

MINUTES OF THE GOVERNANCE COMMITTEE

14 February 2023 at 2pm

Present:

Councillor H. Ayres (Chair)

Councillors K. Bentley, N.A. Dudley, D.G. Jones, A. Thorpe Apps and N. Walsh

Also in attendance –

Parish Councillors V Chiswell and P Jackson

Independent Person –
Mrs C Gosling

1. Apologies for Absence

Apologies for absence were received from Councillor Steel, the Independent person Mrs Mills and Parish Council representative Mrs Saltmarsh.

2. Minutes

The minutes of the meeting on 18th January 2023 were confirmed as a correct record.

3. Declarations of Interest

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda. None were made.

4. Chair's Announcements

No Announcements were made.

5. Standards Complaints 18 and 31-35/21 Investigation and Hearing Report

The Committee considered a report asking them to consider six complaints alleging breaches of the Rettendon Parish Council Code of Conduct by seven Councillors. The Committee heard that the outcome of the complaints in relation to Cllrs D Fleming, Cottee, Knight, Phillips and Ride was just to be noted. The Committee were asked however, to consider and determine whether there had been breaches of the code of conduct by Cllrs Roy Hart and Mark Fleming, and if so, what action should be taken.

The Chair explained the processes under the hearing procedure at Part 5.1.2 Annex 5 of the Constitution. Those present were informed that after hearing the necessary information, the Committee would consider the information in private and determine whether the code had been breached. The Committee noted that the following elements of the complaint were to be considered:

- 1. *Whether Cllr Hart – failed to declare his interest in relation to the grant application for the Bell Fields Charities at a Parish Council meeting on 30 March 2021?*
- 2. *Whether Cllr Mark Fleming failed to keep his register of interests up to date and whether his participation in the meeting on 30 March 2021 was improper?*

At this point in the hearing Cllr Hart was asked to outline his position. Cllr Hart stated that he accepted he had breached the code of conduct. He also detailed to the Committee, the work he had done in Rettendon over many years.

The Committee then heard the report from the investigating officer in relation to Cllr Hart. The Committee heard that Cllr Hart had attended a meeting on 30th March 2021, in which he actively decided not to disclose his interest as a trustee for the Bell Fields, whilst a grant application was being considered. The investigator informed the Committee of the advice that had been provided by the City Council's Monitoring Officer, which Cllr Hart had chosen to ignore. The investigator felt that Cllr Hart had actively decided to ignore the advice and took the decision himself to participate and vote on the matter, therefore this had been a clear breach of the code.

In response, Cllr Hart reminded the Committee of previous complaints that had been made against him and noted that a significant proportion of the Monitoring Officer's time was spent on considering complaints from Rettendon Parish Council. Cllr Hart stated that the meeting on 30th March had been the final straw, after Cllr Fleming had resigned as a trustee just prior to the grant application being considered and he did what he felt was required in ignoring the advice. Cllr Hart apologised for breaching the code but stated he could not sit there and say nothing during the meeting.

At this point in the hearing, Cllr Fleming was asked to outline his position. Cllr Fleming informed the Committee that he did dispute the findings of the investigator.

The investigator informed the Committee, that the allegations had been made as part of a complaint against several Cllrs, who were all trustees at the time, which related to their register of interest forms. It was noted that these had been dealt with by way of reminders from the Monitoring Officer. The Committee heard however that Cllr Fleming resigned the day before the 30th March 2021 meeting, in which the grant application was considered. The investigator informed the Committee, that he felt Cllr Fleming should not have taken part in the consideration of the grant as his involvement in the grant application as a trustee meant he was biased and/or predetermined. Accordingly, his participation as chair of the council was an improper use of his position.

In response to questions from Cllr Fleming, the Investigator informed the Committee of the below;

- They had not been asked to prepare an index of documents and were not aware of any factual information being in dispute.
- They had looked at the relevant information sent to them.
- They had not been tasked with investigating the grant application itself.
- They had not been tasked with considering the time between the event and the complaint being submitted.
- Everyone they spoke to during their investigations mentioned the problems that the Parish Council had been facing, regarding the Bell Fields charities.
- Other matters raised by Cllr Fleming, were not within their remit for investigation and were therefore irrelevant.
- They had not been asked to question motives of individual Cllrs, but to assess whether the code had been breached.

At this point in the hearing, Cllr Fleming informed the Committee that he took part in the meeting on 30th March 2021 after careful consideration. The Committee heard that he felt the meeting required an experienced and vigorous Chair and that there was no one else who could have chaired the meeting. The Committee were told that he felt he had best served residents, by resigning as a trustee the day before the meeting and then chairing the meeting. He stated that he had updated his Register of Interest (ROI) form accordingly when resigning as a trustee and denied the assertion that his actions had been biased or pre-determined. Cllr Fleming also stated that he had not been provided with adequate time to read the draft report and no one had checked if he had received it.

In response to questions from the Investigator and members of the Committee, Cllr Fleming stated that;

- There had been no adequate reason for the Parish Council to reject the grant application as it was within budget and compliant.

- No other Parish Cllrs had the experience to chair and manage that item.
- He had not undertaken specific training on Charing meetings but had undertaken general training.
- He had been reappointed as a trustee in July 2021
- He had resigned as a trustee with no confidence of being reappointed as, at that time, it was not clear how the Parish Council would make new appointments of trustees.

The Committee retired to determine the complaints in private at 3.02pm

The meeting resumed in open session at 3.46pm.

The Committee informed Cllr Fleming that they had been found in breach of the code of conduct when not updating their ROI form and that the committee's view was that their participation in the meeting on 30th March 2021 had been improper on the grounds of bias and pre determination. At this point Cllr Fleming was asked if they wished to make any representations before the Committee decided on sanctions. Cllr Fleming disputed that his ROI form had not been updated and clarified it had been updated on the 29th March 2021.

The Committee retired again and resumed in open session at 4.08pm.

The Committee stated that there had clearly been a lot of local passion and personal feelings on this matter for several years. The Committee made the below findings;

Cllr Hart

- The Committee found a breach of the code of conduct, in Cllr Hart failing to declare an interest at the meeting on 30th March 2021. The Committee thanked Cllr Hart for now recognising this but noted that he had deliberately failed to follow specific advice from the Monitoring Officer. The Committee determined that a formal warning should be issued to Cllr Hart via the Monitoring Officer (who would consult with the Chair of the Committee as to the wording of this).

Cllr Fleming

- The Committee found a breach of the code of conduct for Cllr Fleming in that he failed to keep the interest form up to date. The committee also noted the improper participation at the meeting on 30th March 2021. The Committee therefore determined that a formal warning should be issued to Cllr Fleming via the Monitoring Officer (who would consult with the Chair of the Committee as to the wording of this).

General findings and recommendations

- The Parish Council should conduct an annual review of their register of interest forms, with a particular focus on the Bell Fields trustee matter to ensure that any current trustees had included this in their ROI.

- Following the upcoming elections in May 2023, Councillors should undertake training sessions, or refresher training on the code of conduct to include the importance of updating ROI forms in a timely manner. Training on chairing meetings should also be undertaken so a wider pool of Councillors can effectively chair meetings.

(2.02pm to 4.11pm)

The meeting closed at 4.11pm.

Chair