

Standards Hearing Sub Committee

11 October 2016

Complaint against Members of Strensall with Towthorpe Parish Council

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| Complainants | Graham and Mandy Harrison |
| Subject Members | Councillor Keith Marquis |
| | Councillor Chris Chambers |
| | Councillor Ralph Plant |
| | Councillor Tracey Flannery |
| | Councillor John Chapman |
| | Councillor Geoffrey Harvey-Walker |
| | Councillor Dennis Baxter |
| | Councillor Duncan Hill |
| | Councillor Kevin Ogilvy |
| | Councillor Judy Smith |
| | Councillor Tony Fisher |
| | Councillor Lawrence Mattinson |
| | former Councillor Edwards |
| Clerk to Parish Council | Susan Nunn |
| Investigator | Rachel McKeivitt, Solicitor, City of York Council |

1. Background

- 1.1 This complaint is brought by Graham and Mandy Harrison against twelve current and one former member of Strensall with Towthorpe Parish Council. The complaint appears at pages 21 to 41 of the annexed papers. The complaint relates to the behaviour of Parish Councillors when dealing with Mr. and Mrs. Harrison's application for permission to have services cross land which the Parish Council leases from the City Council.

- 1.2 The merits of Mr. and Mrs. Harrison's request and the Parish Council's decision are not something which the Sub Committee can consider. The only issues which the Sub Committee are concerned with are whether one or more Parish Councillors may have breached the code of conduct and if so whether a sanction should be imposed.
- 1.3 As required by the Localism Act 2011 the Parish Council has adopted a code of conduct which sets out the conduct expected of Parish Councillors when acting as such. The code of conduct appears at pages 43 to 50. Particularly relevant to this complaint is the following section:

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. *He/she shall behave in such a way that a reasonable person would regard as respectful.*
 2. *He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.*
 3. *He/she shall not seek to improperly confer an advantage or disadvantage on any person.*
 4. *He/she shall use the resources of the Council in accordance with its requirements.*
 5. *He/she shall not disclose information which is confidential or where disclosure is prohibited by law*
- 1.4 Following consultation with the independent persons (at that time Mr. Laverick and Mr. Hall) the complaint was referred for investigation and Rachel McKevitt, a solicitor employed by the City of York Council, was appointed to investigate.
 - 1.5 Ms. McKevitt has prepared a report in respect of her investigation which appears at pages 51 to 69. As the complaints procedure requires she has reached a conclusion as to whether there has been a breach of the code. She

believes that some but not all aspects of the complaint should be upheld.

- 1.6 Upon receipt of the report the Monitoring Officer shared it with the parties and consulted the independent persons (Mr. Laverick and Ms. Davies). Having done so the Monitoring Officer took the view that this case was not suitable for local settlement and referred it for a hearing.

2. The Hearing Process

- 2.1 The Standards Committee has approved a procedure for hearings which appears at pages 7 to 19. In line with that procedure the complainants and subject members have been asked to complete a pre hearing check list indicating whether they intend to attend the hearing and identifying facts which they say are in dispute and indicating whether any part of the hearing should be in public.
- 2.2 The response from Mr. and Mrs. Harrison is at pages 71 to 73. They intend to attend the hearing and do not dispute any facts. They say that the hearing should not be in private.
- 2.3 Councillor Marquis, the Chair of the Parish Council, has indicated that he will attend and be represented by the Parish Clerk, Susan Nunn. His response is at pages 75 to 77. He says the report is biased and takes little account of the circumstances of this long running saga which, he says, were explained to the Investigating Officer. He wished the hearing to be in private because he says that the Harrisons are pursuing related legal proceedings.
- 2.4 Councillor Chambers has also indicated that he will attend and be represented by the Parish Clerk. He also wishes the hearing to be in private for the same reasons as Councillor Marquis. He makes specific comments as to factual accuracy at pages 81 to 86.
- 2.5 Councillor Plant's response is at pages 87 to 91. He describes Councillor Marquis' response as "jointly agreed" but adds three specific points in relation to the specific complaints against him. These appear at pages 87 and 91.

- 2.6 Councillor Fisher does not intend to attend the hearing. He has submitted two e-mails setting out his position. They appear at pages 93 and 94.
- 2.7 Councillor Mattinson does not intend to attend the hearing. He has submitted an e-mail criticising the investigation. This appears at pages 95 and 96. He has not submitted any new factual information or identified any specific factual inaccuracies.
- 2.8 The remaining councillors and former councillor have not responded individually but the entire Parish Council has signed a collective response which appears at pages 97 to 103.

3. Issues to be determined

- 3.1 **Should all or part of the hearing be in private?** Members have received representations on this from Councillors Marquis and Chambers and may wish to invite oral representations.
- 3.2 **Have one or more councillors breached the Parish Council's code of conduct in respect of the following allegations:**
- a) Use of the words "profit through deception" in a letter from the Chairman of the Parish Council, Councillor Marquis, to Hague and Dixon Solicitors.
 - b) Councillor Ralph Plant not declaring an interest in Mr and Mrs Harrison's matter at a Parish Council monthly meeting on 11th August 2015.
 - c) Bias evidenced by comments made at the Parish Council meeting on 13th October 2015 in relation to a similar request for services made by Transcore in respect of land known as Sevenoaks
 - d) Bias shown in a letter of 9th September 2015 from the Parish Council to Mr and Mrs Harrison.

- 3.3 In the event that the Sub Committee finds that the Code has been breached it will need to determine **whether a sanction should be imposed and if so what sanction.**

Andrew Docherty
Monitoring Officer

Background papers: None

Annexed Documents

| | Document | Pages |
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| 1. | Hearing Procedure | 7 to 19 |
| 2. | Complaint Form submitted by Mr and Mrs Harrison | 21 to 41 |
| 3. | Code of Conduct of Strensall with Towthorpe Council | 43 to 50 |
| 4. | Report of investigation conducted by Rachel McKeivitt | 51 to 69 |
| 5. | Pre hearing form submitted by Mr and Mrs Harrison | 71 to 73 |
| 6. | Pre hearing form submitted by Cllr. Marquis | 75 to 77 |
| 7a. | Pre hearing form submitted by Cllr. Chambers | 79 to 83 |
| 7b. | Submission from Cllr. Chambers dated 26 September 2016 | 85 to 86 |
| 8a. | E-mail from Cllr. Plant dated 26 July 2016 | 87 |
| 8b. | Email from Cllr. Plant dated 23 September 2016 | 89 to 91 |
| 9. | E-mail from Cllr. Fisher | 93 to 94 |
| 10. | E-mail from Cllr. Mattinson | 95 to 96 |
| 11. | Collective response from Parish Council | 97 to 103 |