

Ashby Herringfleet & Somerleyton Parish Council

Report on complaints received by the Parish Council in regard to the extraordinary meeting held on 21st January and other, linked, matters

The complaints

A total of 15 complaints were received from more than 1 source and some of these overlap. For clarity, the complaints were:

1. Difficulty obtaining a copy of the email which was the subject of the meeting on the 21st January.
2. The answering of Freedom of Information (FOI) & Subject Access (SAR) requests.
3. The Clerk's handling of the above and lack of review procedure.
4. The Chairman breached the Code of Conduct in regard to the email from Lord Somerleyton and the conduct of the meeting on 21st January.
5. The Transparency Code was breached in regard to the meeting of 21st January in that the agenda was not detailed, there was no Clerk's Report and the email from Lord Somerleyton was not published.
6. The draft minutes of the meeting of 21st January as displayed on the Parish Noticeboard and the Parish Council website identified an individual and thus breached the legislation.
7. Parish Councillor Paul Johnson remained in the room after an application for a dispensation to remain was not approved.
8. Lack of training for Parish Councillors contrary to Standing Order 7b.
9. Lack of proper agenda and Clerk's Report for the meeting on 21st January contrary to the Transparency Code.
10. The Chairman breached the Code of Conduct at the meeting on 21st January.
11. Parish Councillor Paul Johnson failed to declare a Disclosable Pecuniary Interest (DPI) in the email from Lord Somerleyton at the meeting on 7th January contrary to Standing orders, the Code of Conduct and the Localism Act 2011.
12. Parish Councillors living in homes rented from the Estate have not declared DPIs when meetings have discussed Estate business contrary to Standing orders, the Code of Conduct and the Localism Act 2011.
13. Parish Councillors failing to complete their Register of Interests contrary to the Localism Act 2011.
14. The Parish Council's Standing Orders do not reflect current legislation.
15. Disciplinary proceedings were not commenced with regard to the Clerk despite the Parish Council receiving his resignation early in its investigations.

The complaints received principally concerned the Chair and the Clerk, although they also concerned Parish Council policies and procedures; they were investigated by Gerda Gibbs, the Vice Chair, and Simon Phillips, a Parish Councillor with previous experience as Chair.

Our investigations have found that procedural errors occurred in the advertisement and conduct of the extraordinary meeting held on the 21st January:

- In attempting to keep Lord Somerleyton's email of 7th January confidential the Parish Council breached the Transparency Code because the email was to be the subject of the meeting on 21st January and should have been published at the same time as the agenda. At

the meeting on 7th January the Chairman requested that Parish Councillors treat the email as confidential but it is now known that the contents of the email were known by some members of the public the following week – this may have been down to a Parish Councillor but we note that the email was addressed to others outside the Parish Council.

- During the meeting the derogatory remarks in the email about a person were discussed. Although the findings of the meeting were that the remarks were inappropriate they should not have been discussed at all.

With regard to the specific complaints above:

1. The Clerk's initial actions in deferring the request until after the meeting were in the belief that the contents were not known to the general public and he treated the complainant in the same way that he was treating all parishioners by not releasing the email. That he did not give the complainant a full copy of the email on the day after the meeting was a mistake on his behalf.

2 & 3. The Parish Council has never before received a FOI or SAR request and the Clerk took external advice; unfortunately some of this was contradictory, which led to delays. We believe the Parish Council has completed its response to these requests. In responding to the complainant we made the following apology – "We apologise on behalf of the Parish Council and (*the Clerk*) for the time it took to fulfil your FOI and SAR requests for the reasons given ... The Parish Council will learn from this but due to the complexity of the regulations covering such requests we cannot guarantee a speedier resolution to future requests".

The Parish Council does not have a formal review procedure for dealing with cases where requesters believe their FOI and/or SAR requests have not been fully answered but the normal procedures of the Parish Council will cover this. Should the Clerk receive such an allegation it would be treated like any other complaint about the Clerk's performance and would be dealt with by the Clerk's line manager, the Chairman.

Our investigations of this complaint revealed that some Parish Council policies are in need of revision and/or require further explanation to Parish Councillors and staff.

4 & 10. **We understand that** the Monitoring Officer has found that the Chairman did not breach the Code of Conduct.

Alleged breaches of the Code of Conduct must be investigated by the Monitoring Officer but some of the complaints were also made to the Parish Council, causing some confusion at the beginning of the investigation as to who was investigating each particular complaint. The results of investigations by the Monitoring Officer are not reported to the Parish Council unless there are actions for the Council to take. Apart from the Chair being found not to have breached the Code of Conduct the actual outcomes of the various complaints made to the Monitoring Officer are not known but the Parish Council has been requested to take action in 3 areas:

- Give an undertaking to direct any comments or questions about one of the complainants' business to that person, rather than any third party.
- All Parish Councillors to make full disclosure of pecuniary interests, including any beneficial interest in any land in the Parish Council's area.
- Give an undertaking that all parishioners be treated equally.

5 & 9. The Transparency Code was breached by not publishing a detailed agenda for the meeting of the 21st January or the email on which the meeting would be based. A Clerk's Report was not necessary or required.

6. The publication of draft minutes which breached the relevant legislation was an error. The error was made when the Clerk was attempting to provide a complete record of the Parish Council meeting. Once the Parish Council's attention was drawn to the breach of legislation the draft minutes were removed.

7. This was investigated by the Monitoring Officer and we are not aware of the outcome. However, we have concluded that this was a breach of the rules and we will include this in the further training resulting from this report as per 8 below.

8. Standing Order 7b refers to training regarding the Code of Conduct. Upon election or co-option new Parish Councillors receive a copy of the Code of Conduct and are informed of the need to complete their Register of Interests, which includes guidance notes. It has become apparent that the Parish Council needs to do more with regard to training Parish Councillors in these areas. In future we recommend an induction by the Parish Clerk covering the requirements of Transparency and the need to demonstrate it.

11. At the meeting on the 7th January the Chairman distributed copies of the email from Lord Somerleyton without giving notice of his intention to do so. He said that it was too complicated to deal with there and then and that an extraordinary meeting would be called to consider the contents. Parish Councillor Paul Johnson is an employee of the Somerleyton Estate and so might possibly have a Disclosable Pecuniary Interest (DPI) in one or more of the subjects of the email but these were not discussed, only the timing of when to consider the email. Therefore Parish Councillor Paul Johnson was not required on the 7th January to declare a DPI regarding the email.

12. We received initial advice from the Local Council Public Advisory Service that their landlord's business is not a DPI of a tenant who is a Parish Councillor. We received further advice on this from the Monitoring Officer using the specific example of Somerleyton where 50% of homes are rented. The Monitoring Officer informed us that Parish Councillor tenants do not have a DPI when the Parish Council is discussing their landlord's business unless that business directly affects the land which they rent or lease.

13. This is most regrettable and we have worked with Councillors to ensure that their Registers of Interest are up to date. We believe that there is now only one Parish Councillor with an incomplete Register and that Councillor does not have internet access at this time but is working with Waveney District Council to resolve this problem.

It should be noted that the Parish Council as a body is not responsible for individual Parish Councillors declaring or registering interests; these are the responsibility of the individual only. However, in light of the comments and complaints received we have worked with individual Parish Councillors to ensure they are fully compliant with their obligations.

14. The particular complaint was regarding Standing Order 1m which had not been updated to reflect the requirements of the Localism Act in regard to recording, photographing or broadcasting meetings. The complainant was informed that all of the Parish Council's policies and procedures are under review and a report is due to be submitted to the Annual General Meeting on 12th May.

15. When the Parish Council received the Clerk's resignation the investigations of these complaints were at an early stage. With insufficient time to complete the full formal disciplinary procedure

within the Clerk's notice period if it appeared necessary and no sanction available if it was found the Clerk should be disciplined under the procedure we decided not to commence formal proceedings.

During our investigations of the complaints we issued interim reports to the complainants on 23rd March and final reports on 1st April.

Our final reports to the complainants reported that we had identified serious failings on behalf of the Parish Council and we offered unreserved apologies to the complainants and all of our parishioners in regard to the various individual failings. We also offered an unreserved apology for the hurt caused by the Parish Council's actions surrounding the meeting of 21st January and we said that the initial actions taken were designed to prevent embarrassment but obviously they failed in this regard. We assured the complainants that the Parish Council was working hard to address and correct all of these failings. At the Parish Council meeting when this report is presented for approval a separate report will be made showing recommended amendments to the Parish Council's policies and procedures.

Gerda Gibbs, Vice Chair

Simon Phillips, Parish Councillor

To resolve to accept this report and its recommendations.

To resolve to apologise unreservedly to the complainants and all parishioners for the Parish Council's failings in these matters.