



Reference Number: INV2/LG5/13 Decision 2

Date of Report: 23 April 2009

**Hearing in relation to a possible failure to follow the Code of Conduct –
INV2/LG5/13 Decision 2**

Subject Member: Councillor Doreen Stephenson

Member's representative: Mrs Nicola Pryce-Roberts

Relevant authority: West Lancashire District Council and Halsall Parish Council

Person who made the allegation: Parish Councillor Marilyn Westley

Investigator: Ms Claire Lefort

Investigator's representative: None

Date of the hearing: Tuesday, 21 July 2009

Chairman of the hearing: Mr John Cailles, Independent Member

Standards Committee members attending the hearing:

Independent Member: Mr Robert Patterson JP
Councillor: Syd Jones
Parish Councillors: Andrew Cheetham and Michael Hammond

Legal Advisor to the Hearings Sub-Committee: Mr Mike Dudfield

Member Services Officer: Mrs Jacky Denning, Assistant Member Services Manager

1.0 PRELIMINARY DOCUMENTS

1.1 The referral from the Monitoring Officer's Investigator

On 21 July 2009 the Standards Committee's Hearing Sub-Committee received a report under Section 64(2) of the Local Government Act 2000 from an Investigator appointed by the Monitoring Officer in relation to an allegation made against Councillor Doreen Stephenson.

The allegation was that Councillor Doreen Stephenson had failed to comply with the Codes of Conduct for Halsall Parish Council and West Lancashire District Council in that she had failed to treat others with respect by her alleged behaviour towards the ex-Clerk of the Parish Council, Margaret Atherton, at an extraordinary meeting of the Parish Council on 7 August 2008, more specifically:

- (a) Councillor Doreen Stephenson allegedly made comments to Mrs Atherton which were disrespectful; and
- (b) Councillor Doreen Stephenson's behaviour was allegedly disruptive whilst Mrs Atherton and Councillor John Stephenson were formulating wording for a resolution.

2.0 ORAL AND WRITTEN SUBMISSIONS (PROCEDURAL)

2.1 The Hearings Sub-Committee's decision on any procedural matters:

- (a) that the whole of the hearing should be held in public;
- (b) that the witnesses giving evidence to the hearing should not be present in the hearing until they have given their evidence; and
- (c) that Mrs Nicola Pryce-Roberts should be the first witness to give evidence so as not to compromise her position as Councillor Stephenson's representative.

3.0 FINDINGS OF FACT

3.1 The following facts in the Investigator's report were undisputed:

All the facts in the paragraphs not listed in 3.2 below.

3.2 The following facts in the Investigator's report were disputed:

The facts set out in paragraphs 2, 3, 11, 19, 26, 27, 28, 31, 35, 46, 49, 50, 53, 57, 59 and 62 of the Investigator's report.

3.3 Summary of evidence:

The Sub-Committee considered the Investigator's report and supporting documentation, Forms A to E completed by Councillor Doreen Stephenson, statements supporting Councillor Doreen Stephenson from Alison Blundell, David Galt, Gerry Riley, John Wright, Parish Councillor Raymond Brookfield, Parish Councillor John Stephenson and Steve Hayes, the written response to the Forms and statements from the Investigator, the minutes of the Halsall Parish Council meeting held on 10 September 2008 and oral evidence from Mrs Nicola Pryce-Roberts, Police Constable Barlow, Mrs Margaret Atherton, Parish Councillor Raymond Brookfield, Gerry Riley, John Wright, David Galt, Steve Hayes, Parish Councillor Marilyn Westley, Parish Councillor Maureen Allchurch and Parish Councillor John Stephenson.

3.4 Summary of submissions by Mrs Pryce-Roberts on behalf of Councillor Doreen Stephenson:

Councillor Doreen Stephenson accepted that she had questioned Mrs Atherton regarding the whereabouts of estimates associated with the subject matter under consideration at the Parish Council meeting but denied that she had not treated her with respect. In particular, Councillor Doreen Stephenson denied that she had referred to the fact that Mrs Atherton did not have the estimates with her as a delaying tactic and indicated that that statement had been made by a member of the public present at the meeting, namely, Mrs Pryce-Roberts. Councillor Doreen Stephenson believed that her conduct towards Mrs Atherton during the meeting was fair and reasonable. With regard to the evidence relied upon by the Investigator, Councillor Doreen Stephenson believed that the statement of PC Barlow and his recollections were incorrect and that he had relied too heavily on the minutes in reminding himself of what had happened at the meeting having taken no contemporaneous notes. With regard to the minutes of the 7 August meeting, when submitted to the following meeting on 10 September, Councillor Doreen Stephenson had sought to challenge the accuracy of the minutes but, had only been able to agree four small amendments. She subsequently believed that the decision to approve the minutes was vitiated by the failure of certain Parish Councillors to declare personal and prejudicial interests in the minutes having made complaints to the Standards Committee regarding the action of Councillors at the meeting on 7 August 2008.

3.5 Summary of submissions by the Investigator:

Ms Lefort accepted that there were varying accounts of the meeting and that it was difficult to balance the weight and value of the evidence. She had borne in mind that the meeting was an extremely heated one on an emotive subject and that the meeting had been difficult to chair. The meeting had been nearly 12 months ago and the recollections of witnesses had faded due to the passage of time. She had relied on the statement of the one person present at the meeting who could be regarded as independent, PC Barlow, the email from Mrs Atherton, which had been sent the day following the meeting and could be seen as contemporaneous notes, and the amended, approved minutes of the August meeting. She stood by that reliance. With regard to the minutes, their accuracy had not to date, been the subject of legal challenge and she did not believe that the Parish Councillors who approved the minutes had any declarable interest in those minutes.

3.6 Hearings Sub-Committee's findings of fact:

The Hearings Sub-Committee made the following findings in relation to the facts in dispute after considering the submissions of the parties and the evidence before it:

The Sub-Committee felt that the variance in the evidence produced during the investigation and at the hearing made it very difficult for any categorical conclusions to be reached as to what occurred at the meeting and who said what. The Sub-Committee were satisfied that Councillor Doreen Stephenson had asked Mrs Atherton 'where are the estimates' but it was not conclusive that she had said anything further.

4.0 WHETHER OR NOT THE MEMBER HAS FAILED TO FOLLOW THE CODE OF CONDUCT

4.1 Summary of submissions by Mrs Pryce-Roberts on behalf of Councillor Doreen Stephenson:

As the Sub-Committee had not found as fact that Councillor Doreen Stephenson had said the words that Mrs Atherton suggested challenged her integrity, there was no breach of the Code by Councillor Doreen Stephenson.

4.2 Summary of submissions by the Investigator:

Ms Lefort reaffirmed the position that she set out in the report, paragraph 63, that notwithstanding what words Councillor Doreen Stephenson actually did use, her conduct at the meeting showed a lack of respect to the Clerk, Mrs Atherton.

4.3 Hearings Sub-Committee's decision on whether or not there had been a failure to comply with the Code of Conduct

4.3.1 The Hearings Sub-Committee reached the following decision after considering the submissions of the parties:

- "1. That Councillor Doreen Stephenson did not fail to comply with the Parish Code by failing to treat Mrs Atherton with respect by the comments she made to her at the extraordinary meeting of the Parish Council on 7 August 2008.
2. That the Investigator's conclusion that Councillor Doreen Stephenson did not fail to comply with the Parish Code, by her behaviour whilst Mrs Atherton and Councillor John Stephenson were formulating wording for a resolution, be accepted.
3. That the Investigator's conclusion that Councillor Doreen Stephenson did not fail to comply with the District Code be accepted.
4. That there is little doubt that the then Clerk, Margaret Atherton, was intimidated. Being a parish clerk is not the easiest of jobs and she clearly, as an experienced clerk, appears to have done a creditable job in difficult circumstances.
5. That it would have been helpful to the Investigator, if Nicola Pryce-Roberts, in her signed statement, had revealed that she herself had made the remarks about 'delaying tactics'."

4.3.2 The relevant sections of the Code of Conduct are:

In respect of both Parish and District Codes, paragraph 3(1) - "You must treat others with respect"

4.3.3 Councillor Doreen Stephenson did not fail to comply with paragraph 3(1) of the Code of Conduct for Halsall Parish Council and West Lancashire District Council. The Hearings Sub-Committee's reasons for this decision were:

- (a) In respect of the allegation that Councillor Doreen Stephenson had used the words 'delaying tactics' and had questioned the integrity of the ex-Clerk, Mrs Atherton, thus treating her with a lack of respect, the Sub-Committee found that it was very difficult to be conclusive as to who had said what and the manner in which individuals had conducted themselves. It was clear that Councillor Doreen Stephenson had questioned Mrs Atherton with regard to the whereabouts of the estimates. The Investigator had, during the investigation, questioned a number of witnesses, including Mrs Pryce-Roberts, regarding the use of the words 'delaying tactics' and the implication that Mrs Atherton's integrity as Clerk was being challenged, but it was only at the Hearing Sub-Committee meeting, that Mrs Pryce-Roberts revealed that she herself had made the remarks about 'delaying tactics' which cast doubt as to whether Councillor Stephenson had made those remarks at the meeting. In those circumstances the Sub-Committee felt that it would have been helpful to the Investigator if Mrs Pryce-Roberts could have made this indication at the investigation stage. The Sub-Committee accepted that Mrs Atherton had felt intimidated at the meeting but it was difficult to be certain whether this was through the conduct of Councillor Doreen Stephenson, other Councillors, the large number of local residents who were present at the meeting or a combination of these. The subject matter was very emotive and the proposed decision had caused a large amount of resentment in the village, which surfaced at the meeting. The Sub-Committee did not feel that it could accept any combination of evidence as being conclusive, one way or the other. In the absence of any certainty of the conduct of Councillor Doreen Stephenson towards Mrs Atherton, the Sub-Committee could not determine whether Councillor Stephenson's conduct at the meeting constituted a lack of respect for Mrs Atherton.
- (ii) In respect of the allegation that Councillor Doreen Stephenson's behaviour was disruptive whilst Mrs Atherton and Councillor John Stephenson were formulating wording for a resolution, the Investigator had concluded that Councillor Doreen Stephenson had not failed to comply with the Code of Conduct at that time. The Sub-Committee considered the Investigator's reasons for that conclusion and agreed with those reasons.
- (iii) In respect of the allegation that the actions of Councillor Doreen Stephenson had also breached the Code of Conduct of the District Council, the Investigator had concluded that Councillor Doreen Stephenson's presence and conduct at the meeting on 7 August 2008 was solely in her capacity as a Parish Councillor and that there had, therefore, been no failure on Councillor Stephenson's part to comply with the District Code at that meeting. The Sub-Committee accepted that the Investigator's conclusion was correct.

Signed

pp Chairman of Hearings Sub-Committee

Date: 4 August 2009

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