

COPELAND BOROUGH COUNCIL

STANDARDS AND ETHICS COMMITTEE – 9 JANUARY 2020

Notice of decision to complaints concerning Seascale Parish Councillor David Halliday

1. Decision on whether the hearing should be in private and anonymity.

1.1 The Committee agreed that members of the press and public should be excluded from the hearing under paragraph 1 of part 1 of schedule 12A of the Local Government Act 1972. This was on the basis that the hearing will be considering information relating to individuals and the legality of business affairs of the Parish Council and that, in this case, it would not be in the public interest to consider such information in public.

1.2 It was noted that no application for anonymity had been made.

2. Attendances

2.1 The following persons were present at the hearing:

Members of the Committee:	Councillor David Banks (Chair) Councillor Graham Calvin Councillor Joan Hully Councillor Steven Morgan Councillor Russell Studholme
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Independent Person:	Mr Henry Holmes
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Complainant:	Mrs Brenda Parsons
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Subject Member:	Councillor David Halliday (Supported by Mr David Moore)
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Monitoring Officer:	Sarah Pemberton, Director of Corporate Resources and Commercial Strategy
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Legal Officer:	Clinton Boyce, Solicitor
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Democratic Services Representative:	Stephanie Shaw, Electoral & Democratic Services Manager
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3. Preliminary issues

- 3.1 In accordance with paragraph 12 of the procedure adopted by Council on the 11th September 2018 (amended on 9th September 2019) for dealing with complaints, the chair commenced the hearing by reading out the adopted procedure which was to be followed.
- 3.2 In accordance with paragraph 12 of the said procedure, the Committee made the following initial decisions:
- 3.2.1 That the matter should continue to be held in private.
- 3.2.2 That the complaint can be summarised as:
- a) The complainant claims that at a Parish Council meeting on 5th September 2019, an urgent item was added to the agenda without the required three days' notice being given.
 - b) That the item should have been held in , and discussed in private session in accordance with that permitted by section 1 of the Public Bodies (Admission to Meetings) Act 1960.
 - c) That the minutes displayed on the Parish Council did not show that a vexatious policy had previously been adopted.
 - d) As the complainant was named and discussed in public this was contrary to protection under GDPR.
- 3.2.3 That the evidence provided by the complainant comprised of minutes of the meeting held on 5th September 2019.
- 3.2.4 A formal response was received from the subject member with input from the Parish Council. This evidence included a detailed and thorough response to a number of questions raised by the Borough Council's Solicitor, together with an audio recording of the Parish Council Meeting in question.
- 3.2.5 That no further evidence was likely to be required.
- 3.2.6 It was not necessary to appoint an external investigator.
- 3.2.7 The Committee agreed that the hearing should proceed.

4. Hearing

- 4.1 The Committee considered the complaint together with the evidence provided. The Committee heard from the complainant, the subject member and Mr Moore who supported the subject member and the Committee were able to ask questions of them.
- 4.2 The complainant confirmed that the complaint had been adequately summed up, as set out in 3.2.2 above.

4.3 The Committee received representations from both parties. The complainant questioned the validity of the decision made. The subject member and Mr Moore emphasised that no decision was made on the 5th September 2019. It was a reminder and an endorsement of a previous decision to make the complainant vexatious. It was noted that the relevant minute of that meeting did, however, read at 14.1 'Code of Conduct. The Parish Council unanimously agreed to implement the Vexatious Policy on a member of the Parish who continually submits complaints, which are deemed vexatious under section 14(1) FOI Act'. Mr Moore stated that the Parish Council was reaffirming its position, perhaps unnecessarily. The Committee struggled with this part of the evidence. The minute was clear. During decision making the Committee listened to the relevant part of the audio recording from the Parish Council Meeting of 5th September 2019. The complainant and subject member were absent during this interlude. As the recording is difficult to hear, it was replayed a number of times, and the committee concluded it is clear that no decision was made. Mr Moore appears to have spoken, without any input from the subject member, reminding other members that the Council follows the vexatious policy in respect of the complainant. Another member concurred and shouted 'agreed'. The matter stated lasted no more than 30 seconds.

5 Decision

5.1 The Committee unanimously agreed that the evidence presented showed there had been no breach of the code.

5.2 The following observations and comments were made in respect of the decision reached:

5.2.1 The relevant minute of the meeting held on 5th September 2019 do not reflect a true description of events at the meeting, in respect of this matter that had been raised. [For clarity, the committee considered only this matter on the minutes and had no cause to review the entirety of the minutes for accuracy.]

5.2.2 The Parish council minutes state that a "decision" was made, whereas the audio recording does not indicate such. The audio recording of the meeting, clearly indicates that a statement was read out regarding this item and in the recording, the word "agreed" can clearly be heard; however the inference is directed towards the verbal statement, not a decision that the Council was taking.

5.2.3 The Committee stressed that the minutes of Parish meetings should clearly reflect the actions taken at the meeting.

5.2.4 Whilst it is the Clerk's role to type an accurate recording of the minutes of a council meeting, it is also incumbent upon members to scrutinise for validity, and, ensure that the minutes are accurate before agreeing to them and the Chair signing them off.

5.2.5 In respect of complaint (b) decisions involving individuals should normally be discussed in private. However this interjection at the end of the meeting was not for

decision. It was a short passing comment which the subject member as chair would not have been able to control. Evidence was also provided that the complainant had made it known at public meetings that she had been held vexatious. The committee were informed on one occasion she had torn up a notice making her vexatious and handed it into the local library for forwarding on back to the Parish Council.

- 5.2.6 With regard to complaint (c) the Parish Council stated that a vexatious policy had been adopted in 2016 and 'was last approved and agreed unchanged by Council at the last AGM in May 2019'.
- 5.2.7 In respect of GDPR/data protection the Parish Council were not processing data. It was a reaction to the complainant's determined and persistent approach in Council meetings to questioning Parish Council decisions and business. The Council could not have been said to have been processing data.
- 5.2.8 The Committee commented that accurate minute recording may have averted the submission of this complaint. It was noted that previously the Parish Council had intimated that it was taking steps to improve the recording of minutes.



Signed:

Sarah Pemberton, Monitoring Officer, Copeland Borough Council

Date: 21st January 2020

Right of Appeal:

Subject to judicial review or a decision of a Local Government Ombudsman, there is no right of appeal against the decision of the Standards and Ethics Committee.