chair of the company which has applied for planning permission is the Membership Secretary of the Rotary Club.

Councillor A has received and read the officer's report to the committee which, after meticulous analysis, recommends in favour of the grant of permission.

On the evening of the planning committee meeting, protesters gather outside the council's offices to demonstrate against the proposed development. As he passes through the demonstrators on his way to the meeting, Amy Twine, one of their number who intends to address the planning committee, blocks his path and says "Tell us your view, Archie". Councillor A responds "I will follow the recommendation".

An astute Ms Twine immediately uses her mobile to ring the council's monitoring officer to complain that Councillor A has already made up his mind on the application and if he is allowed to participate in the consideration of the application, not only will an application for judicial review follow but a complaint will be made that Councillor A has breached the council's Code of Conduct (which is the Model Code).

You are the council's monitoring officer.

What facts are relevant to whether Councillor A should chair the meeting?

What provisions of the Code are potentially engaged?

Should Councillor A participate in consideration of the application?