

STANDARDS COMMITTEE

23 June 2014

WHITELEY TOWN (PARISH) COUNCIL - COMPLAINTS

REPORT OF CHIEF OPERATING OFFICER

Contact Officer: Stephen Whetnall/Chris Ashcroft Tel No: 01962 848220/848284
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RECENT REFERENCES:

Reports SSC032 and SSCO 34 – 5 March 2013

Report ST100 – 24 October 2013

EXECUTIVE SUMMARY:

(NOTE: Whiteley Parish Council changed its name to Whiteley Town Council on 12 May 2014. This alteration does not affect any of the issues with which this report is concerned. For simplicity, all references in this report will say 'Town Council' even though the body was known as 'Parish Council' when these issues originated.

On 5 March 2013, the Standards (Assessments) Sub-Committee considered complaints from Whiteley Town Councillors Vivian Achwal and Michael Evans against each other. The decision of the Sub-Committee is set out at Appendix 1.

Following that meeting, the Monitoring Officer requested a response from the Town Council and this was eventually received on 5 July 2013 (see Appendix 2). As can be seen from the text of the letter, the Town Council did not consider there was any need to change its stance on the matter. It should be pointed out that the letter has never appeared on a Town Council agenda and so Cllr Achwal has not had the opportunity to comment on its content.

The Standards Committee considered the letter at its meeting held on 24 October 2013 and its decision thereon is set out in Appendix C. That decision was conveyed to the Town Council, but it has still not been considered formally at a Town Council meeting as requested in Resolution 2, nor has the Town Council attempted to engage the services of an external mediator. Despite reminders, it appears there is little prospect of the City Council receiving a formal response to any of its concerns.

Coming up to date, at the annual Town Council appointments in May this year, it is understood that Cllr Achwal was not appointed to any committees or other bodies, which is a continuation of the current position.

In view of the time which has elapsed and the lack of dialogue between the parties, Members will need to consider what final action they can take. As the Assessments Sub-Committee decided not to proceed to investigation, it is not open to the Committee to pursue that option. It could provide further advice or suggest training, but that is unlikely to advance matters in these circumstances. The Committee could decide that nothing more can be achieved and just note the lack of progress, but that would risk giving a poor public perception of how the City Council supports the Code of Conduct. The only other option is for the Committee to make public comment formally regretting the Town Councils lack of action in addressing the issues raised by the Committee.

RECOMMENDATION:

That the Committee considers the lack of formal response from Whiteley Town Council and decides whether any further action is required.

OTHER CONSIDERATIONS:

COMMUNITY STRATEGY (RELEVANCE TO):

An Efficient and Effective Council

RESOURCE IMPLICATIONS:

Existing officer resources

RISK MANAGEMENT ISSUES

None

BACKGROUND DOCUMENTS:

None

APPENDICES:

- | | |
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| Appendix 1 | Decision of Standards (Assessment) Sub-Committee (5/3/13) |
| Appendix 2 | Letter from Whiteley Parish Council (5/7/13) |
| Appendix 3 | Minute extract from Standards Committee (24/10/13) |

DECISION OF STANDARDS (ASSESSMENTS) SUB-COMMITTEE – 5 March 2013

'The Sub-Committee noted the circumstances surrounding this matter and that, following submission of this complaint, a counter-complaint had been submitted by Councillor Achwal against Councillor Evans. In view of the direct relationship between the two complaints, they were dealt with together by the Sub-Committee and consequently the findings have been set out in one Decision Notice.

From the evidence submitted, it appeared that the information allegedly released by Councillor Achwal (whilst still regarded as confidential by the Parish Council), and then published by a member of the public on Facebook, covered three elements of the new development – fast food take-away outlets, the height of the cinema building and the closing times of the new Centre.

The Parish Council saw these issues as sensitive and said that its concerns about fast food outlets and closing times were modified by the developer before the public consultation exercise took place.

The public consultation leaflet issued by the Parish Council later in November referred to 9 multiplex screens with additional quality dining/restaurant units on the ground floor. It is apparent that there was no reference to fast food take-away outlets at this stage. There was no reference in the leaflet to closing times.

With regard to the fast food take-away outlets, this information was already available on the City Council's website as part of the developer's planning Screening Request details (and therefore in the public domain in October 2012) prior to the alleged actions of Councillor Achwal. Regarding the height of the cinema building, precise measurements were not in the public domain, but it was part of the Screening Request that the cinema complex would be built on top of a ground floor of restaurants etc. Therefore, it could be assumed that any reasonable person would know from that information that the overall structure was going to be large. Finally, the operating hours had since been clarified by the developer on 21 February 2013, following a request from the City Council's Planning Department in relation to the details submitted with the planning application in January 2013. The developer had explained that the cinemas would be cleared of members of the public by 2am at the latest. In that context, even if a 3am closure time was made publicly available before it should have been, the Sub-Committee did not view this as a major fact which had commercially sensitive implications.

Members did agree that when Councillors are asked to keep information confidential for good reason, then they must of course abide by that request. They also commented that Councillor Achwal could have declared her actions at an earlier time in the process. However, it was also acknowledged that there were conflicting accounts as to how clear the confidential status of the briefing was made, and at what stage Councillor Achwal admitted to having certain discussions with residents

and to what she actually said. She had indicated that she had responded to a query from a member of the public about the proposed development knowing that the proposal was already public knowledge. She did not think that she had referred to the hot food element.

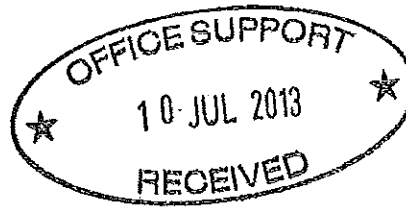
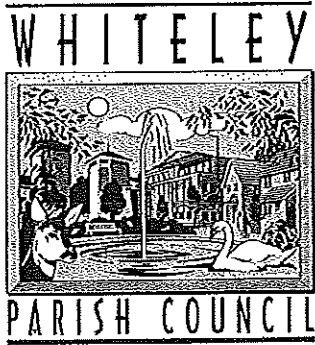
It was also evident from the statements made by both Councillors that there were some difficult relationships within the Parish Council which appeared to have been present for some time. It had produced an unfortunate situation that may not have been reached if those relationships had been better.

Having considered all the information submitted; noted that certain facts were disputed; that the major elements of the information were already in the public domain before the alleged brief of confidentiality took place; plus the history of difficult relationships within the Parish Council, the Sub-Committee concluded that it was not appropriate, nor in the public interest, to incur the expenditure and delay of undertaking a full investigation, to ascertain whether or not any breach of the Code of Conduct had occurred on either of the submitted complaints. No finding of fact in relation to any potential breach was made.

Whilst fully recognising that confidential information must be treated as such, it did appear that most of the information allegedly released by Councillor Achwal was already in the public domain. The one matter released that remained unpublicised at that time (closure time for the centre) did not, on balance, constitute a major disclosure.

It was noted that Councillor Achwal had apologised on more than one occasion for any inappropriate release of information, including to the developer, but the apology and a general clarification of her actions could have been made earlier.

Finally, the Sub-Committee asked the Parish Council to reflect on the whole situation and whether the actions it had taken were disproportionate to what had actually occurred. This question was posed in the hope that the whole Parish Council would now move forward in a positive and constructive manner.'



APPENDIX 2

Parish Office
Heatherdene
Turkey Island
Shedfield
Southampton
SO32 2JE

Date 5th July 2013

Dear Mr Whetnall

Complaint against Whiteley Parish Councillor Vivian Achwal

Complaint against Whiteley Parish Councillor Michael Evans

Thank you for your letter dated 13th March 2013 in respect of the above.

The Council had previously considered the Standards Board response but had seen little benefit in prolonging this discussion given the decisions made. The Parish Council further reviewed this as an exempt item at its meeting held on 1st July 2013 and would respond as follows:

The case against Cllr Achwal was brought to the Standards Board as a result of a due democratic process. This course of action was agreed despite the advice of both the Chairman and Clerk to avoid this if at all possible. However, in response to a majority decision of the Council to pursue such action, the Chairman completed the case application on behalf of the Council.

Whiteley Parish Council is one of a select few parishes in Winchester District that has attained Quality Status and is one of only two parishes in the country to have achieved the Charter of Member Development. We believe this demonstrates the Council's commitment to professional working practices and particularly training for its members. Councillors therefore fully appreciated the seriousness of its discussion concerning Cllr Achwal, and the consequences of a 'vote of no confidence' in her as a Parish Councillor, and any actions determined to be taken were fully informed and not taken lightly.

The Council strongly refutes the allegations made against the Parish Council Chairman and Clerk and believes the Standards Board should not have considered the two cases together.

At the conclusion of its aforementioned review on the 1st July 2013, the Council reconsidered its 'vote of no confidence' in Cllr Achwal and it was unanimously agreed it should stand.

Yours sincerely

David Jenkins

Vice Chairman

Cllr Roland Diffey

Cllr Colin Bielkus

Cllr Chris Harper

Cllr Tasmin Smith

Cllr Pat Thew

Cllr Chris Wye

WHITELEY PARISH COUNCIL

(Report ST100 refers)

RESOLVED:

That Whiteley Parish Council be informed as follows:-

1. The Committee notes the response from Whiteley Parish Council and is disappointed that the Council has simply restated its position and offered no suggestions regarding a positive way forward in this matter.

The decision of the Standards (Assessment) Sub Committee (5/3/13) reflected the position that the major elements of the information allegedly released by Councillor Achwal were already in the public domain and therefore her actions need to be considered in that context. To continue to prevent her from attending all but full Council meetings appears excessive and unreasonable, especially in the absence of any proposals from the Parish Council to settle the matter and return to normal working with all Members involved.

Therefore, the Committee urges the Parish Council to reconsider its stance in this matter and, as a possible way forward, to engage the services of an external mediator to meet all parties and hopefully facilitate a mutually acceptable resolution of this issue.

2. That the Committee's decision in 1. above be considered by the whole Parish Council in public session, with an opportunity for all Councillors to address the meeting.
3. That the Parish Council be requested to respond to this Committee regarding the above proposals.
