

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE  
HELD AT FOLLATON HOUSE, TOTNES ON WEDNESDAY 4 MAY 2005**

**MEMBERS**

\* Mr I Stolliday - Chairman

\* Cllr G Date  
\* Cllr P J Prudden

\* Dr L Durman  
\* Mr M Winterton

\* Denotes attendance

Also in attendance at the invitation of the Chairman:

Cllr M Chew (Parish of Dean Prior)  
Mr Hayman (Bynes Solicitors, Torquay)

S.13/04 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting but none was declared.

S.14/04 **RECONVENED HEARING OF COMPLAINT SBE 3577.03**

The Chairman welcomed Cllr Chew and his legal representative, Mr Hayman, to the reconvened meeting of the Standards Committee. He reminded all present that the purpose of the meeting was to determine whether conduct of Cllr Chew, which was the subject of a complaint to the Standards Board for England, constituted a breach of the Code of Conduct pertaining to the Parish of Dean Prior.

The complaint involved an allegation against Cllr Chew that in March 2003 he had accosted and verbally assaulted a neighbour, Mr Snowdon, as a result of Mr Snowdon's active opposition to a planning application submitted by Cllr Chew. The complaint had been referred to the Committee for local determination following a report of an Ethical Standards Officer (ESO) of the Standards Board for England, in which it was found that Cllr Chew had breached the Code of Conduct.

The breach was identified in relation to paragraph 4 of the Code, which states:

*"A Member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute."*

With the agreement of all the parties present, it was decided to proceed with the hearing by considering the following points in order:

- Procedural Issues
- Matters of fact
- Whether there was a breach of the Code.

#### **A. Procedural Issues**

The Chairman commented on the two years it had taken for the matter to be referred for local determination by the Standards Board. He added that the Committee also acknowledged its failure to satisfy the three-month deadline within which, once referred, the case should have been heard, albeit by only 72 hours.

In response, Mr Hayman said that the Committee failure to meet the three-month time scale was not considered to be an issue. The delay, however, on the part of the Standards Board had proved a source of distress for Cllr Chew.

#### **B. Matters of Fact**

Mr Hayman advised the Committee that Cllr Chew intended to challenge some aspects of the ESO's report, in terms both of the facts as presented and the conclusions drawn.

In light of the Committee's understanding that the facts of the case were not disputed, Cllr Chew was asked to explain why he had not taken the previous opportunities available to him to mention that he did not accept the account of the incident detailed in the report. It was noted that Cllr Chew had not completed and returned forms for this purpose, which were sent out to him on 18 February 2005.

In response, Cllr Chew agreed that, whilst he had not returned the forms as requested, he had met with the Council's Monitoring Officer on 3 March 2005. Due to insufficient time to digest the report, Cllr Chew said that it was only on further reflection that he identified inaccuracies in the facts as presented.

In support of Cllr Chew's challenge of the report, the following points were made:-

- (a) that the ESO relied on hearsay from which he inappropriately drew conclusions rather than presenting contradictory statements for the Committee to come to a view;
- (b) that the ESO imposed his own interpretation of the Code of Conduct;
- (c) that, although the fact of an altercation having occurred was not in question, the account of the event was. Mr Hayman cited the following as points at issue:-

- the use of expletives
  - the use of threatening behaviour;
- (d) that the report did not provide a balanced account of the incident because it failed to mention:-
- the fact that Mr Snowdon had trespassed on Cllr Chew's land
  - Mr Snowdon's provocative behaviour in placing notices of objection to Cllr Chew's planning application on Cllr Chew's land;
- (e) that investigations had continued after the draft report had been produced and copied to Cllr Chew;
- (f) that the dispute was a private matter with no bearing on Cllr Chew's public role as a Parish Councillor.

(At 2.25 pm until 2.45 pm the Committee adjourned to deliberate on the issues raised.)

On reconvening, the Chairman advised Cllr Chew that the Committee had no intention of re-opening the whole matter; that the Committee shared Cllr Chew's concerns about the complaint procedure, however, that it wished to reach a resolution at the meeting.

The Chairman then invited Cllr Chew to give his account of the incident, during which he made particular reference to:-

- Mr Snowdon's trespass onto his land to place posters opposing a planning application;
- His challenge to Mr Snowdon involving a heated exchange;
- His departure but immediate return because Mr Snowdon had re-commenced the siting of notices on his land;
- Further heated debate which might have involved some expletives.

Cllr Chew concluded his account by stating that at no point during the dispute did he make any threats against Mr Snowdon's person. The argument was, in his view, a purely private affair.

(At 3.00 pm until 3.25 pm the Committee adjourned to determine the findings of fact.)

With the Committee back in full session, the Chairman advised Cllr Chew of its findings regarding the facts of the case:-

- that an altercation occurred between Cllr Chew and Mr Snowdon on 28 March 2003.

- that the altercation was precipitated by Mr Snowdon's provocative behaviour in siting notices of objection to a planning application of Cllr Chew's on his land.
- that a heated argument ensued during which expletives were used.
- that the original altercation was followed almost immediately by a further heated exchange as, having left the scene, Cllr Chew returned because he became aware that Mr Snowdon had recommenced the siting of notices on his land.
- that the conduct of Cllr Chew had caused Mr Snowdon some element of distress.

Cllr Chew accepted the Committee's findings in all respects other than the reference to the distress experienced by Mr Snowdon as a result of the altercation.

### **C. The Code of Conduct**

With the key facts of the incident agreed by the parties present, the Chairman drew the attention of the meeting to the next point at issue: whether the incident based on the facts as determined, amounted to a breach of the Code of Conduct on the part of Cllr Chew.

In his submission, Mr Hayman made mention of the following points:-

- that paragraph 4 of the Code, which had been cited by the ESO in terms of Cllr Chew's conduct constituting a breach, did not satisfy the requirements of plain English and created a nonsensical determinacy between an office holder's public and private life;
- that it was against natural justice to maintain that an office holder, whilst acting in a private capacity, could not lose their temper;
- that Cllr Chew had been acting in a private capacity following significant provocation. The Code did not use the words 'at all times' but rather 'must not in his official capacity';
- that guidance published by the Standards Board for England under the title of 'A Guide for Practice' illustrated that the Code of Conduct was limited in its application to office holders' private lives;
- that for a breach to have occurred it was necessary to establish a connection between Cllr Chew's conduct on this occasion and his role as a councillor;

In response to the suggestion that the fact that the parish was a small, close-knit community, Cllr Chew would commonly be identified with his office, Mr Hayman replied that such a view involved drawing an inference.

In conclusion, Mr Hayman conceded that the incident constituted a circumstance that could be considered under the Code but that the main test for a breach must be the relatedness of the conduct to council business. In his view, no such connection was evident.

(Adjourned at 3.40 pm until 4.10 pm for the Committee to determine whether a breach of the Code of Conduct had occurred.)

#### **D Committee's Findings**

The Chairman announced that, whilst the Committee believed Cllr Chew's conduct to have been unfortunate, it was not considered sufficient to constitute a breach of the Code of Conduct.

The Chairman added that a letter from the Committee was to be sent to the Standards Board for England expressing its deep concerns over the lack of clarity regarding the private life of office holders and the extent of the Code.

Cllr Chew was advised that he would receive a formal written decision shortly and he was invited to consider whether he wished the decision to be published.

(Meeting commenced at 2.00 pm and concluded at 4.20 pm).

---

Chairman