

STANDARDS HEARING SUB-COMMITTEE

Minutes of the proceedings at a meeting of the Sub-Committee held in the District Council Chamber at South Lakeland House, Kendal, on Monday 15 February 2010, at 10.00 a.m.

Present

Jim Morrison (Independent Member)
Janette Jenkinson (Councillor)
Pat Ford (Independent Member)
David Thomas (Independent Member)
Elwyn Bradshaw (Parish Members)

Officers

Janine Jenkinson	Assistant Democratic Services Officer
Nicola Hartley	Solicitor/Investigating Officer
Matthew Neal	Solicitor to the Council

Also in attendance were Mr Graham George, Mrs Vera Glessal and Mr and Mrs Willis.

SHS/001 ELECTION OF CHAIRMAN

RESOLVED – That Mr Jim Morrison be elected as Chairman for the meeting.

SHS/002 APOLOGIES

RESOLVED – That it be noted that there was no change in the membership of the Sub-Committee, and no apologies for absence had been received.

SHS/003 DECLARTIONS OF INTEREST

RESOLVED – That it be noted that the following declarations of interest were made:-

- (1) Jim Morrison – Minute SHS/011;
- (2) Elwyn Bradshaw – Minute SHS/011;
- (3) Pat Ford – Minute SHS/011;
- (4) David Thomas – Minutes SHS/011; and
- (5) Councillor Janette Jenkinson – Minute SHS/011.

SHS/004 LOCAL GOVERNMENT ACT 1972 – EXCLUDED ITEMS

RESOLVED – That it be noted that there were no excluded items on the Agenda.

SHS/005 INTRODUCTION

The Chairman introduced the Members of the Sub-Committee and those in attendance.

SHS/006 CASE 2009/004

The Investigating Officer summarised the details of the case. An allegation had been made that an ex councillor of Duddon Parish Council had failed to comply with the Model Code of Conduct for Parish and Town Councils.

The Investigating Officer explained the relevant events namely that Occupation Lane, Broughton-in-Furness was considered by Duddon Parish Council on 28 August 2008 in relation to notices that had been placed in Occupation Lane, Broughton-in-Furness by the complainant, Mr Willis, declaring the right of use was by permission, and may be withdrawn. At all material times Mr George was a member of the Parish Council.

Resolutions were passed representing to the Highways Authority that the notices erected in Occupation Lane by Mr Willis, were contested by the Parish Council. The Parish Council resolved to ask that the Highway Authority exercise their duty to preserve what they described as the right of access along the Lane. The Council also resolved to ask the Highway Authority to take action to stop the encroachment of vegetation on either side of the Lane. The resolutions were proposed by Mr George voted in favour of by the Parish Council.

Mr George subsequently submitted a report to the Highways Authority in relation to the history and use of Occupation Lane.

The Sub-Committee was advised that the key issues for determination were whether the former Councillor :-

- Failed to treat others with respect (contrary to paragraph 3(1) of the Code);
- Bullied any person (contrary to paragraph 3(2)(b) of the Code);
- Did anything that compromised or was likely to compromise the impartiality of those who worked for, or on behalf of, his authority (contrary to paragraph 3(2)(d) of the Code);
- Conducted himself in a manner which would reasonably be regarded as bringing his office into disrepute (contrary to paragraph 5 of the Code);
- Used or attempted to use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage (contrary to paragraph 6 of the Code); and
- Failed to declare a personal interest in any business of the authority (contrary to paragraph 8(1) and 9(1) of the Code).

The Investigating Officer advised Members that her report concluded that there had been a breach of the Model Code of Conduct for Parish and Town Councils in the following respects:

- Failure to treat others with respect (contrary to paragraph 3(1) of the Code); and

- Conducting himself in a manner which would reasonably be regarded as bringing his office into disrepute (contrary to paragraph 5 of the Code).

Mr George was invited to present his case to the Sub-Committee. Mr George requested that consideration be given to a letter of support from Mr W John Liett, Solicitor of Thomas Butler & Son and Mr Adrian Wade of Finn Gledhill Solicitors.

SHS/007 ADJOURNMENT

In accordance with the approved procedure, the Sub-Committee retired from the District Council Chamber in order to give due consideration to the letters of support received from Mr W John Liett and Mr Adrian Wade.

SHS/008 RE-ADJOURNMENT OF CASE 2009/004

Mr George continued to present his case. He did not deny the facts set out by the Investigating Officer but denied that his actions constituted a breach of the Model Code of Conduct for Parish and Town Councils.

SHS/009 ADJOURNMENT OF CASE 2009/004

RESOLVED – That, in accordance with the approved procedure, the meeting be adjourned in order to allow the Sub-Committee to give further consideration to the case.

SHS/010 RE-ADJOURNMENT OF CASE 2009/004

The Sub-Committee re-adjourned and the Chairman announced the findings of the Sub-Committee. The Sub-Committee had considered that Mr George had failed to treat the complainant with respect in regard to the tone and content of his report to the Highways Authority. It considered that a member of the public would naturally make the assumption that Mr George was pursuing a private matter against Mr Willis in respect of the report. However the Sub-Committee had decided that Mr George had not behaved dishonestly or deceitfully.

The Sub-Committee had regard to the high threshold required to demonstrate a breach of paragraph 3 (2)(b) of the Code, namely in respect of bullying any person.

Mr George had acted at the prompting of a member of the public to look into the status of Occupation Lane. Whilst there was no clearly minuted authority from Duddon Parish Council for Mr George to prepare his report, the Parish Council had made a resolution asking the Highway Authority to exercise what the Parish Council described as their duty to preserve the right of access.

Given that the Sub-Committee had concluded that Mr George had not behaved dishonestly or deceitfully, the Sub-Committee found that Mr George could not reasonably be found to have brought his office into disrepute.

The Sub-Committee had also found that there was no clearly established link between Mr George and Broughton Information Centre Ltd. It was felt that there was no evidence before the Sub-Committee which could demonstrate that Mr George's actions had caused any advantage or dis-advantage to any person.

The Sub-Committee could find no evidence to support the complaint that Mr George breached the Code by failing to declare an interest. It accepted that Mr George acted on the prompting of a member of the public to look into the status of Occupation Lane, and there was no personal interest of Mr George's to declare at the meeting of Duddon Parish Council on 28 August 2008.

Consequently, it was

RESOLVED - That

- (1) There was a breach of the Code in respect of paragraph 3(1) of the Code namely a failure to treat others with respect;
- (2) There was no breach of paragraph 3(2)(b) of the Code namely in respect of bullying any person;
- (3) There was no breach of paragraph 3(2)(d) of the Code in respect of doing anything which compromised or was likely to compromise the impartiality of those who worked for or on behalf of his authority;
- (4) There was no breach of paragraph 5 of the Code in respect of conducting himself in a manner which would reasonably be regarded as bringing his office into disrepute;
- (5) There was no breach of paragraph 6 of the Code in respect of the obligation not to use or attempt to use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage; and
- (6) There was no breach of paragraphs 8(1) and 9(1) of the Code in respect of failure to declare a personal interest in any business of the authority.

SHS/011 ADJOURNMENT OF CASE 2009/004

Following representations regarding sanctions to be applied, the Sub-Committee passed a resolution to adjourn the meeting, in order to give further consideration to the sanctions to be imposed.

SHS/012 RE-ADJOURNMENT OF CASE 2009/004

Having heard the Investigating Officer's report and the representations made by Mr George and Mr Willis in respect of sanctions, it was

RESOLVED – That, in respect of the breach of paragraph 3(1) of the Code, Mr George be censured and informed that his conduct in terms of the content and tone of the report to the Highways Authority had caused upset to Mr Willis and his wife and undoubtedly was a failure to treat Mr Willis with respect.

Note – Jim Morrison, Councillor Janette Jenkinson, Pat Ford, David Thomas and Elwyn Bradshaw declared personal interests in the following item of business, by virtue of a fellow Member of the Standards Committee having an involvement in Case 2009/006.

SHS/013 CASE 2009/006

An allegation had been made by a member of the public that Mr George, had failed to comply with the Model Code of Conduct for Parish and Town Councils. On the 10 June 2009 the Standards Assessment Sub-Committee had considered the complaint, which claimed that Mr George had behaved in an aggressive and threatening manner to another Parish Councillor, at a meeting of Duddon Parish Council on 28 May 2009.

The Investigating Officer outlined the facts of the case and advised that the issues for determination were whether the former Councillor:-

- Failed to treat others with respect (contrary to paragraph 3(1) of the Code);
- Bullied any person (contrary to paragraph 3(2)(b) of the Code); and
- Conducted himself in a manner which would reasonably be regarded as bringing his office into disrepute (contrary to paragraph 5 of the Code).

Mr George was invited to present his case. The Investigating Officer answered a number of questions posed to her by Mr George, regarding the evidence provided by the complainant.

In addition, Mr George requested that Mrs Vera Elizabeth Glessal be invited to present her case to the Sub-Committee. She provided Members with her account of the incident that had taken place at the meeting of Duddon Parish Council held on 28 May 2009 and asserted that although Mr George had spoken loudly, his manner had not been threatening or aggressive.

SHS/014 ADJOURNMENT OF CASE 2009/006

RESOLVED – That in accordance with the approved procedure, the meeting be adjourned in order to allow the Sub-Committee to give further consideration to the case.

SHS/015 RE-ADJOURNMENT OF CASE 2009/006

Having heard the Investigating Officer's report and also the representations made by Mr George and Mrs Vera Elizabeth Glessal, the Sub-Committee was of the view that there was an element of cut and thrust in parish council politics. Whilst the comments by Mr George were inappropriate, on balance the Sub-Committee felt that they did not demonstrate a breach under paragraph 3(1) of the Code or paragraph 3(2)(b) of the Code, particularly in the context of the robust comments by Councillor Barker during the formal council meeting.

The Sub-Committee also had regard to the high threshold required to demonstrate a breach of these sections of the Code. Furthermore they had regard to the explanation of Mr George, which was to the effect that the words used indicated that he was stating to Councillor Barker that he would have to ensure that his behaviour was irreproachable in the future.

The Sub-Committee felt that Mr George had not conducted himself in a manner which would reasonably be regarded as bringing his office into disrepute contrary to

paragraph 5 of the Code. Therefore, it followed from the findings in relation to the alleged breaches of paragraphs 3(1) and 3(2)(b) of the Code, that Mr. George had not breached this section of the Code.

Consequently, it was

RESOLVED – That

- (1) There was no failure to treat others with respect contrary to paragraph 3 (1) of the Code and no bullying of any person contrary to paragraph 3 (2)(b) of the Code;
- (2) Mr George had not conducted himself in a manner which would reasonably be regarded as bringing his office into disrepute contrary to paragraph 5 of the Code; and
- (3) Accordingly Mr George had not failed to comply with the Code in respect of this matter and no further action was proposed.

The meeting ended at 1.00 p.m.