

MINUTES

of the meeting of the

GOVERNANCE COMMITTEE

on 22 July 2019 at 2 p.m.

Present:

Councillor H. Ayres (Chair)

Councillors R.H. Ambor, K. Bentley, N.A. Dudley, D.G. Jones, N.M Walsh and I. Wright

Also in Attendance –

Parish Councillors, V. Chiswell and J. Saltmarsh

Designated Independent Person:

Mrs. C. Gosling

1. **Apologies for Absence and Substitutions**

Apologies for absence were received from Parish Councillor Jackson and the complainant, Parish Councillor Fleming. No substitutions were made.

2. **Minutes**

The minutes of the meeting on 18 June 2019 were signed as a correct record by the Chair.

3. **Declarations of Interest**

All members were reminded to declare any Disclosable Pecuniary Interests or other registerable interests where appropriate in any of the items of business on the meeting's agenda.

4. **Chair's Announcements**

No announcements were made.

5. **Standards Complaint**

The Committee considered a report asking them to determine the complaints made against Councillor Hart by way of a hearing, pursuant to the procedure detailed at Part 5.1.2 Annex 5 of the Constitution.

The Chair explained the processes under the hearing procedure at Part 5.1.2 Annex 5 of the Constitution. The Committee was informed that after hearing the necessary information the Committee would consider the information in private and determine whether the code had been breached. The Monitoring Officer highlighted to the Committee that after receiving the external investigators report it was agreed that some elements of the complaint would not be considered. It was confirmed and detailed to those present on the presentation screen, that the following elements of the complaint were to be considered;

- *1 – Whether Councillor Hart properly registered his position as a trustee of the two charities associated with Bell Field, his ownership of the village hall and its car park, his title of the “Lordship of the Manor of Rettendon” in his register of Members Interests. It is noted that Councillor Hart’s register of interests was updated during the investigation to reflect these interests and that the form Councillor Hart was invited to complete was not fit for purpose.*
- *4 – Whether Councillor Hart failed to declare the appropriate interest when discussing matters related to the Trust at a Parish Council meeting on 28 November 2017.*
- *6b – Whether Councillor Hart threw a padlock aggressively across the table at the Parish Council meeting on 6th March 2018 and in doing so brought his office into disrepute.*
- *8 – Whether Councillor Hart failed to treat Councillor Fleming with respect by calling him a liar at Parish Council meetings on 19 December 2017 and 6 March 2018.*

At this point in the hearing, Cllr Hart was asked to confirm if he still disputed all four elements of the complaint being considered. He confirmed that he did still dispute each element of the complaint. The external investigator for the case was then invited to present his case to the Committee. He confirmed that there was clearly an underlying dispute in the background but clarified that this was not the forum to resolve those issues.

In introducing his report, Mr Oram went through the background to the complaint and detailed his views on the four elements of the complaint still being considered. For the first element, Mr Oram stated that Cllr Hart had not been aware his form was incorrect until the investigation. The Committee was informed that Cllr Hart met with the Monitoring Officer and updated the form accordingly. It was noted that he had been open and honest and there was no evidence that he had been trying to hide anything. It was also confirmed that the form issued had been incorrect and that this was a mitigating factor. However, it was still technically a breach of the code.

Mr Oram confirmed that the second element of the complaint being considered was also a breach of the code. He confirmed that the detail should have been registered and should have been declared at the meeting in question. It was noted that Cllr Hart felt everyone knew of his interest but that did not excuse the requirement to actively declare it at the meeting. It was noted that this would have made it clear to everyone present, including members of the public that Cllr Hart had an interest in the matter.

The Committee was informed by Mr Oram that the final two elements could essentially be considered together. He stated that there was no dispute as to the padlock being cut off and presented at a Parish meeting. Mr Oram stated that on its own this probably was not disrespectful but in combination with the other allegations including calling Cllr Fleming a liar it could be viewed differently. It was highlighted that in his report Mr Oram had provided other examples of failures to treat someone with respect. He also stated though that in local politics, members should expect to be challenged by others in their role as an elected representative. Mr Oram stated that the accusation made by Cllr Hart did not leave Cllr Fleming with any room to respond however. It appeared to be pre meditated and raised at an inappropriate time to be provocative, therefore combined with the padlock issue could have brought the authority into disrepute.

At this point in the hearing Cllr Hart was asked if he had any questions for the external investigator. He confirmed he did not. In response to questions from the Committee, Mr Oram confirmed that;

- The issue with the football club was not what was being considered today, but he felt the lease was called into question by the argument over who were the legitimate trustees of the field.
- He had not interviewed everyone from the meeting as it would not have been proportionate and costly for the authority. He also confirmed that Cllr Fleming had not felt he was in any physical danger.
- When the padlock was slid across the table, no prior notice had been given to Cllr Fleming that the matter would be raised. Therefore, the issue was raised without prior notice leaving Cllr Fleming with a limited opportunity to respond.
- The matter of who were custodians of the playing fields was not the matter to be considered and was being resolved elsewhere.
- The two meetings in question were open to the public and public attendees were at both meetings.
- Cllr Fleming was in the chair for both meetings and it could be argued that he should be prepared for robust challenge in the role. It was viewed as a breach though due to the type of language used.

At this point in the hearing, Cllr Hart was asked to present his case on the four elements of the complaint. In response to the first element of the complaint, he confirmed that he corrected this error as soon as he was made aware of it. He stated there had been no ill intent and apologised for the oversight on the form. In response to the second element, he confirmed that he thought everyone was aware of his interest at the meeting. In response to the third element he stated that he did not aggressively throw the padlock. He confirmed that it was slid across the table from no further than 6 foot away. In response to the fourth element he stated he had been abrupt because Cllr Fleming was simply not telling the truth. He confirmed that he had an email detailing this and that Cllr Fleming had been misleading. Cllr Hart was invited to ask questions of any witnesses. One of the witnesses confirmed that the padlock had been slid across the table not thrown aggressively.

The external investigator confirmed he did not have any questions for Cllr Hart. He stated that he had been very cooperative throughout the investigation and had answered any questions honestly and openly. In response to questions from the Committee, Cllr Hart confirmed that;

- When referring to 'they' in terms of who was trying to close the football ground, he meant the Parish Council.
- Cllr Fleming had been in the chair at both meetings in question. At the first meeting he claimed to have no knowledge of what Cllr Hart was referring to and at the second referred to a problem with travellers encroaching on the fields.

At this point in the hearing, the external investigator and Cllr Hart were given the opportunity to sum up before the Committee would determine the complaints in private. The external investigator summarised that on the first two matters there were clear breaches of the code by Cllr Hart. For the third element of the complaint Mr Oram felt that the authority had been brought into disrepute by Cllr Hart. This was due to the matter not even being on the agenda to be discussed and the manner in which it was raised. In summarising the fourth element Mr Oram also felt there had been disrespect shown and that Cllr Hart had crossed the line in calling Cllr Fleming a liar. He had also not given Cllr Fleming any chance to respond and left no room for discussion. Mr Oram stated that he had considered the complaints objectively and that aspects of Cllr Hart's behaviour had crossed the line.

Cllr Hart summarised that he felt Cllr Fleming had crossed the line by placing the padlock on the changing room doors. He also stated that he was one of the properly appointed trustees of the playing fields and could prove this. He informed the Committee that he did not throw the padlock and had slid it across the table instead.

The Committee retired at 3.23pm to determine the complaints.

The hearing resumed in open session at 4.11pm. The Committee confirmed that they had found breaches for the first two elements of the complaint but were not going to take any further action. The Committee also confirmed they had found breaches in the final two allegations and allowed Cllr Hart an opportunity to make representations on these before making a final decision. Cllr Hart stated that he stood by not throwing the padlock and apologised for any rudeness. He stated that he still stood by what he had said.

The Committee retired to consider the representations made by Cllr Hart on the final two complaints. The hearing resumed and the Chair provided those present with their final determination and recommendations on the complaints.

RESOLVED that the Committee found four breaches of the code of conduct by Cllr Hart and made recommendations as detailed below;

The Committee reached the following decisions:-

Allegation 1 – it was held that there was a technical breach by Parish Councillor Hart in that he had failed to register his interests correctly. It was noted that Cllr Hart had co operated with the Monitoring Officer subsequently to rectify this issue, the form issued was old and not fit for purpose and as a result of this no further action should be taken against Cllr Hart in relation to the technical breach of the code of conduct. It was raised that there were others within the Parish Council similarly failing to ensure their register of interests was correctly completed in accordance with the Code of Conduct and statutory requirements. In light of the latter point and mindful of the fact that some new parish councillors had joined the Parish Council this year, the committee recommended that the Parish Council through their clerk takes steps to make sure all parish councillors have the correct form, guidance and training necessary to enable all parish councillors to properly complete the register of interests.

Allegation 4 – it was also held that there was a technical breach by Parish Councillor Hart in that he failed to declare the appropriate interest at the two meetings. It was noted that this had been a genuine oversight not for any personal or other gain and that Cllr Hart's interests were generally well known by others at the Parish Council. It was determined that no further action should be taken against Parish Councillor Hart for this technical breach of the Code of Conduct. Notwithstanding this the committee was conscious that there is generally a good level of public attendance at public meetings in this parish and therefore likely that the public would have been in attendance so it was important for transparency and compliance reasons for Cllr Hart (and other parish councillors) to ensure that the rules for declaring interests are in future strictly followed to the letter. The Committee recommends that the Parish Council (through their clerk) takes all steps to ensure that members are aware of the requirements to declare interests and that dispensations for councillors are considered eg with a view to ensuring there is a consistent approach to participation in any items of parish business relating to this dispute. The committee also recommends that the Parish Council through their clerk ensures that only items on the agenda are permitted to be discussed at the parish meeting.

Allegation 6b – it was held (by majority as Cllr Wright did not agree that there was a breach of the code of conduct) that Parish Councillor Hart had brought his office into disrepute by the way he raised an item not on the parish council agenda, namely through sliding a padlock across the table at a parish meeting. The padlock related to the long running dispute and had been put in place by the Parish Council. The intent behind the return of the padlock in this manner was provocative and designed to let others know in no uncertain terms that Parish Councillor Hart would not accept the parish council approach. Parish Councillor Hart was cautioned by the committee and reminded that he should in future conduct himself more professionally and appropriately when he was acting as a Parish

Councillor. It was recommended that all Parish Councillors are also similarly reminded of appropriate behaviour when they are acting in their official capacity.

Allegation 8 – it was held that Parish Councillor Hart had called Cllr Fleming a “liar” at two public meetings. It was noted that this was not appropriate language nor manner (eg without notice) in which to raise concerns about whether Cllr Fleming was being truthful in the comments made at an earlier meeting. Parish Councillor Hart was cautioned by the committee and reminded that he should in future think more carefully about the language and manner of raising concerns about other parish councillors more when acting as a Parish Councillor. It was recommended that all Parish Councillors are also similarly reminded of appropriate language when they are acting in their official capacity.

Committee members expressed concern about wider parish issues and particularly hearing that there are two sides/camps to a long running dispute relating to Bell Fields trust and how this was affecting Parish Council business to the point where the parish council is generally regarded as dysfunctional. Members noted at the meeting that the Chair had to remind attendees in the public gallery to not interrupt and make comments to keep order on a number of occasions and that emotions ran high on both sides to the dispute which is understood to be before the High Court. For this reason, the Committee recommended that the Parish Council considered the use of mediation to try to find a middle ground for all interested parties to agree upon that enabled parish business to focus upon and best serve the local community and the public interest.

Parish Council representatives reminded the Committee of the support available from the Association of Local Councils and nationally from NALC. Clarification and guidance could also be sought from the Monitoring Officer.

6. **Urgent Business**

There were no matters of urgent business to discuss.

The meeting closed at 4.30 p.m.

Chair