



Lewes District Council

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Standards Committee

Minutes of a meeting of the **Standards Committee** held in the **Warren Room, Lewes House, 32 High Street, Lewes** on **Monday 22 June 2009** at 3.00pm.

Present:

Mr E P O Mercer (Independent Member) (Chair – on election)
Mr G R Eysenck (Independent Member)
Mrs J M Redman (Independent Member)
Councillor B Clutterbuck (Ditchling Parish Council)
Councillor L Holland (Seaford Town Council)
Councillor C Terry (Peacehaven Town Council)
Councillors M P Chartier, T M Hawthorne, E E J Russell and C Sugarman

Officers Present:

Ms C Knight, District Solicitor and Monitoring Officer
Ms J Gavigan, Committee Officer

In Attendance:

Councillor T Cogdon, South Heighton Parish Council

Minutes

Action

1 Election of Chair

Resolved:

1.1 That Mr E P O Mercer be elected as Chair for the meeting.

2 Minutes

The Minutes of the meeting held on 21 November 2008 were approved as a correct record and signed by the Chair, subject to the amendment in Resolution 2.1 below.

In response to a councillor's question concerning Resolutions 4.3 and 4.5, the Monitoring Officer explained that the six months originally stipulated for the assessment and review criteria had been allowed to expire as there had been no new business for the Committee to trial under the policy.

Resolved:

2.1 That the following wording be added to the end of Resolutions 4.3

and 4.5 from the Standards Committee meeting on 21 November 2008 '*...or when sufficient business has arisen to enable the Committee to test the policy*'.

MO to
note

3 Apology for Absence

An apology for absence had been received from Councillor D Mitchell.

4 Declaration of Interest

Councillor Russell declared her non-prejudicial interest in Agenda Item 6 (Investigator's Report into Standards Board Complaint).

5 Provisional Standards Committee meeting dates 2009/10

The Committee received the list of provisional dates and times proposed for the Standards Committee meetings for 2009/10.

Resolved:

- 5.1 That the start time for all the provisional Standards Committee meetings due to be held in the afternoon during 2009/10 be amended from 3.00pm to 2.00pm; and
- 5.2 That the provisional dates set for the Standards Committee meetings for 2009/10 be noted.

All to
note

6 Investigator's Report into Standards Board Complaint

The Committee considered Report No 108/09 relating to an investigation into a complaint by Mr G and Mrs S Roberts against Councillors T Cogdon and S Crosthwaite of South Heighton Parish Council. The Monitoring Officer explained that the matter was initially assessed by a Sub-Committee who had asked her to investigate further. She had conducted the investigation and her findings were set out in the Investigating Officer's report.

Copies of a note made by the Investigating Officer following a phone conversation she had with Mr Roberts on 17 June 2009 were circulated at the meeting. The note set out two concerns Mr Roberts had with the final report. Whilst the comments had not caused the Investigating Officer to change her report, Mr Roberts had asked that they be brought to the attention of the Committee. A copy of the note is contained in the Minute Book.

The Standards Committee had a duty to consider the Investigating Officer's report and to decide whether it agreed with the findings of the report that there had been no failure to comply with South Heighton Parish Council's Code of Conduct or that it was not satisfied with these findings and believed that there was a case to answer. The report set out the details of the complaint in which Mr and Mrs Roberts alleged that:

- Councillor Cogdon and Councillor Crosthwaite failed to declare personal and prejudicial interests when dealing with a retrospective planning application for a raised patio at South Heighton Village Hall.

- Councillor Crosthwaite's interests concerned her representation on the Village Hall Management Committee.
- Councillor Cogdon's interests concerned paid and unpaid work he had undertaken on the village hall site both before and after the submission of the planning application.
- Councillors Cogdon and Crosthwaite had a close association with members of the village hall which made it improper for them to take part in South Heighton Parish Council's decision to support the planning application.

The Investigating Officer advised that the Committee consider the following key matters in relation to the complaint:

Alleged interests on the part of Councillor Crosthwaite

The Committee noted from the Investigator's report that Councillor Crosthwaite attended Village Hall Management Committee meetings on behalf of South Heighton Parish Council. She attended in her capacity as an observer and was not a member of the Committee. She was not invited to make comments and did not participate in decision making.

The Committee also noted the definition of a personal interest in business under the Code of Conduct, as set out in paragraph 6.1.1 of the report. Councillor Crosthwaite's status as an observer did not constitute a personal interest.

The Chair noted that, as a resident of the Parish, Councillor Crosthwaite might have had a personal interest in that she, in common with all other residents of the Parish, was a beneficiary of the Glynde Estate's Trust. However, in the event of there being a personal interest on this basis, it certainly was not a prejudicial interest which prevented her participation in consideration of the planning application.

Members of the Committee could find no evidence of Councillor Crosthwaite having an interest in this matter which would have prevented her participation in consideration of the planning application as a Parish councillor and therefore agreed with the Investigating Officer's finding. The Committee added that the representation of Town and Parish councillors on local committees was a common part of village life.

Alleged close relationship between Councillors Crosthwaite and Cogdon and the Village Hall Management Committee

The Committee had considered Councillor Crosthwaite's relationship with the Village Hall Management Committee and had agreed that there was no breach of the Code of Conduct.

As set out in the report, Mr and Mrs Roberts alleged that Councillor Cogdon's attendance at the AGMs of the Village Hall Management Committee were an indication of a special relationship between the Parish Council and the Management Committee.

Councillor Cogdon's response had been that his attendance indicated his appreciation of the work of voluntary organisations and that it was traditional for the Parish Council Chair to attend.

The complainants also alleged that Councillor Cogdon's use of a skip hired by the Management Committee was indicative of the close relationship. Councillor Cogdon's response had been that he and other residents had asked the Management Committee if they could put some items in the skip as it had only been half full.

The Committee agreed with the finding of the Investigating Officer on this matter that there was no breach of the Code of Conduct.

Alleged interests on the part of Councillor Cogdon

The Committee noted from the Investigator's report that Councillor Cogdon accepted that he had been paid by the Management Committee to put up a gate in the village hall playground. Mr and Mrs Roberts concern was that this employment constituted a personal interest which may have influenced Councillor Cogdon to support the planning application as a result.

Councillor Cogdon's view was that he did not have a personal interest in the Village Hall Management Committee planning application as he had nothing to gain from it being accepted or refused. The work carried out had been a one-off, ad-hoc job and he was not reliant on the Management Committee's custom for the continuation of his business. It was also carried out and paid for before the planning application was submitted.

It was a matter for Councillor Cogdon's judgement as to whether he had a personal interest but, in the context of the complaint, it was for the Standards Committee to determine whether his judgement was reasonable in the circumstances.

From the evidence available, the Committee concluded that, on the assumption that the amount paid to Councillor Cogdon had been in line with the expected or market rate, his judgement had been reasonable in the context of the socio-economic structure of a village where residents assist each other and are involved in numerous aspects of the community.

The Committee considered the allegation that Councillor Cogdon had been involved in the planning of the raised patio area, in the laying of the foundations and in the construction of the patio generally.

Councillor Cogdon contended that he had nothing to do with the drawing up of the planning application but admitted that he had helped barrow some topsoil to the rear of the village hall on one occasion. He had also occasionally done some minor repair jobs in the village hall on a voluntary basis.

The Committee noted that Councillor Cogdon had assisted in the construction of the raised lawn to the extent that he had helped village hall members to barrow topsoil but it concluded that this was not significant.

Members of the Committee held the view that those who were active in the community were usually active in more than one sphere. From the evidence, they were satisfied that Councillor Cogdon's behaviour and explanations had been reasonable and had not constituted a conflict which would have prevented him from taking part in the Parish Council's recommendation of the planning application.

The Committee noted that the Parish Council's powers in this matter were restricted to only making a recommendation on the planning application as statutory consultees. Guidance from the Standards Board indicated that Parish councillors who were consulted on a planning matter had greater freedom to participate in the consultation decision where they may have interests than they would if they were part of the final decision making body.

In any event, the Committee decided that guidance from the Standards Board on this point was not critical as the Committee had in fact found there to be no prejudicial interest.

The Committee noted that the consultation process in this case had been for Councillor Cogdon as Chair to telephone the other councillors for their views as there was no Parish Council meeting scheduled to take place during the time period given for consultation. This was the usual procedure at South Heighton Parish Council in such circumstances and no record was made of the telephone consultations.

The Committee discussed this arrangement and made the following points:

- Calling a special meeting would ensure transparency and would avoid the possibility of undue influence being brought to bear on other councillors.
- Phoning around councillors indicated that an effort was made to contact all councillors for their views.
- The system used by Town and Parish Councils for gathering views should protect councillors from unwarranted and unnecessary allegations.

The Committee concluded that a balanced approach was required in this matter and agreed that, where consultation views were required and a council meeting was not possible, the clerk should take the role of caller and a written record should be made of the calls.

Resolved:

- 6.1** That the Standards Committee agrees with the Investigating Officer's conclusion that Councillor Crosthwaite has not failed to comply with South Heighton Parish Council's Code of Conduct; MO
- 6.2** That the Standards Committee agrees with the Investigating Officer's conclusion that Councillor Cogdon has not failed to comply with MO

South Heighton Parish Council's Code of Conduct;

6.3 That the Standards Committee is satisfied with the findings in the Investigating Officer's report and agrees that there is no case to answer;

MO

6.4 That the Investigating Officer's recommendation that Town and Parish Councils adopt the following practices be endorsed:

MO

'Where the Town and Parish Council is asked to comment on a planning application and there is no scheduled meeting, the clerk (not Chair) shall contact Town and Parish councillors by telephone for their views, subject to the following:

- The clerk shall make a written record of those councillors consulted and the outcome and this shall be placed on the agenda of the next scheduled Town and Parish Council meeting for noting;
- In the event of any councillor informing the clerk that they have a personal interest in the matter, the clerk shall include a note of the same in the written record. If that interest is also prejudicial, the clerk shall note the same and shall not obtain or take into account any opinion expressed on the application by the councillor;
- The clerk shall inform the District Council that the Town and Parish Council's recommendation was made by telephone consultation and not at a meeting of the Town and Parish Council'; and

6.5 That the Investigating Officer be requested to write to all the Town and Parish Council clerks informing them of the Standards Committee recommendation in Resolution 7.4 above and advising them that telephone consultations should only be used as an exception to the rule where it is not possible or practical for a Town and Parish Council meeting to be held.

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(Note: Councillor Russell declared her non-prejudicial interest in this Item which related to a complaint made by Mr and Mrs Roberts into Lewes District Council's Planning department's handling of the planning application for the retention of the raised turfed area surrounded by a retaining wall at South Heighton Village Hall, as she had been a member of the Complaints Panel that had considered the complaint. Councillor Russell was therefore able to take part in the consideration, discussion and voting thereon).

The meeting ended at 4.00pm.

E P O Mercer
Chair