

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## GOVERNANCE AND ETHICS COMMITTEE

### MINUTES OF THE MEETING HELD ON MONDAY, 14 MARCH 2016

**Councillors Present:** Chris Bridges, Graham Bridgman, James Cole, Lee Dillon, Rick Jones, Anthony Pick and Quentin Webb (Chairman)

**Also Present:** Sarah Clarke (Legal Services Manager), Linda Pye (Principal Policy Officer)

**Apologies for inability to attend the meeting:** Councillor Steve Ardagh-Walter, Councillor Jeff Beck and Barry Dickens

**Councillor(s) Absent:**

#### PART I

##### 1 Declarations of Interest

Councillors Graham Bridgman and Chris Bridges declared an interest in Agenda Item 3, but reported that, as their interest was personal and not prejudicial or a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

##### 2 NPC4/15

*(Councillor Graham Bridgman declared a personal interest in Agenda item 3 by virtue of the fact that Stratfield Mortimer was within the Mortimer Ward for which he was a District Councillor and he was acquainted with the Subject Member, Complainant and the two witnesses. As his interest was personal and not prejudicial or a disclosable pecuniary interest he was permitted to take part in the debate and vote on the matter).*

*(Councillor Chris Bridges declared a personal interest in Agenda item 3 by virtue of the fact that he was a member of the neighbouring Parish Council. As his interest was personal and not prejudicial or a disclosable pecuniary interest he was permitted to take part in the debate).*

The Committee considered the Investigator's report (Agenda Item 3) concerning the complaint in respect of Councillor Christopher Lewis (Subject Member) NPC4/15 from Mr Mike Dennett (Complainant) which had been submitted on 12<sup>th</sup> August 2015.

Sarah Clarke, the Legal Officer, stated that she had received a request from Councillor Graham Bridgman as to whether the Committee could have sight of two letters from the Subject Member dated 25<sup>th</sup> September 2015 and 2<sup>nd</sup> December 2015. The Legal Officer advised that these documents had been received outside of the five day rule and therefore could be considered if they were felt to be relevant. Councillor Bridgman had also asked for a copy of the covering e-mail dated 12<sup>th</sup> July 2015 which had been referred to in the Investigating Officer's report. However, as the Council had not received this e-mail, and the Investigating Officer did not have a copy of the said e-mail to hand, then it could not be made available to the Committee.

**The Independent Investigator, Liz Howlett, introduced her report to the Committee:**

The Investigating Officer stated that she had been asked by the Monitoring Officer at West Berkshire Council to investigate the following matters:

## **GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES**

- (1) Did Councillor Lewis use threatening language towards the Chairman (Councillor Dennett) and the Vice-Chairman (Councillor Julian Earl) in his letter of 10<sup>th</sup> July 2015?
- (2) Did the reference in the letter of 10<sup>th</sup> July 2015 to stating points publicly on Facebook in relation to the cost of clerking amount to harassment of the Council and the Clerk?
- (3) Did the letter of 12<sup>th</sup> July 2015 compound the issue by repeating the same points but, in addition, also make reference to unsubstantiated claims that the Parish Clerk had acted in a criminal manner?
- (4) Was there any evidence to justify the allegations of criminal behaviour?

Liz Howlett stated that it was important to focus on the complaint which had been submitted by Dr. Mike Dennett and the fact that there had been a lot of background prior to the complaint being submitted. The key issue was the tone and approach of one fellow Councillor towards others. Dr. Dennett had no issues with the criticisms around the processes and procedures in place at Stratfield Mortimer Parish Council and he had no problem with another Councillor raising those. What was an issue was the persistent and aggressive attitude of the Subject Member.

### **The letter of 10<sup>th</sup> July 2015:**

There was no doubt from the witnesses point of view that the letter of 10<sup>th</sup> July 2015 was intended to be threatening. The intent might not have been threatening but the tone of the letter was certainly inappropriate. The Subject Member stated during the investigation that the letter of 10<sup>th</sup> July 2015 had been sent in error. However, Dr. Dennett had received this letter prior to the letter dated 12<sup>th</sup> July 2015.

Councillor Quentin Webb queried the timescale between the date of the letter being originally sent and the date when the error had been noted. The Investigating Officer responded that the Subject Member had not realised that the letter had been sent in error until the investigation into this complaint had started. She felt that it would have been some time around mid-November 2015. The Subject Member had then gone back through his e-mails and had subsequently determined that the letter of 10<sup>th</sup> July 2015 had been sent in error.

Despite the background in this matter Dr. Dennett said that he would have made the same complaint even if the writer had been a brand new Councillor who was unfamiliar to local government.

The first sentence of the 10<sup>th</sup> July 2015 letter referred to Councillor Lewis being 'on his best behaviour' as if this was something which should be commended rather than something which should be expected of a councillor.

### **Letter of 12<sup>th</sup> July 2015:**

This letter had been sent intentionally and had been picked up from Mortimer library by Councillor Dennett. The letter of 12<sup>th</sup> July 2016 did not have the same personal and emotional language as the letter from 10<sup>th</sup>. However, it did contain three specific threats. There was a threat to go to the auditor, the threat to 'proceed independently' and the threat to place statements on the Mortimer Village Partnership Facebook page.

There appeared to be no semblance of collective responsibility and no sense of working with other councillors to resolve issues. The Investigating Officer was of the opinion that Councillor Lewis thought that he was acting in the best interests of the Council. The problem was that the language used, together with his abrasive attitude (as others perceived it) did not provide other Councillors with that reassurance. The language was

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

threatening and the attitude was that allegations or statements had to be dealt with fully and promptly no matter how frequently or aggressively put forward.

### **Unsubstantiated claims of criminal behaviour:**

These claims had been dealt with within the Investigating Officer's report. In relation to the licensing query the Investigating Officer had found it difficult to pin down the exact event and year about which the allegation was being made and it was also beyond the remit of this investigation. Councillor Lewis also maintained that a Councillor had failed to declare a disclosable pecuniary interest at a Council meeting and the clerk had granted a dispensation which she had no right to do and had therefore aided and abetted the crime. However, the Investigating Officer stated that the Localism Act made it very clear that it was the personal responsibility of the Councillor to declare an interest. The clerk could advise but no culpability at all rested with the clerk.

The Investigating Officer concluded that robust political debate was permitted in the Standards regime. However, the issue here was the lack of awareness of the Subject Member's approach and how his behaviour impacted on other people. She hoped that this process would help him to understand the consequences of his actions in future.

Councillor Anthony Pick queried what MVP stood for. It was noted that this referred to the Mortimer Village Partnership.

Councillor Graham Bridgman asked the Investigating Officer that if the Subject Member had sent a further e-mail on 12<sup>th</sup> July 2015 saying 'please ignore the previous e-mail' would that have changed the view of the letter dated 10<sup>th</sup> July 2015. The Investigating Officer confirmed that that would have had an impact. The Subject Member had not realised that the letter of 10<sup>th</sup> July 2015 had been sent in error until she had interviewed him in November 2015. It was only when she had raised this during the investigation that the Subject Member had looked back through his e-mails and found that he had sent the letter in error. Councillor Bridgman noted that the Investigating Officer had stated in her report that the letter of 12<sup>th</sup> July 2015 had contained three threats and the fact that the auditors had signed off the 2014/15 accounts without qualification that they had no concerns about salary, pension or sick pay arrangements in place at that time. He queried whether an auditor would delve into salary, pension or sick pay arrangements in detail. The Investigating Officer responded that in her opinion auditors would go into the figures in detail. Councillor Quentin Webb confirmed that the Financial Officer would have been responsible for putting the accounts together at the time. Councillor Lee Dillon queried whether the Parish Council had an internal auditor. It was confirmed that the Parish Council did have an internal auditor who would have checked the figures provided by the external auditor.

Councillor Graham Bridgman noted that the Investigating Officer had not met the clerk and yet she stated in her report that the clerk was 'a very experienced clerk and, with a high turnover of chairmen in recent years, she did have to ensure the council continued to operate effectively with relatively little supervision'. The Legal Officer urged caution as the Committee was straying into the conduct of the clerk which was not the subject of this investigation. The Investigating Officer stated that as she had not interviewed the clerk she could not comment on her competence per se, however, she was clearly experienced and was not new to the role.

Councillor Rick Jones felt that it was how the Code of Conduct was interpreted and that the vigorous pursuit of the public interest could justify the style used. He queried how the Subject Member had crossed the line. The Investigating Officer confirmed that there was nothing wrong with the majority of the text where he challenged the process but it was the manner and approach which had meant that he had crossed the line. A continual threatening and aggressive attitude eventually wore people down. The definition in the

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

Code of Conduct of bullying and intimidating behaviour was set out in the report and in the Investigating Officer's view he crossed the line due to the tone and language used in the letters. Councillor Jones noted that the Code of Conduct carried some weight but he queried whether it was the intent of the sender or the way the receiver regarded the communication which tipped the balance. The Investigating Officer confirmed that it was generally the way the person who received it felt. If that person felt that they were being bullied then that would be the starting point. If someone was of an overly sensitive nature then some balancing might need to be taken into account. Councillor Jones could see from the background of the letters that the Subject Member might have felt frustrated if he was not able to obtain answers to the issues that he had raised. He therefore asked what options were available to councillors to get answers without behaving in an aggressive manner. The Investigating Officer stated that it had been accepted that some of the processes had been a concern and many of these would be picked up in a review of the Code of Conduct and internal processes. If a Councillor had issues which were not being picked up then he could always raise these at a meeting of the Parish Council through asking a question or requesting an item be included on the agenda.

Councillor Quentin Webb stated that he had looked at various definitions of bullying which could include terms such as 'brow beater' or 'bear down'. There were all sorts of different ways in which someone could be seen as bullying and that they could intimidate another person without speech. The Legal Officer referred to the definition of 'bullying and intimidating behaviour' which was set out in the Code of Conduct on page 37 of the agenda. Councillor Webb highlighted the fact that this definition did not make any reference to words/speech.

Councillor Anthony Pick referred to the letter of 12<sup>th</sup> July 2015 and in particular 2) Breach of Financial Regulations. If there had been a breach of the Financial Regulations then this was something that the auditor should have picked up. He hoped that Councillor Dennett would have responded to that but it was noted that no response from Councillor Dennett had been included in the pack. The Investigating Officer confirmed that she did not have a copy of a response from Councillor Dennett. These letters were indicative of a pattern of behaviour which started prior to the Subject Member being elected as a Councillor. He had written many letters as a member of the public and this was the way that he seemed to operate. However, in his role as a Parish Councillor he would have been entitled to receive answers to the questions that he had raised.

Councillor Chris Bridges felt that the issues in respect of the clerk should have been followed up as something did not seem right here. The Legal Officer explained that the remit of this complaint was not to investigate the clerk. Councillor Quentin Webb noted that there were some external influences but the Committee had to limit itself to the actual complaint itself. The Legal Officer noted that the Subject Member had made reference to previous documents in his letters of 10<sup>th</sup> and 12<sup>th</sup> July 2015 and therefore they could apply.

Councillor Lee Dillon noted that there was no mention in the Code of Conduct of collective responsibility as had been set out in the Investigating Officer's report. The Investigating Officer confirmed that she had been trying to elucidate what Dr. Dennett had been complaining about. He had stated that 'it was a matter of principle that Councillors should work together in a collegiate fashion rather than threaten each other.' Councillor Dillon also stated that one of the roles of a Councillor was to hold others to account for the better good of the community. In relation to the claims that the Subject Member had sent a 'persistent and relentless stream of communication' this was not substantiated as the pack contained only six letters which could not be considered a relentless stream over an eight month period. The Investigating Officer confirmed that there had been a long history of correspondence which was the reason why she had made reference to it. From Dr. Dennett's point of view this communication was certainly

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

not a one-off. The Legal Officer clarified that Members were not being asked to consider the Investigating Officer's report as it merely set out the context of the complaint and the subsequent investigation. The Committee would need to determine whether they felt that the Subject Member had acted in a bullying and intimidating manner towards a fellow councillor.

Councillor Lee Dillon asked for clarification around the process. If a Councillor felt that a criminal act had been committed or there was some issue with the Financial Regulations then should they be reporting that? The Investigating Officer responded that if a Councillor believed that there had been criminal behaviour then they would have a duty to go to the Police. If it concerned the Financial Regulations then it should be raised at a Council meeting and a meeting should subsequently be arranged with the auditor.

Dr. Michael Dennett referred to page 7 of the agenda where it stated that '.. but I believe that Councillor Lewis has been scrupulously honest and that he believes he has acted, and is acting, in the public interest and in the best interests of the council.' Was there any proof that Councillor Lewis' actions were in the best interests of the council? The Investigating Officer stated that it was her opinion that it was not in the best interests of the council but that Councillor Lewis believed that it was.

The Subject Member raised issues around West Berkshire Council's Constitution and whether the correct procedures had been followed in relation to the complaint. The Legal Officer confirmed that the Council had followed the correct procedure and in any event this was not the right forum to raise those issues in. If Councillor Lewis was not satisfied with the procedure that had been followed then he should pursue a challenge through the courts.

The Subject Member confirmed that he had struggled with the Investigating Officer's report as it was not an impartial document and he asked if there were any weaknesses in Councillor Dennett's case. The Investigating Officer responded that she had set out clearly in the report that Councillor Lewis had been honest and had acted in the public interest. This was not necessarily a weakness in the case but there was an element of balance contained in the report. She did believe that he had acted in the best interests of Stratfield Mortimer Parish Council.

The Subject Member referred to page 6 of the Investigating Officer's report where it stated that the Monitoring Officer had been asked to investigate various matters. The initial assessment of the complaint had taken place on 10<sup>th</sup> September 2015 and had been undertaken by David Holling and Lindsay Appleton. That initial assessment had referred to the Subject Member using threatening language and the Investigating Officer had extracted that as the Terms of Reference for her investigation.

The Subject Member referred to page 26 of the agenda which set out the written decision of the Advisory Panel. On that page it stated that 'This was a complex and longstanding issue and it would therefore be appropriate for an independent investigator to look at the facts in so far as they were relevant to this particular complaint.' The Investigator's report was riddled with opinion and he felt that she should not have come to a conclusion. The Legal Officer confirmed that the Monitoring Officer would have expected the Investigating Officer to come to a conclusion.

The Subject Member asked if there was any evidence that he had used threatening language. The Investigating Officer had come to the conclusion, in her opinion, that he had used bullying and threatening behaviour. The complaint related to two letters which could hardly be considered as a persistent and relentless stream. Councillor Quentin Webb confirmed that the Committee would only be considering the two letters in question when making a decision but that it was relevant to hear any background facts.

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

### **Councillor Julian Earl, Vice-Chairman of Stratfield Mortimer Parish Council presented his case as a witness:**

Councillor Earl confirmed that he had not been a party to raising the complaint but he would have preferred to have known that Councillor Dennett intended to submit the complaint before doing so. He had become a Councillor in 2010 and he confirmed that there was a significant history of correspondence from the Subject Member, both as a member of the public and latterly as a Parish Councillor. This had had a wearing and detrimental effect on the members of the Parish Council. In response to a query, the Legal Officer confirmed that this was relevant background as there would have been an impact on those who had received the correspondence. In making a decision the Committee would only be taking into consideration the letters of 10<sup>th</sup> and 12<sup>th</sup> July 2015. Councillor Quentin Webb clarified that the Committee accepted that letters had been received and sent over a considerable period of time.

Councillor Earl confirmed that Councillor Lewis had sent a number of letters in draft form in the past for comments. Councillor Earl had commented specifically on the letter of 10<sup>th</sup> July 2015 and advised Councillor Lewis that the two issues he was referring to needed to be separated and that he should tone down the nature of the letter in order to take out the emotion.

Councillor Graham Bridgman queried when Councillor Earl had been aware of the letter of 10<sup>th</sup> July 2015. Councillor Earl stated that it must have been either 9<sup>th</sup> or 10<sup>th</sup> July 2015 when he had received the draft letter and he had then called Councillor Lewis and commented verbally. He had not been copied in on the final letter sent to Councillor Dennett on 12<sup>th</sup> July 2015 and was therefore not aware that it had been sent. Councillor Earl stated that he regarded the tone of that letter to be threatening, humiliating and insulting. Councillor Earl gave evidence that he considered himself to have a 'thick skin' and stated that the contents of the letter would be like 'water off a duck's back' as far as he was concerned. Councillor Earl stated that he thought that the letter was, however, bullying in nature, but confirmed that he did not feel personally bullied by it. Councillor Earl stated that Councillor Lewis saw things in a different way than other people and had a direct approach. He confirmed that he had had some robust discussions over the years with Councillor Lewis as he also respected straight talking. Since this hearing date had been arranged he had received a large number of calls from Councillor Lewis and had also seen him outside of Council meetings. In the end he had decided to block Councillor Lewis' number from his phone. This was regretful but he felt that he was being hassled at the time.

Councillor Lee Dillon referred to the letter of 10<sup>th</sup> July 2015 which had been included in the agenda pack and he asked Councillor Earl if that was the one that he had commented on. Councillor Earl responded that as far as he could recall that was the one he had commented on.

Councillor Anthony Pick asked if Councillor Earl had received a copy of the letter sent on 12<sup>th</sup> July 2015. Councillor Earl confirmed that he had not received a copy at the time but that he had seen it since. Councillor Pick asked what his reaction had been to that letter and would he have given the same advice as for the letter of 10<sup>th</sup> July 2015. Councillor Earl stated that the letter of 12<sup>th</sup> July 2015 seemed to be fairly straight forward and factual.

Councillor Anthony Pick stated that as a member of Newbury Town Council if he wished to raise an issue he would submit a question which would be placed on the agenda. Did such a process exist at Stratfield Mortimer Parish Council. Councillor Earl confirmed that that was the custom and practice although he was not sure what was in the Standing Orders at that time. In relation to minor matters for future agenda items it would have been possible to write to the Chair to request an item to be raised. Councillor Pick

## **GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES**

queried when the next meeting had been after 12<sup>th</sup> July 2015. Councillor Earl confirmed that meetings were held monthly on the second Thursday of each month but that there had been no meeting in August.

Councillor Graham Bridgman noted that Councillor Earl had received the letter of 10<sup>th</sup> July 2015 in draft form and had commented verbally. He asked when Councillor Earl had been aware that the letters of 10<sup>th</sup> and 12<sup>th</sup> July 2015 had been sent to Councillor Dennett. Councillor Earl was not sure of the actual date but he had certainly been aware when the complaint had been submitted.

The Subject Member stated that he was sorry that Councillor Earl had felt it necessary to block his calls and he regarded that as more of a breach of the Code of Conduct than this complaint.

Councillor Earl stated that he regarded the tone of that letter to be threatening, humiliating and insulting. Councillor Earl gave evidence that he considered himself to have a 'thick skin' and stated that the contents of the letter would be like 'water off a ducks back' as far as he was concerned. Councillor Earl stated that he thought that the letter was however bullying in nature, but confirmed that he did not feel personally bullied by it.

**Councillor Tony Butcher, Chair of the Grievance Panel, presented his case as a witness:**

Councillor Butcher confirmed that the Investigating Officer had interviewed Councillor Julian Earl and it was he who had suggested that she should also interview Councillor Butcher. Councillor Butcher had been a Councillor since October 2014. He had not met Councillor Lewis until the Council meeting in June 2015. The clerk had been on sick leave since March 2015 and a grievance had been received in June 2015. He had become heavily involved in that grievance. The Parish Council had tried to recruit another clerk but had not been able to do so. Councillor Dennett had therefore tried to fill in as best he could but it was a busy Council.

The letter of 10<sup>th</sup> July 2015 from Councillor Lewis referred to the fact that he had returned as a councillor and that he was sure that Councillor Dennett would agree that he had been 'on his best behaviour'. This context was important as Councillor Lewis had sent a letter demanding immediate action to the Chair of the Parish Council who was trying his best to keep the Council running. In relation to the reference to collegiate behaviour this was how issues should be raised and considered as a group and not by one individual.

After 12<sup>th</sup> July 2015 the solicitors acting in connection with the grievance had made a formal request in relation to access to the correspondence from Councillor Lewis of 10<sup>th</sup> and 12<sup>th</sup> July. Councillor Butcher was not sure how they had become aware of that correspondence as he had not been aware of it himself. Councillor Butcher had asked the Chair who had then shown him the letters from 10<sup>th</sup> and 12<sup>th</sup> July 2015. Councillor Butcher confirmed that his immediate reaction had been that this would cost the Parish Council more money as they were of a bullying and intimidating nature. Councillor Chris Bridges asked for confirmation that Councillor Butcher had not been aware of the letters until he had been approached by the third party solicitors. Councillor Butcher confirmed that that was the case. Councillor Butcher confirmed that once Stratfield Mortimer Parish Council had received the grievance from the clerk it had been reviewed internally following which it had been decided that it would be necessary for them to take legal advice. A long discussion had taken place via e-mail/phone with their solicitors who had given formal advice that the Parish Council should reveal the correspondence although they were not sure of its relevance.

The Subject Member asked Councillor Butcher whether if he wrote to the auditor asking her to check that everything which had been paid to the clerk whilst she had been on sick

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

leave was in order would they be able to confirm that that was the case. Councillor Butcher responded that that would be a breach of the Legal Agreement and it would be improper to write to the auditor unless it had been raised by Council or a Committee. Following the Council meeting in September 2015 the minutes stated that payments and pension scheme issues were wholly in order.

**Dr. Michael Dennett, Chair of Stratfield Mortimer Parish Council, presented his case:**

Dr. Dennett confirmed that he had been elected as Chair of Stratfield Mortimer Parish Council in 2014 and had been re-elected in 2015. He noted that there had been a lot of comments around the audit process and that from March 2015 to the end of November 2015 he had also acted as Clerk and Financial Officer during which time he had been involved in the completion of the accounts.

Councillor Quentin Webb asked if he felt that the letters from Councillor Lewis had been sent to the Chair personally. Councillor Dennett confirmed that he had taken them personally as they had been addressed to the Chair.

Councillor Dennett stated that there was an issue around confidentiality in that it involved information in relation to employees which included salary etc. Advice had been received that this information was confidential and therefore it was difficult to be able to answer the questions raised by the Subject Member in his role as a member of the public. In the letters from Mr. Lewis in March 2015 he made comments about the clerk's terms of engagement, hours worked etc. These issues had been discussed at the Council meeting in Part II and therefore Councillor Dennett was not able to address Mr. Lewis' queries under the Freedom of Information Act.

Councillor Dennett confirmed that he had received an e-mail on the morning of Sunday 12<sup>th</sup> July 2015 with the letter dated 10<sup>th</sup> July 2015 attached. It was not a pleasant letter and had a dictatorial tone about what the Parish Council should do. Councillor Dennett had, as Chair, been trying to get the Parish Council to work as a team and this was a threat to the procedures of the Council.

In relation to the second letter of 12<sup>th</sup> July 2015 it was noted that Councillor Lewis was not a member of the Grievance Committee and therefore his comments on the situation were unsolicited. The Parish Council as a whole was the employer of the clerk and to have one councillor putting forward points was unnecessary and inappropriate. Councillor Lewis had obtained a copy of the clerk's contract of employment when he had not been a member of the Parish Council. Councillor Dennett stated that he had been upset about insinuations of possible criminal activity and he had found the letters to be quite intimidating. He had been forced to submit a complaint as the comments made had put the Council at risk and it was not the way for a Councillor to behave. It was out of character for Councillor Dennett to make a complaint but he felt that he had no option as the Council was being manipulated.

Councillor Dennett confirmed that he did not feel that Councillor Lewis had acted in the best interests of Stratfield Mortimer Parish Council. Councillor Dennett stated that he considered the letters to be a threat to him and he felt that Councillor Lewis was trying to get him to take action which he felt was inappropriate. Councillor Dennett explained to the Committee that many of the issues raised by Councillor Lewis in the letters dated the 10<sup>th</sup> and 12<sup>th</sup> July 2015 had been the subject of a report to Council in June 2015.

*(The meeting was adjourned for lunch from 1.00pm to 1.30pm. Councillor Rick Jones left the meeting at 1.00pm and did not return for any further discussion or the vote on this issue).*

Councillor Anthony Pick asked what the normal practice would be if a Councillor was concerned about an issue. Councillor Dennett confirmed that he could raise it with the



## **GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES**

Chair or the clerk informally or he could have asked for an item to be put on the Council or Finance and General Purposes Committee.

Councillor Lee Dillon asked if it was correct that the internal/external auditors' report had been accepted by the full Council meeting on 25<sup>th</sup> June 2015 without any concerns being raised. Councillor Dennett confirmed that that was the case. Councillor Dillon noted that Councillor Dennett had said that he felt that Councillor Lewis had not been acting in the best interests of the Parish Council and he therefore asked what he felt that Councillor Lewis' intentions were. Councillor Dennett was not sure but he admitted that Councillor Lewis was frustrated about not getting the information he wanted. Councillor Dillon asked if Councillor Dennett had responded to Councillor Lewis' letters. Councillor Dennett confirmed that he had responded on 11<sup>th</sup> August 2015 but only in a general nature.

Councillor James Cole noted that Councillor Dennett had received two letters and he asked whether Councillor Dennett had considered discussing them with the Vice Chair and Subject Member rather than submitting a complaint. Councillor Dennett confirmed that he had thought about it but the letters had been addressed to him as Chair and therefore he felt that it was up to him to deal with them. He had decided to act independently and submit a complaint. Councillor Chris Bridges recognised that taking on the role of Chair and clerk would have been a very difficult period and he noted that in previous letters to Councillor Dennett, Councillor Lewis had addressed him as 'Councillor Dennett' whereas in relation to the letters in question, 10<sup>th</sup> and 12<sup>th</sup> July 2015, these had been addressed as 'Dear Mike'. He therefore queried whether Councillor Lewis expected Councillor Dennett to come back on a personal note. Councillor Dennett replied that he had not paid much attention to that. However, he was regarded as the Chair but in meetings first names were often used.

Councillor Graham Bridgman noted that Councillor Dennett had stated that he found the letters of 10<sup>th</sup> and 12<sup>th</sup> July 2015 intimidating. He asked if Councillor Dennett was aware that he had received two different letters. Councillor Dennett confirmed that he had received an e-mail on Sunday 12<sup>th</sup> July 2015 with a letter attached. Councillor Bridgman stated that the wording of the e-mail suggested that he would get a letter via e-mail plus a hard copy and he therefore asked in hindsight if Councillor Dennett agreed that one could be the draft and the other letter the one that was actually meant to be sent. Councillor Dennett agreed that that was possible.

Councillor Anthony Pick stated that there would have been an induction process for new Councillors and he therefore asked if Councillor Dennett would have expected Councillor Lewis to have known how to process issues. Councillor Dennett admitted that the induction process had not been as thorough as usual due to the absence of the clerk. He had met with each new Councillor to sign the various forms and had produced a pack. He had planned to have a training session with the new Councillors but that had not taken place. However, the basic documentation was included in the pack and Councillor Lewis had been a Councillor before so should have been more au fait with the processes than the other new Councillors.

### **Councillor Chris Lewis, the Subject Member, presented his case:**

Councillor Lewis stated that he had drafted the letter of 10<sup>th</sup> July 2015 on the 8<sup>th</sup> July and had sent it to Councillor Julian Earl for comment. He confirmed that he had attached the wrong letter to the e-mail by accident – the only letter intended for Councillor Dennett was the one dated 12<sup>th</sup> July 2015. The letter of 12<sup>th</sup> July 2015 was in four parts. In relation to the Final Salary Pension Scheme – the clerk had definitely been on a different scheme in 2006. Councillor Lewis realised he had gone over the line on the employment matter and had since had a confidential discussion on this issue. He still had concerns but not the same as at 12<sup>th</sup> July 2015. Breach of Financial Regulations – there was no record of any schedule of payments made to the clerk. These should be listed out and

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

the sensitive ones redacted if necessary. The Freedom of Information Act should not apply to Councillor Lewis as 'an employer' of the clerk and therefore this was still a live issue. Councillor Lewis felt that he would have been entitled to raise this issue with the auditors. Possible criminal acts by the clerk – Councillor Lewis confirmed that he had been prepared to let matters drop if satisfied with the overall settlement and he felt that this should have been taken as a helpful remark rather than a threat. In relation to the costs of clerking this had gone up considerably and was, in his opinion, something that needed to be looked in to.

Councillor Lewis stated that the letter of 10<sup>th</sup> July 2015 had been written quickly and in error. Consequently he now wrote 'draft' on letters rather than the date until he was ready to send them.

Councillor Lewis had difficulty with the Investigating Officer's report as he felt that she should not have given an opinion. The two letters in question could hardly be regarded as a persistent and relentless stream of communication. The report talked of bullying and intimidation both of which were not acceptable. In terms of the licensing issue the Investigating Officer had said that it was difficult to pin down the date. However, his paragraph 40 clearly included the date of 5<sup>th</sup> July 2014 (Mortimer Fun Day) and therefore there was evidence. Councillor Bridgman noted that regardless of whether there was a valid licence for the Mortimer Fun Day, Councillor Lewis' concern had not been about whether there was a licence or not but about the investigation of that. In relation to the dispensation, Councillor Lewis had been advised that the Localism Act 2011 included a provision which gave authority to delegate to the clerk and therefore he had withdrawn this allegation. The Parish Council still did not have an up to date Code of Conduct.

Councillor Lewis again raised issues in relation to the process which had been followed. The Legal Officer was satisfied that the procedures in Parts 7 and 13 of the Council's Constitution had been followed and evidenced in the bundle. The decision notice would set out the reasons given by the Committee for their decision and if Councillor Lewis was not satisfied with the outcome he could then take it up in the High Court.

Councillor Lewis felt that Members of the Committee needed to look at what 'threatening' meant and he felt that there had not been a total breakdown of relationships.

Councillor Anthony Pick referred to page 17, paragraph 61 – he felt that the tone and approach used in that paragraph seemed to be aggressive. Councillor Lewis confirmed that that had been after the complaint had been submitted and therefore was not aggressive in the circumstances. Councillor Pick asked if in hindsight Councillor Lewis felt that he should have followed alternative routes. Councillor Lewis confirmed that he had raised his concerns verbally with the Chair and he still had doubts about the payments to the clerk. Councillor Pick stated that the auditors had agreed the accounts and he asked if Councillor Lewis was aware of that. Councillor Lewis confirmed that he was aware of that but that there was a possibility that they had got them wrong. Councillor Pick referred to the text in the letter of 12<sup>th</sup> July 2015 in relation to the cost of clerking and he asked Councillor Lewis if he accepted that if he had pursued this with the Parish Council or via Facebook then this would have been a breach of confidentiality. Councillor Lewis responded that figures should be provided to the nearest £5k for public records. If he had posted anything on Facebook then he would have taken cognisance of what the Information Commissioner stated could be released.

Councillor Lee Dillon noted that it was June 2015 when the audit report had been presented to the Parish Council for ratification. He asked if Councillor Lewis had voted on the accounts as this would have applied to a period prior to him becoming a Councillor. Councillor Lewis could not recall whether he had voted or abstained. He stated that as a new Councillor he had decided not to be too contentious in the first few months.

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

With regard to the language in his letters it was noted that Councillor Lewis had sent the letter of 10<sup>th</sup> July 2015 to the Vice Chair for comments and that he had been asked to tone down his letters in the past – it was hoped that he would learn from that. Councillor Lewis said that he did not usually draft a letter and send it on the same day as he liked to allow a period of time for reflection. He would normally send around 10% of his draft letters to a third party for their comments. The letter of 12<sup>th</sup> July 2015 was the one that he had intended to send and in respect of the comment about posting on Facebook Councillor Lewis confirmed that he had been frustrated as he had asked for the figures on previous occasions.

Councillor James Cole asked if Councillor Lewis could have dealt with these issues by meeting with the Chair. Councillor Lewis confirmed that he had requested a meeting with the Chair but that request was declined. He had had an informal meeting with the Chair on 19<sup>th</sup> May 2015 as set out in paragraph 11 of page 50 of the agenda.

Councillor Graham Bridgman stated that Councillor Lewis had sent out a draft of a letter that libelled someone but that he had not realised that error for a number of months. He asked if Councillor Lewis accepted that as it was his mistake then he would be guilty of libel.

The Legal Officer in summarising stated that no new issues had been raised which would prevent this complaint being determined and she advised that the Committee would now retire to consider the matter. A Decision Notice would be drafted which would set out the findings and the reasons for that decision within five working days. In relation to sanctions the Subject Member had the opportunity to make a submission if he wished to do so without prejudice.

Councillor Lewis stated that he had lived in Mortimer for a number of years and if he was found guilty then he would be massively embarrassed as he was very active in village life. The sanction that would be most harmful would be the publication of a public notice in the newspaper. He confirmed that he had looked into the 'enhancement of interpersonal communications' course.

*(The meeting was adjourned at 2.45pm in order for the Committee to deliberate and make their decision. The Subject Member, the Complainant and the two Witnesses left the room).*

### **RESOLVED that:**

The Committee determined that in response to the specific questions asked by West Berkshire Council:

- (1) **Did Councillor Lewis use threatening language towards the Chairman (Councillor Dennett) and the Vice-Chairman (Councillor Julian Earl) in his letter of 10<sup>th</sup> July 2015?** Yes, although it was noted that in evidence Councillor Earl had stated that it was 'like water off a duck's back' and that he had not felt bullied. It was accepted that the letter of 10<sup>th</sup> July 2015 had been sent in error but that language used in one part of this letter could be considered as bullying behaviour.
- (2) **Did the reference in the letter of 10<sup>th</sup> July 2015 to stating points publicly on Facebook in relation to the cost of clerking amount to harassment of the Council and the Clerk?** No.
- (3) **Did the letter of 12<sup>th</sup> July 2015 compound the issue by repeating the same points but, in addition, also make reference to unsubstantiated claims that the Parish Clerk had acted in a criminal manner?** Yes. The Committee agreed that one part of the letter of 12<sup>th</sup> July 2015 constituted a threat. However, this letter was not intended to be a second letter and therefore would not have repeated the points

## GOVERNANCE AND ETHICS COMMITTEE - 14 MARCH 2016 - MINUTES

although it was accepted that Dr. Dennett would have seen them as separate letters. Advice had also been sought to tone down the draft letter of 10<sup>th</sup> July 2015.

- (4) **Was there any evidence to justify the allegations of criminal behaviour?** The Committee felt that they could not answer this question as no evidence had been presented.

The Committee agreed that there had been a breach of paragraph 3.1 of Stratfield Mortimer's Code of Conduct – 'treating a member in a way which might be regarded as bullying'.

### **Sanctions:**

The Committee accepted the findings of the investigator that Councillor Lewis was not motivated by bad faith, and that he believed he was acting in the public interest. The Committee also had regard to the representations that had been made by the Subject Member as to sanctions.

The Committee decided that the following sanction should be applied:

- A letter would be sent to the Subject Member, Councillor Christopher Lewis by the Chairman of the Governance & Ethics Committee of West Berkshire Council. The letter would also advise the Subject Member that he needed to reflect on the tone of his letters and the way that he presented his arguments could be perceived by others.

The Committee noted the recommendations of the Advisory Panel as to sanctions, but felt that the above sanction was both appropriate and proportionate in the circumstances of this case.

*(The meeting commenced at 10.30 am and closed at 4.20 pm)*

**CHAIRMAN** .....

**Date of Signature** .....