

STANDARDS COMMITTEE

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held in Committee Room No. 2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford on the **12TH APRIL 2006**

PRESENT: Mrs C A Vant (Chairman);
Cllr. Davidson (Vice-Chairman);
Cllrs. Mrs Larkin, Yeo

Mr D Lyward – Parish Council Representative

APOLOGIES: Cllrs. Cooling, Wickham, Dr T Johnson

ALSO PRESENT: Ms O Onwere – Legal Adviser to the Standards Board for England,
Monitoring Officer, Deputy Monitoring Officer, Committee Support Officer

602 **MATTER REFERRED FOR LOCAL INVESTIGATION (CASE SBE 10926.05)- COUNCILLOR R BROWN, BIDDENDEN PARISH COUNCIL**

The Chairman introduced the persons present, to whom, Councillor Brown raised no objections. The Monitoring Officer confirmed the meeting was quorate after which the Chairman invited the parties to say if they wished the press and public to be excluded from the hearing. Councillor Brown said that he believed there had been misconduct as all the papers had been marked 'confidential' but had then been sent out publicly. The Monitoring Officer explained this was due to a Standards Board for England (SBE) mistake for which the Legal Adviser present apologised. The Chairman, following advice, pronounced that the hearing would be held in public and described the process for the hearing.

The Monitoring Officer introduced his report (Bundle A pages 1 and 2) and referred to paragraph 4, the pre-hearing process, after which he summarised the allegations relating to Councillor Brown's alleged involvement in Parish Council Meetings between January 2004 and October 2005 when the retention of the village Post Office had been under discussion. The questions which arose in relation to the allegations were whether or not Councillor Brown had breached paragraphs 8, 10(a), and 10(b) of the Biddenden Parish Council Code of Conduct i.e.

Paragraph 8

"A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent."

Paragraph 10

"A member with a prejudicial interest in any matter must-

- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the standards committee of the responsible authority; and*
- (b) not seek improperly to influence a decision about that matter."*

A summary of the Ethical Standards Officer's findings were on page 20 of the Bundle, paragraphs 5.29 to 5.31. The findings of the Ethical Standards Officer were that breaches had taken place.

The pre-hearing process was set out on pages 24-29 of the Bundle and comprised a letter dated the 14th March 2006 from Councillor Brown and attached Forms A-E that in the Monitoring Officer's opinion did not seek to challenge the findings of fact or the conclusions of the Ethical Standards Officer's report.

Councillor Brown requested that two handwritten exhibits (describing the background to the complaints from his point of view) be circulated and read to the hearing by the Monitoring Officer. Councillor Brown agreed that although marked "in confidence", Exhibit 2 could be circulated to the press and read out to the hearing.

The Monitoring Officer explained that the next step would be for the position to be clarified by Councillor Brown as to whether or not:-

- He maintained the position of not disputing the facts
- He maintained the position of not disputing the findings on page 20 of Bundle A.

Councillor Brown did not dispute either of these findings. Councillor Brown said whilst he accepted he had "Done wrong" he still maintained he was acting on behalf of the village. The Chairman asked if Councillor Brown had a Code of Conduct, to which he responded "Somewhere". The Chairman asked if Councillor Brown had read paragraphs 8 and 10 of the Biddenden Code of Conduct in the bundle and if he had failed to comply with these. Councillor Brown said "Yes" (he had failed to comply with the Code of Conduct). The Legal Adviser (SBE) asked if Councillor Brown had received training on the Code of Conduct, to which he responded "No". The Chairman then put to the Committee and it was agreed that Councillor Brown had breached the Biddenden Code of Conduct in the respects set out in the report of the Ethical Standards Officer.

The Chairman then invited Councillor Brown to comment on any sanctions that the Committee might place on him. The Monitoring Officer read out the eleven different sanctions set out in Bundle C, page 7. Councillor Brown gave his views on the whole process and said that as it looked as if the Post Office (building) was going ahead, he had no further interest in the Parish Council. The Legal Adviser (SBE) said it was very clear that Councillor Brown did not fully understand his obligations under the Biddenden Code of Conduct and would recommend that Councillor Brown received training as he may breach the Code in future regarding personal and prejudicial issues. Councillor Brown responded that he would only attend the minimum number of Biddenden Parish Council meetings (if he was not suspended) until next April when he would not seek re-election. He had been elected on to the Parish Council to obtain support for the Post Office and he expressed the view that little point would be served in his undertaking training.

The Committee retired to consider sanctions after which the Chairman read to the meeting the Standards Committee's Summary of Decision and Rights of Appeal for Councillor Brown as set out below:-

Resolved:-

That:

- (i) **the Ashford Borough Council Standards Committee having considered the Investigator's report and the representations of Councillor Robert Brown and Ms Oluchi Onwere on behalf of the Standards Board for England have concluded that there had been failures to comply with the relevant Code of Conduct in the following respects and for the reasons given in the Investigator's report dated the 20th January 2006:-**

Paragraph 8 of the Code of Conduct at meetings of the Parish Council on 8/6/04, 12/10/04, 11/1/05 and 8/2/05.

Paragraph 10(a) of the Code of Conduct at meetings of the Parish Council on 12/10/04, 11/1/05, 8/2/05, 21/3/05, 10/5/05 and 14/6/05.

Paragraph 10(b) of the Code of Conduct at a Parish Council Meeting on 21/3/05.

- (ii) **the Standards Committee determined that the following sanctions should apply with effect from the 12th April 2006:-**

Suspension for 2 months or until Councillor Brown undertakes Code of Conduct training to the reasonable satisfaction of the Council's Monitoring Officer who would discuss with the Biddenden Parish Clerk options for arranging such training as soon as practicable.

- (iii) **rights of appeal were to the Adjudication Panel for England within 21 days of formal written notification of the decision.**

603 MATTER REFERRED FOR LOCAL INVESTIGATION CASE (SBE 10925.05) - COUNCILLOR R ASHTON, BIDDENDEN PARISH COUNCIL

The Chairman introduced the persons present, to whom, Councillor Ashton raised no objections. The Monitoring Officer confirmed the meeting was quorate and Councillor Ashton had no objections to the press and public remaining at the hearing, after which the Chairman outlined the process for the hearing.

The Monitoring Officer introduced his report Bundle B pages 1 and 2 and said the allegation involved meetings of the Biddenden Parish Council between January 2004 and October 2005 where matters relating to the possible retention of the village Post Office had been discussed, and whether or not paragraph 8 of the Biddenden Parish Council Code of Conduct regarding Declarations of Personal Interests, and paragraph 10(a) relating to the need to withdraw from meetings when a prejudicial interest arose had been breached by Councillor Ashton i.e.

Paragraph 8

"A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent."

Paragraph 10

"A member with a prejudicial interest in any matter must-

- (a) *withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the standards committee of the responsible authority."*

Page 21 of Bundle B gave a summary of the Ethical Standards Officer's findings with paragraph 5.40 and 5.41 summarising those findings. There had been a Pre-hearing Enquiry as set out in Bundle (B), pages 25-30 and Councillor Ashton's responses were included with her letter of the 14th March 2006. The Monitoring Officer would later refer to one point in this response. It was his interpretation, however, that otherwise there was no dispute or disagreement about the facts of the case or findings about Councillor Ashton.

The one matter that appeared to be in dispute was in relation to paragraph 5.36 of the Standards Board for England (SBE) findings on page 20 of the Bundle that related to discussions, at a meeting of the Biddenden Parish Council on the 10th May 2005, about the possible purchase by the Parish Council of paving to go outside of the proposed (new) Post Office. It seemed to the Monitoring Officer from the letter of the 14th March 2006 that Councillor Ashton did not accept the findings that she had breached the Biddenden Code of Conduct by failing to Declare an Interest and withdraw from the meeting. In Councillor Ashton's letter she had stated she had no prejudicial or other interest for herself or the Post Office (in the possible purchase of the paving). The Monitoring Officer suggested that the Chairman might wish to obtain clarification from Councillor Ashton and proceed to deal with the one area of dispute in paragraph 5.36 if relevant. Councillor Ashton, in response to the Chairman's question confirmed she still disputed paragraph 5.36 and accepted the other SBE findings.

The Legal Adviser (SBE) said that paragraph 5.36 related to discussions by the Parish Council about paving outside of the Post Office, thereby providing suitable access to the Post Office. She referred the Committee to Bundle C, page 170, last paragraph and read out:-

“Councillor Mrs Scott said she had received an offer of some Bethersden Marble that may be useful for paving outside the proposed Post Office. It was agreed that she and Councillor Brown would inspect the stone and the Council agreed they could spend up to £200 on purchase”.

The SBE's view was that the marble related to the Post Office and suitable access thereto so signified a Prejudicial Interest and Councillor Ashton had failed to comply with paragraph 10(a) of the Biddenden Code of Conduct.

Councillor Ashton said that the Bethersden Marble had been discussed because the Bethersden Marble pavement was listed and enough Marble had become available that could be used in front of the new car park and converted building, if and when, there was a new building. There could be access to that or the public conveniences or Post Office and Councillor Ashton still said she had no interest in that “bit of Marble”, that could also be used to replace the pavement. It was just a decision that some (Marble) had become available to the Parish Council. Councillor Ashton said she did not have any interest in this.

Councillor Ashton then called her witness, Mr G Smith, Parish Clerk to Biddenden Parish Council. Mr Smith said that the buildings on the south side of Biddenden High Street were all Grade I Listed Buildings and the adjoining pavement was Grade II Listed Building. The proposal to convert the toilets to a Post Office was (located) just beyond the Bethersden Marble pavement and the view of the Parish Council was that if the project were to go ahead it would be desirable to extend the pavement some 10 yards or so to join the Listed pavement. The Marble was on offer from a local person who had some to spare and the view of the Parish Council was that it would be quite useful to purchase so that ultimately the whole pavement would match. Mr Smith said this was of no interest to the Post Mistress or Councillor Brown. It was in the interests of the village to keep the pavement looking like and matching the Listed pavement. As far as the Post Mistress (Councillor Ashton) was concerned she did not care if the pavement were tarmac, concrete or whatever. It would be purely to the benefit of the village if the pavement were in matching format.

The Chairman asked if the pavement just led to the proposed new Post Office. Mr Smith said it did not. It led the whole way along the High Street, probably some 100 yards long. The new piece would access the existing toilets, if converted to a Post Office, and probably be enough to access the new toilets. A Member of the Standards Committee asked if it would be useful to keep some spare Bethersden Marble. Mr Smith said the pavement was subject to regular damage from heavy lorries striking the side of the Listed pavement and dislodging stones and any stones that could have been purchased would have been useful, not only for the extension, but also repairs. In response to a further question about the project going ahead, Mr Smith said that if the project had gone ahead the Parish Council had decided it would probably buy the Bethersden Marble up to a

sum of £200, which was a modest price, but in actual fact this had never happened. The Chairman asked why the Biddenden Parish Council Minutes (of that meeting) only referred to the building proposals and did not appear to refer to repairs (of the existing Listed pavement). Mr Smith said that was "fair enough" as a criticism of the Minutes. It was not in the Minutes but had actually been discussed at the time. The original proposal was that the Biddenden Parish Council agreed to spend up to £200 and an offer had been made of £50, but in practice the person selling the marble could never be contacted so the money had never been spent. There were no marble stones and if the project went ahead ultimately, something else would need to be found to match (the Bethersden Marble).

The Committee retired to consider and make a finding on the disputed paragraph 5.36. The Chairman pronounced to the meeting that, "The Committee did not think that there had been a breach of the Code in relation to the meeting of the 10th May 2005 as the marble paving was to have been of benefit to the village as a whole".

The Chairman then asked Councillor Ashton if she accepted the other breaches. Councillor Ashton admitted the other breaches.

The Chairman then sought views on possible sanctions. The Legal Adviser (SBE) asked Councillor Ashton if she had received training on the Code of Conduct. Councillor Ashton said she had never received any training, after which she described her personal circumstances and the limited time that she might have to attend training courses, although she would be pleased to read and study a book (correspondence) type training. Councillor Ashton explained her personal circumstances and when first elected to become a Parish Councillor had read the book on the Code of Conduct and if she had thought there was a financial interest at a meeting she would declare and leave. Councillor Ashton had never taken part or voted if there were Post Office matters. The Legal Adviser (SBE) said she believed Councillor Ashton did not fully understand Personal and Prejudicial Interests and recommended that training be given. The Monitoring Officer outlined the training opportunities provided by the Borough Council since the elections in 2003, including talks to Parish Council representatives at the Ashford Area Committee of the Kent Association of Parish Councils, including the Code of Conduct, when representatives of the Biddenden Parish Council had been present. Mr Smith said he was unaware of any Code of Conduct training. Councillor Ashton indicated she would be happy to receive training materials that she could complete in her own time.

The Committee retired to consider sanctions and the Chairman read out the Committee's decision to the meeting as follows:-

Resolved:-

That:

- (i) the Ashford Borough Council's Standards Committee having considered the Investigator's report and the representations of Councillor Rona Ashton and Ms Oluchi Onwere on behalf of the Standards Board for England have concluded that there had been failures to comply with the relevant Code of Conduct in the following respects and for the reasons set out in the Investigator's Report dated the 20th January 2006**

Paragraph 8 of the Code of Conduct at meetings of the Parish Council on 9/3/04, 10/8/04, 12/10/04, 11/1/05 and 8/2/05.

Paragraph 10(a) of the Code of Conduct at meetings of the Parish Council on 8/6/04, 12/10/04, 9/11/04, 11/1/05, 8/2/05 and 13/9/05. In relation to the alleged breach of paragraph 10(a) of the Code of Conduct at the meeting on the 10th May 2005 having heard the evidence of Mr Smith the Parish Clerk to Biddenden Parish Council the Standards Committee did not find that there had been any

such breach of the Code of Conduct because the marble paving was of benefit to the village as a whole and not the Post Office itself.

- (ii) the Standards Committee determined that the following sanctions should apply with effect from the 12th April 2006:-

Suspension from membership of the Parish Council for two months or until Councillor Ashton undertakes Code of Conduct training to the reasonable satisfaction of the Council's Monitoring Officer who would discuss with the Biddenden Parish Clerk options for arranging such training as soon as practicable.

- (iii) rights of appeal were to the Adjudication Panel for England within 21 days of formal written notification of the decision.
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