

West Somerset District Council

**Minutes of the Standards Committee Panel Hearing held on
Thursday 14 April 2011 commencing at 10.00am**

Panel Members:

Mr Tim Evans Chairman

District Councillor H J W Davies

Town Councillor S de Renzy Martin

Officers in Attendance:

Mr B Lang, Monitoring Officer

Mr R Pinney, Legal Advisor

Mrs A Higgins, Investigator

Mrs H Dobson, Hearing Clerk

Also in attendance:

Councillor A Collins, Respondent

Councillor D Bawden, Respondent

Councillor K Branfield, Respondent

Councillor P Williams, Respondent

Mr and Mrs Walters, Complainants

Ms R Buchanan, Complainants' solicitor

There were no other members of the press and public in attendance.

1. Apologies for Absence

There were no apologies for absence received.

2. Introductions and Procedures

The Chairman of the Panel welcomed everyone and invited all in attendance to introduce themselves.

One of the Respondents, Councillor P Williams had given notice that she wished to request that the whole of the proceedings be held with the exclusion to the press and public. The Chairman gave Councillor Williams the opportunity to make representations on this issue and she outlined that she had concerns that there could be legal implications if the hearing was held in public.

The other three Respondents did not share these particular concerns and following a discussion during which it was explained that unless there are specific good reasons to exclude the press and public the presumption is that the proceedings of the Standards Hearing Panel should be open, Councillor Williams agreed to withdraw her request.

The Chairman duly confirmed that the Hearing would be held in public.

Formal Opening

The Chairman formally opened the hearing and at his request, Mr Pinney the Legal Advisor to the Panel outlined the procedures that were to be followed at the Hearing. It was explained that the Hearing Panel would be considering four individual allegations of a breach of the Code of Conduct as one process given that the allegations were closely related. The Panel would, however, be required to reach four separate formal decisions.

The Chairman advised that the Hearing Panel was to consider complaints that Councillors Collins, Bawden, Branfield and Williams of Withpool and Hawkridge Parish Council had all breached paragraphs 3(i) and 5 of the Parish Councils' Code of Conduct in that they had not treated the Complainants with respect and that they had brought their office or authority into disrepute.

The Investigating Officer's Report

Mrs A Higgins, the Investigating Officer, presented her report regarding the four cases being considered by the Hearing Panel.

The Investigator confirmed that it was her opinion that by:-

- a) entering onto land, the subject of ongoing discussions, without prior notice or invitation;
- b) deliberately defacing or damaging property by spray painting a line on the land in question and driving a metal post into the ground at either end of it;
- c) treating the Complainants in a discourteous manner; and
- d) causing the Complainants much upset and distress that

Councillors Collins, Bawden, Branfield and Williams had breached paragraphs 3(i) and 5 of the Code of Conduct on 27 August 2009 by failing to treat the Complainants with respect and conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

Findings of Fact

The Chairman invited the four respondents in turn to comment on any issues that they wished in relation to the Findings of Fact set out in the independent Investigators' report.

The Complainants, through their solicitor, were also given the opportunity to comment on each of the four cases, as were Members of the Panel together with the Panel's Legal Advisor.

The main points made by the four Respondents were that at the time of the incident concerned they had all genuinely considered that they were acting in the best interests of the local community and did not feel that they had behaved in a manner that had upset the Complainants.

They did acknowledge that no prior notice was given to the Complainants of the site and that they had not sought formal confirmation in regard to the Parish Council's legal title to the land concerned prior to the visit.

It was also acknowledged that Councillor Collins, as Chairman of the Council, had taken the lead during the visit and had made a remark to Mr Walters which while he did not think had been offensive, however, did form a significant part of the Complainants case that they had not been treated with respect and courtesy.

Decision on Findings of Fact

The Panel withdrew to consider the Findings of Fact.

On returning, the Legal Advisor on behalf of the Panel advised that the Panel would consider whether or not a breach of the Code had occurred in these four cases based on the following Findings of Fact:-

- a) All four Respondents had entered onto the land on 27 August 2009 without prior notice or invitation and had not formerly checked the legal title of the land in question;
- b) the Respondents had deliberately defaced and damaged property by spray painting a line on the land in question and driving a metal post into the ground at either end;
- c) the four Respondents had treated the Complainants in a discourteous manner and caused the Complainants much upset and distress: and
- d) that Councillor Collins, as Chairman of the Parish Council, had taken the lead during the proceedings.

Alleged Breach of the Code of Conduct

The Panel proceeded to consider whether or not the four Respondent Members had failed to follow the Code of Conduct in the light of the Findings of Fact now agreed.

All four Respondents had the opportunity to make representations as did the Complainants through their solicitor. Members of the Panel and its Legal Advisor also took the opportunity to ask questions of the Respondent Councillors as appropriate.

Decisions on Breach of the Code

The Panel withdrew to consider whether the four Respondent Members had failed to observe the Code of Conduct.

On returning, the Legal Advisor advised on behalf of the Hearing Panel that the following decisions had been reached:-

1. That Councillor Collins had breached paragraphs 3(i) and 5 by:-
 - a) failing to treat the complainants with respect, and

- b) conducting himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute on 27 August 2009.
2. That Councillor Bawden had breached paragraphs 3(i) and 5 by:-
- a) failing to treat the complainants with respect, and
b) conducting himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute on 27 August 2009.
3. That Councillor Branfield had breached paragraphs 3(i) and 5 by:-
- a) failing to treat the complainants with respect, and
b) conducting himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute on 27 August 2009.
4. That Councillor Williams had breached paragraphs 3(i) and 5 by:-
- a) failing to treat the complainants with respect, and
b) conducting herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute on 27 August 2009.

Sanctions

The Chairman advised the four Respondent Councillors that as the Panel had found that they had failed to comply with the Code of Conduct the Panel needed to consider whether their conduct merited the imposition of any sanction.

The Chairman asked the Councillors if they had anything to say by way of response or mitigation.

All four Respondent Councillors indicated that they were sorry for their actions and for causing the Complainants any upset and distress.

The Panel withdrew to consider what sanctions, if any, should be imposed.

Decisions on Sanctions

On returning the Legal Advisor on behalf of the Hearing Panel advised that the following sanctions should be imposed in accordance with Regulation 19(3) and (5) of the Standards Committee (England) Regulations 2008.

In respect of Councillor Collins:

1. That the subject member shall be required to submit a written apology to the complainants within one month of the decision in a form to be agreed by the District Council's Monitoring Officer.
2. That the subject member shall receive a formal notice of censure.

with both these sanctions to have immediate effect.

In respect of Councillor Bawden:

1. That the subject member shall be required to submit a written apology to the complainants within one month of the decision in a form to be agreed by the District Council's Monitoring Officer.

with this sanction to have immediate effect.

In respect of Councillor Branfield:

1. That the subject member shall be required to submit a written apology to the complainants within one month of the decision in a form to be agreed by the District Council's Monitoring Officer.
2. That the subject member undertake training on the Code of Conduct.

with both of these sanctions to have immediate effect.

In respect of Councillor Williams:

1. That the subject member undertake a conciliation process with the complainants to be facilitated by the District Council's Monitoring Officer; on the understanding that in the event of the subject member submitting a written apology to the complainants in a form to be agreed by the District Council's Monitoring Officer within one month the need for such a conciliation process be waived.

The Legal Advisor then advised that the Hearing Panel had also made the following recommendations to Withypool and Hawkrigde Parish Council –

- That its training on the Code of Conduct be reviewed and thereafter Councillors receive training in the Code of Conduct on an annual basis, and
- That details of all current business being conducted by the Parish Council, including that of the previous year, be provided on request to the West Somerset Council's Monitoring Officer together with all internal procedures of the Parish Council to enable a check to be undertaken on the effectiveness of the procedures and processes being operated by the Parish Council.

The Chairman advised the four Respondent Members that they would all be receiving written notification of the Panel's decision shortly. He also advised that a Public Notice of the decisions would be published in a local newspaper in the near future.

The Chairman concluded by thanking everyone for their assistance and good conduct during the Hearing and formally closed the proceedings at 2.35 pm.

WEST SOMERSET DISTRICT COUNCIL
Standards Committee Panel Hearing 14.4.11