

COPELAND BOROUGH COUNCIL

STANDARDS AND ETHICS COMMITTEE – 27 FEBRUARY 2020

Notice of decision to a complaint concerning Parton Parish Councillor Robert Huck

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 an individual 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 Russell Studholme (Chair) Councillor Graham Calvin Councillor Joan Hully Councillor Doug Wilson
Independent Person:	Mr John Graham
Complainant:	Mr Keith Hayes
Subject Member:	Councillor Robert Huck
Monitoring Officer:	Sarah Pemberton, Director of Corporate Resources and Commercial Strategy
Legal Officer:	Clinton Boyce, Solicitor
Democratic Services Representative(s):	Stephanie Shaw, Electoral & Democratic Services Manager Clive Willoughby, Democratic Services Officer

3. Preliminary issues

3.1.1 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 There were five complaints submitted by the complainant against the subject member, these complaints were to be heard during the course of the one convened hearing.

3.2.3 That all five complaints had been received on 19 December 2019.

3.2.4 That the complaints can be summarised as follows:

(a) Complaint 1

The Subject Member, as Chair, failed to give sufficient notice of an EGM to be held on 2nd October 2019 as required by law. By doing so, the Subject Member has breached item 5(4) of Parton Parish Council's Code of Conduct.

(b) Complaint 2

At the EGM on 2nd October 2019, the Subject Member, as Chair, failed to adequately record all resolutions passed including those relating to exclusion of press and public. By doing so, the Subject Member has breached item 5(4), (5), (8) and (11) of Parton Parish Council's Code of Conduct.

(c) Complaint 3

The minutes, written by the Subject Member, of a meeting held on 13th November 2019 are completely inaccurate and not a true reflection of the discussions nor the resolutions passed in respect of seven items. By doing so, the Subject Member has breached item 5(4) of Parton Parish Council's Code of Conduct.

(d) Complaint 4

At an EGM on 21st November 2019, the subject member, as Chair, (with no Clerk present), failed to adequately record the resolutions passed and at the subsequent meeting refused to make amendments particularly to votes cast. By doing so the Subject Member has breached item 5(4) of Parton Parish Councils Code of Conduct.

(e) **Complaint 5**

At the meeting held on 21st November 2019 the member, as Chair, without a Clerk present, allowed motions to be moved without the required notice being given. By doing so, the Subject Member has breached item 5(4), (7) and (8) of Parton Parish Council's Code of Conduct.

3.2.5 That evidence comprised of various sets of minutes relating to the meetings, copies of notices and emails from both the complainant and subject member together with an audio recording of the said meetings.

3.2.6 No adjournment was requested.

3.2.7 It was not necessary to appoint an external investigator.

3.2.8 The Committee agreed that the hearing should proceed.

4. Hearing

4.1 The Committee considered the complaints together with the evidence provided. The Committee heard from both the complainant and subject member and were able to ask questions of them both.

4.2 The complainant confirmed that the complaints had been adequately summed up, as set out in 3.2.4 above.

5 Decision

5.1 In relation to the five complaints summarised in paragraph 3.2.4 above, the Standards and Ethics Committee decisions are as follow:

(a) Complaint 1

The Committee unanimously agreed that there was no breach of the code.

(b) Complaint 2

The Committee unanimously agreed that there was no breach of the code.

(c) Complaint 3

The Committee unanimously agreed that the following sections of Parton Parish Council's Code of Conduct had been breached:

5(4) You must not bring your office or your Council into disrepute.

5(7) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

5(8) You must be as open as possible about your decisions and actions and the decisions and actions of your Council and should be prepared to give reasons for those decisions and actions.

5(11) You must promote and support high standards of conduct when serving in your office.

(d) Complaint 4

The Committee unanimously agreed that there was no breach of the code.

(e) Complaint 5

The Committee unanimously agreed that there was no breach of the code.

6. Reasons

6.1 Complaint 1: The legal requirement in this case was to give three days' notice of meeting and fix notice in some conspicuous place – this was done. There is no requirement to allow members of the public to inspect the agenda.

6.2 Complaint 2: The Committee found the minutes to be adequate. There is no requirement to fully record private items as long as the Parish Council and the auditors can put the trail together by the report, the motions and the subsequent minutes. Also the minutes were approved at a subsequent meeting.

6.3 Complaint 3: The subject member failed to have accurate minutes. The audio recording was heard in part, which was substantial in respect of Item 20 and could apply to the other items of the meeting agenda. This is wrong, disturbing. The Committee questioned how the minutes could be wrong when an audio recording was available. There was no credible or plausible reason given by Cllr Huck for the inaccurate minutes that completely contradicted the audio recording of the meeting. A short narrative or a brief summary of discussion is acceptable; the decision however must be accurate and there are failings here. To this end the Chair must take responsibility. Equally all members need to take care when approving minutes.

6.4 Complaint 4: In respect of the vote cast we find the Committee found the evidence conflicting as to whether a recorded vote was requested, or, whether the councillor concerned asked for his vote alone to be recorded. In respect of minutes accuracy the Committee's comments in Complaint 2 applies as the minute related to confidential items.

- 6.5 Complaint 5: The Committee consider that the motion was not necessary as notice of the meeting had been given in accordance with the law and members had received an appropriate summons. There are also restricted powers to move a motion without notice. The Committee did not find a breach. However, this might be because the Committee were not provided with a satisfactory explanation of what the motion to suspend was about.

7 Sanctions

- 7.1 In accordance with paragraph 13(i) of the adopted procedure for dealing with Code of Conduct complaints, the Committee considered whether it was in the public interest to proceed to sanction. The Committee agreed it was in the public interest. Minutes need to be accurate, the public relies on them, and business is transacted on them. Inaccurate minutes removes public confidence.
- 7.2 In accordance with paragraph 13(j) of the adopted procedure for dealing with Code of Conduct complaints the Committee considered, and unanimously agreed, that in relation to complaint 3, the following sanction is necessary:
- 7.2.1 That the Subject Member should be censured (an expression of strong disapproval or criticism - and that such censure will be in writing, copied to the leader of any relevant group and, if a parish member, copied to the parish clerk and chairman of the parish council).
- 7.2.2 The Committee also ask that the matter be discussed at the next Parish Council Meeting with a request that all members take more care in the accuracy of minutes and challenging the accuracy of them with the Chair, or Clerk.

8. Comments

- 8.1 Overall the Committee are concerned. The Committee do not accept Cllr Huck's reason offered, that being lack of experience participating on a parish council. It has been almost a year since he was elected, and during this period, not only a member, but also clearly regarded himself as suitably equipped to be the current serving Chair of Parton.
- 8.2 A specific area of concern is the accuracy of the Parton meeting minutes being produced. Although minutes are not prescriptive in regulation, it is generally stated that minutes should be "adequate" and not a verbatim transcript of a meeting. Brevity must not be substituted, or used, to erode accuracy. Approved minutes become a legal record and must accurately record all resolutions passed; such a record must be a document that can be relied upon both in the present and the future.
- 8.3 It is evidentially clear, that Parton Members are not applying an appropriate and sufficient level of scrutiny, or challenge, to draft minutes that are being circulated by

the Chair. It is incumbent upon all members to ensure that minutes represent an accurate and true reflection of meetings held. If changes to draft are required to uphold this, the agreed changes should be subsequently noted and appropriately recorded. All members share this responsibility to the point of validation, agreement and signing of the minutes

- 8.4 The Committee noted the excessive number of EGMs which have been called by the Chair and questioned the validity and use of calling such meetings in terms of frequency and contrary to the conventional use of an EGM, that being a meeting called on short notice and dealing with an urgent matter.
- 8.5 The Panel commented on the uneasy relationship the Chair appears to have with the public in attendance at meetings, pertinently stating “.....if you wish to govern by the rule book, you must also answer to it.”
- 8.6 It is hoped that the appointment of a qualified and experienced Clerk will resolve some of the procedural governance issues and that the appointment can be expedited.
- 8.7 It is clearly not good practice for a member, particularly the Chair, to be acting as Clerk and member at the same time, as it does not allow for separation of duties.
- 8.8 There is a disturbing undercurrent pervading and the current culture is not healthy between the Chair, members and the public. The Committee hope that the Parish Council as a whole can find ways to work together and with the public and Community more effectively and harmoniously.



Signed:

Sarah Pemberton, Monitoring Officer, Copeland Borough Council

Date: 21 April 2020

There is no right of appeal against the decision of the Standards and Ethics Committee.