

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

STANDARDS COMMITTEE – PANEL HEARING

**Minutes of a Meeting of the Standards Committee held on
Friday 5 February 2010 at 10.00 am in the Council Chamber,
Town Hall, Saturday Market Place, King's Lynn**

PRESENT:

Mr M Sale (Independent Member and Chairman)
Mr G Brierley (Independent Member) and Mr R Steward (Independent Member)

Also in attendance: Teresa Campion (Investigating Officer)
Nicola Leader (Legal Advisor)
Wendy Vincent (Democratic Services Officer)

Mrs E Oliver, Clerk to Wiggenhall St. Germans Parish Council
Mrs H Davison, Complainant

1 INTRODUCTIONS

The Chairman welcomed everyone to the meeting and made introductions.

2 DECLARATIONS OF INTEREST

There were none.

**3 TO CONSIDER THE LOCAL INVESTIGATION AS TO AN ALLEGATION
AGAINST BOROUGH COUNCILLOR MR FRANCIS MOREAU OF THE
BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK (01/09)**

The Chairman confirmed that the Standards Committee, Panel Hearing was quorate and outlined the procedure which would be followed throughout the hearing.

Borough Councillor Moreau was not present.

The Legal Advisor explained that Councillor Moreau had indicated that he would not be attending the hearing today because he was unable to take time off work and that he would not be represented at the hearing.

The Panel therefore determined to proceed with the hearing in the absence of Councillor Moreau.

The hearing was conducted in open session.

The Chairman invited the Panel's Legal Advisor to present her Pre-Hearing Summary Report which had been circulated to Members and other interested parties in advance.

The Legal Advisor explained:

A complaint had been received from Mrs H Davison against Borough Councillor Mr Francis Moreau in that during the course of a meeting of Wiggshall St Germans Parish Council held on 19 January 2009, Councillor Moreau referred to Mr and Mrs Davison as "loopy" and "malingerers".

The complaint was received from Mrs Davison on 22 January 2009. The local investigation was carried out by Miss Teresa Campion, a Deputy Monitoring Officer for the Borough Council, who completed her final report on the 29 October 2009.

The Borough Council of King's Lynn adopted the Model Code of Conduct ('the Code') in 2007 and accordingly it is against this Code the determination had to be made. The relevant sections of the Code were 3(1) and 3(2) and 5.

In accordance with the Standards Committee Hearing Procedure adopted on the 30 August 2006, Councillor Moreau had received and responded to the standard pre-hearing forms.

Findings of fact which are agreed:

That Councillor Moreau was present at the Parish Council meeting on the 19 January 2009.

Findings of fact which are not agreed and Points of Dispute:

Councillor Moreau denied that he described Mr and Mrs Davison as "loony and not worth bothering about." Councillor Moreau stated that the letter from Mrs Scott (Appendix F of the Investigating Officer's report) corroborated this. Councillor Moreau denied that he had received a folder of documents alleged to have been delivered by Mrs Davison at his home address.

Councillor Moreau considered that the comments by the Clerk to the Investigating Officer at Paragraph 13 on Page 6 that Councillor Moreau became abusive and pompous were out of context. He said that he was in fact asking the Parish Council to apologise for an apology for false remarks made by the Parish Council in the Lynn News which referred to Councillor Moreau as being impossible to contact and complained about his lack of attendance at Parish Council meetings.

Representation:

Councillor Moreau had made representations in response to the pre-hearing forms of matters which he would like the Panel to take into account if he was found to have failed to follow the Code of Conduct. The Legal Advisor reported that she would make those representations available in the event that the Panel concluded that there had been a breach of the Code.

The Chairman invited the Investigating Officer to present her report.

The Investigating Officer presented her report and outlined the details contained within her report circulated with the Agenda, drawing particular attention to the following points as set out below:

The allegation had related to an incident at a meeting of Wiggshall St Germans Parish Council on 19 January 2009. It was alleged that during the course of that meeting Councillor Moreau called Mr and Mrs Davison "loopy" and "malingers".

In relation to this allegation Mrs Davison stated that at the meeting of Wiggshall St Germans Parish Council on 19 January 2009 during the public question time at the beginning of the meeting she mentioned that she and her husband had concerns over a planning application and had delivered a folder of documents to Councillor Moreau's home address.

Councillor Moreau denied having received these documents.

Mrs Davison stated that she had checked with a neighbour of Councillor Moreau to ensure she had the correct letter box.

Councillor Moreau then described them both as "loony and not worth bothering about." He denied receiving the information she had posted. Mrs Davison did not respond to his comments and remained calm, but stuck to her guns that she had delivered the documents to the correct address.

Mrs Davison did not think she had provoked the reaction she received at all, however, she did add that she had written to Henry Bellingham as the Borough Council (Councillor Moreau) was not offering them any help at all in relation to the planning application. She was surprised by the reaction she had received from Councillor Moreau and perceived this to be rude and aggressive.

There was then some discussion amongst the Parish Councillors as to what Councillor Moreau's role was as a Borough Councillor as he did not appear to attend many of the Parish Council meetings.

At the meeting other than Members of the Parish Council, Mrs Davison recalled that Councillor Richard Rockcliffe from Norfolk County Council was in attendance and one of their neighbours, Christine Sullivan.

The discussion about this item lasted for approximately 10 minutes.

Mr Davison when interviewed said that at the meeting on 19 January 2009, both Mrs Davison and himself sat behind Councillor Moreau so he had his back to them. Councillor Moreau was rude to everyone at the meeting and was rude to his wife. He did not recall the words that he used to her but he denied receiving the folder of documents that Mrs Davison had posted through his letterbox and Councillor Moreau went on to talk about the documents not being properly addressed because he did not have the post code on it. Mrs Davison stated that this was not necessary as it had been hand delivered and not posted.

Mr Davison confirmed that Mrs Davison and himself had stayed for the remainder of the Parish Council meeting.

The Parish Clerk, Mrs Oliver was interviewed with regard to the allegations made against Councillor Moreau and a witness statement taken from Mrs Oliver which was produced at Appendix E. Mrs Oliver stated that it had been previously mentioned at Parish Council meetings that Councillor Moreau did not attend meetings and contact with him was difficult.

At a meeting of the Parish Council this was mentioned by Mr and Mrs Davison as they were trying to contact him about a planning application. This was duly minuted and included in a report to The Lynn News.

Councillor Moreau then contacted her in a very aggressive and rude manner, to enquire who had been complaining about him and stated that he worked as well as being a Borough Councillor.

The Clerk contacted Mr and Mrs Davison to seek their agreement to her passing on their contact details so Councillor Moreau could speak to them directly.

Councillor Moreau and Mr and Mrs Davison attended the Parish Council's meeting on 19 January 2009. At the beginning of the meeting there was an open form for parishioners, this was minuted but it is not required to be so. Comments were minuted at this time as it reminded the Parish Council of issues that had been raised and how to address them immediately or at a future meeting, whatever was appropriate.

Minutes never relayed every comment or stated any personal comments as they were published on the Parish Council Notice Board, put on their website and in the Parish Council magazine and The Lynn News.

The Clerk recalled that Mrs Davison at the meeting said she had tried to contact Councillor Moreau over her and her husband's concern over a planning application.

Councillor Moreau stated that he never received the paperwork which Mr and Mrs Davison alleged to have hand delivered to his house. He claimed that they had the wrong post code and at this point became abusive and pompous. He demanded an apology from Mr and Mrs Davison and the Parish Council.

Mrs Davison remained very calm and claimed she had delivered the documents to his house.

Some of the Parish Councillors asked what the role of a Borough Councillor was, as Councillor Moreau hardly attended Parish Council meetings.

During the tirade of comments Councillor Moreau referred to the Davisons as "loony", but she was not sure if this was directed to Mr or Mrs Davison or both.

Mr Davison did not say very much and Mrs Davison remained calm throughout the meeting and reiterated her point of view calmly and quietly. Councillor Moreau stated he lived at White Cottage and not White Hall which Mrs Davison had referred to in her presentation in error. Councillor Moreau stated that he did not have a post box and never received the documents she hand delivered.

At the meeting another parishioner supported Councillor Moreau saying that he had helped her with her planning application.

All minutes were circulated to Members of the Parish Council, Borough Council and County Council for their comments. If the Parish Council was in agreement then the Chairman signed them off during the following Parish Council meeting in public. January's Parish Council minutes were signed off in March 2009. The minutes were also displayed on the Parish Council web site and notice board.

Councillor Moreau responded to the Investigation Officer's questions by letter and email. He stated that he never received the documents the Davisons alleged they had delivered to his property.

Councillor Moreau recalled the Parish Council meeting on 19 January 2009. He attended this meeting as he became aware of the Davisons planning issues after he had read comments in the Parish News that he was impossible to contact. He was shocked by this as he had a published telephone number and answering machine as well as a postal address and email. In attending this meeting he was not able to attend his group meeting on the same day.

Councillor Moreau stated that he did not insult Mr and Mrs Davison or other Parish Council attendees and said that the allegations were made against him because he was unable to attend all their meetings. He also stated that there was no mention of any insults in the Parish Council minutes.

Councillor Moreau recalled Mrs Davison making claims about him not responding to her correspondence and that he replied that he had never received it. Mrs Davison went on to say she had delivered the documents and alleged that he was lying which he took offence to.

Councillor Moreau believed that the allegations had been made because he was unable to attend all the Parish Council meetings as they clashed with his group meetings. He attended the meeting on 19 January 2009 to try to clear the matter up regarding Mr and Mrs Davison's planning issues.

Councillor Moreau did not admit to calling either Mr and Mrs Davison "loony" "malingers", or anything else.

When asked whether or not if there was anyone able to assist with the investigation he stated that County Councillor Rockcliffe was present at the meeting.

The Investigating Officer wrote to County Councillor Rockcliffe on 25 June and 22 July 2009, but had received no response to her letters.

The draft report was sent with a covering letter to both the complainants and Councillor Moreau on 3 September 2009. No comments were received from the complainants, but Councillor Moreau responded to the report by email on 17 September 2009 with comments on the draft report.

Councillor Moreau commented that he was not able to attend the interview with the Investigating Officer due to work commitments rather than preferring not to attend the interview.

It was incorrect to say that Mr Davison called him "useless" on the telephone as he could not understand what Mr Davison had said.

Mrs Oliver's statement was incorrect as he lived at White Hall and not White Cottage.

Councillor Moreau stated the fact that he had helped Mrs Scott; another parishioner was reduced to one line in Mrs Oliver's statement. He suggested that the Investigating Officer wrote to Mrs Scott as she was at the Parish Council meeting.

Appendix A of the Investigation Officer's report stated that the Davisons wrote to Councillor Moreau reproaching him. He confirmed that he never received anything in writing from them. Councillor Moreau stated that he did not telephone them for the purpose of shouting at them, but to see if he could help and claimed he received a torrent of abuse.

Councillor Moreau's explanation was that there was a history of bad feeling between himself and the Parish Council which started in 1997 when he moved to St Germans, when a Parish Councillor claimed that there was a footpath through his main gates and up to his drive.

One of the Parish Councillors upon hearing he was made a Borough Councillor repeatedly phoned his secretary and refused to leave a message. When he returned home later he rang her to see what she wanted that was clearly urgent. He alleged that she replied "nothing really."

On 17 September 2009, the Investigating Officer was informed by email that Councillor Moreau had recorded the Parish Council meeting of 19 January 2009. The recording was on his computer and he was provided with a memory stick to transfer the information so that this could be presented as part of the case and viewed by Members of the Standards Committee.

On 5 October 2009, Councillor Moreau also provided the address of Mrs Scott who also attended the Parish Council on 19 January 2009 and would be able to provide evidence to support Councillor Moreau.

Mrs Scott sent a letter dated 10 October 2009 in support of Councillor Moreau. This was received on 12 October 2009 and was produced at Appendix F.

The memory stick was hand delivered to the Borough Council of King's Lynn reception area at King's Court and was received on 15 October 2009.

The memory stick was viewed by the Investigating Officer on her computer using head phones. The recording itself appeared to be a recording of the Parish Council Meeting of 19 January 2009. The sound quality of the recording was not particularly good and in places difficult to follow. This further evidence did not really change the view of the Investigating Officer that in relation to the second allegation that the Code of Conduct had been breached.

The Standards Committee would have to consider all the evidence including the recording of the meeting of 19 January 2009 and the witnesses' testimonies and decide on the balance of probabilities whether the Code of Conduct had been breached.

Reasoning

In relation to a possible breach of Paragraph 3(1) that is treating people with respect, the Code of Guidance – Code of Conduct for Members May 2009 dealt with cases where individuals were subject to unreasonable or excessive personal attack. This particularly applied to dealing with the public and officers. Whilst it was acknowledged that some Members of the public could make unreasonable demands on Members, Members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowered the public's expectations and confidence in elected representatives.

The Investigating Officer was of the view that the meeting on the 19 January 2009 was a very difficult meeting which got somewhat out of hand. This

was supported by the Complainant's witness statement and the witness statement from the Parish Clerk. The Investigating Officer accepted the explanation from the Parish Clerk that she would never put personal comments in the Parish Council minutes as they would be published on their website, in the Parish Magazine and the Lynn News. The way that the Parish Clerk recorded her minutes was not any different to the recording of Borough Council meetings. Minutes would not record personal comments because they were available for inspection by the public and were published on the Borough Council's web site.

The Investigating Officer found that it was likely that Councillor Moreau was rude to Mr and Mrs Davison albeit perhaps not intentional. This appeared to be corroborated by the evidence of Mr and Mrs Davison, although Mr Davison could not remember the exact words used.

There was some evidence from the Parish Council Minutes of 19 January 2009 to suggest the Parish Council raised some concerns that Councillor Moreau did not attend Parish Council Meetings and this was corroborated by the Parish Clerk, but there was no evidence to suggest that this was the reason for the complaint against Councillor Moreau by Mrs Davison.

Having considered all the evidence, unfortunately, the Investigating Officer was of the view that Councillor Moreau did not treat Mr and Mrs Davison with respect and there had been a breach of Paragraph 3(1) of the Borough Council's Code of Conduct.

The Investigating Officer had also looked at Paragraph 3(2)(b) of the Code of Conduct, but was of the view that the incident on 19 January 2009 was not sufficiently serious to constitute bullying. Bullying under the Code of Guidance was defined as "offensive, intimidating, malicious, insulting or humiliating behaviour." Such behaviour might happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you had some actual or perceived influence. Bullying behaviour attempted to undermine an individual or a group of individuals, was detrimental to their confidence and capability, and might adversely affect their health.

In conclusion, the Investigating Officer advised that there had been a breach by Councillor Moreau of Paragraph 3(1) of the Borough Council's Code of Conduct.

In response to a comment from the Chairman, the Investigating Officer advised that it was her intention to call two witnesses, Mrs Heather Davison the complainant and Mrs Elaine Oliver the Parish Clerk.

The two witnesses remained outside of the hearing in separate waiting rooms.

The Investigating Officer advised that there was a recording of the Parish Council Meeting of the 19 January 2009 which lasted for between 1.5 and 2 hours. She therefore suggested that following Mrs Davison being called as

a witness to provide evidence and the Panel to determine whether they wished to view all or part of the recording provided by Councillor Moreau.

At 10.30 am, the Investigating Officer called Mrs Davison, as a witness to provide evidence to the Panel.

The Chairman explained the procedure that would be followed to Mrs Davison, the first witness.

The Investigating Officer invited Mrs Davison to provide background information and details of her first dealings with Councillor Moreau regarding the concerns she had with a planning application.

Mrs Davison explained that she had contacted Councillor Moreau by telephone over a year ago regarding a planning application for five dwellings behind her property. Councillor Moreau explained that he worked from 6 am until 8 pm but indicated that he was willing to meet with Mr Davison and herself. It was agreed that Mrs Davison would produce a folder of the relevant documents and post them through Councillor Moreau's letterbox.

Mrs Davison went on to say that before she posted the folder of documents, she checked with a neighbour of Councillor Moreau's as to the correct letterbox. The neighbour confirmed the correct letter box and she posted the documents through the letter box. As Mrs Davison had received no response, she wrote to Henry Bellingham explaining her concern about the lack of a response from Councillor Moreau. She then wrote to Councillor Moreau and posted the letter by First Class post.

Mrs Davison further added that both Mr Davison and herself normally attended Parish Council meetings out of interest.

The Investigating Officer then asked Mrs Davison to recall what happened at the Parish Council meeting on 19 January 2009.

Mrs Davison explained that Councillor Moreau had denied receiving the documents she had posted through his letter box. He had stated that there was no postcode. Mrs Davison questioned as to how Councillor Moreau was able to state there was no postcode if he had not received the documents? Councillor Moreau had said he lived at White Cottage, however, his contact details on the Borough Council's website had listed White Hall as a point of contact.

Councillor Moreau had described her husband and herself as "loony and not worth bothering about." He had behaved in an aggressive and pompous manner. Mrs Davison confirmed that she did not respond to Councillor Moreau's comments, but remained calm and stuck to her guns that she had delivered the documents to the correct address.

At this point in the hearing, the Chairman advised the Investigating Officer that her witness must not give personal opinions. The Chairman asked the

witness to provide the Panel with an example of Councillor Moreau's aggression. Mrs Davison gave the following as examples of aggressive behaviour:

Raising of his voice and making insulting comments.

Mrs Davison further explained that later in the Parish Council meeting of 19 January 2009, Councillor Moreau referred to the Davisons as loony and malingerers.

The Investigating Officer asked Mrs Davison to outline what discussions had taken place at the beginning of the meeting. Mrs Davison explained that the public were allowed to speak at the beginning of each meeting. Councillor Moreau had denied receiving the documents which Mrs Davison had posted through his letterbox. Mrs Davison confirmed that she did not do anything to provoke Councillor Moreau and remained calm throughout the whole meeting. Mrs Davison added that she had not met with Councillor Moreau but had spoken to him over the telephone. She had complained to the Borough Council because she had felt she had been put in a humiliating position and been spoken to without respect, which was not the behaviour she would expect from a Borough Councillor.

Mrs Davison could not recall at what part of the meeting, Councillor Moreau had made the comments as it was over a year ago.

In response to questions from the Panel, Mrs Davison confirmed that Councillor Moreau had referred to her as "loony", but the comment "malingerers" was directed to both her husband and herself. The Chairman referred Mrs Davison to the letter received from a parishioner who had been present at the meeting of the 19 January 2009, but no mention had been made of the comments "loony or malingerers." Mrs Davison added that she didn't understand there being no mention of the comments and stated that it appeared to be a different meeting.

Mrs Davison left the hearing at 10.44 am.

At 10.45 am, the Investigating Officer called her second witness, Mrs Elaine Oliver, Clerk to Wiggenhall St Germans Parish Council.

The Chairman explained the procedure that would be followed to Mrs Oliver, the second witness.

The Investigating Officer invited Mrs Oliver as Parish Clerk to explain her previous dealings with Councillor Moreau.

Mrs Oliver explained that the Parish Council had raised concern that Councillor Moreau did not attend Parish Council meetings and that contact with him was difficult. She had written letters to Henry Bellingham MP and Councillor Nick Daubney, Leader of the Borough Council on behalf of the Parish Council outlining the concerns of the Parish Council.

The Investigating Officer asked Mrs Oliver to give an account of what happened at the Parish Council on 19 January 2009 when Mrs Davison was speaking. Mrs Oliver explained that as the meeting had taken place over a year ago, it was difficult to recall the exact happenings of that meeting and would use her statement as an aid to refresh her memory.

Mrs Oliver reiterated that the Parish Council had previously raised concerns that Councillor Moreau did not attend Parish Council meetings and contact with him was difficult. At the meeting Mr and Mrs Davison raised concerns that they had difficulties contacting Councillor Moreau to discuss their concerns over a planning application. This was duly minuted and was included in a report to the Lynn News. Councillor Moreau contacted her in a very aggressive and rude manner, to enquire who had made the complaint and stated that he worked as well as being a Borough Councillor.

Mrs Oliver then contacted Mr and Mrs Davison to check they were in agreement to her passing on their details to Councillor Moreau so he could contact them directly. Mr and Mrs Davison confirmed they had no objection.

At the next meeting on 19 January 2009, Mr and Mrs Davison, Councillor Moreau and two others were present. At the beginning of each meeting there was an open forum for parishioners, this is minuted, but it was not required to be so. The Parish Council felt that to minute comments expressed at this time reminded the Parish Council of issues that had been raised and how to address them immediately or at a future meeting, whatever was appropriate. Minutes never relayed every statement or comment and the personal comments said were not recorded as the minutes were publicised on the Parish Council website, put on the notice board and referred to in the Parish Magazine and Lynn News.

Mrs Davison said that she had tried to contact Councillor Moreau over her and her husband's concerns over a planning application. Councillor Moreau stated that he never received the paperwork which Mr and Mrs Davison alleged to have delivered by hand to his property. Councillor Moreau claimed that they had got the wrong post code, at that point Councillor Moreau was very abusive and pompous. Mrs Davison remained calm and measured. The meeting was tense and very difficult. Concern was expressed regarding Councillor Moreau's non-attendance at Parish Council meetings.

The Investigating Officer invited Mrs Oliver to give examples of Councillor Moreau's aggressive and rude manner. Mrs Oliver stated that she couldn't remember, but did recall "loony" being mentioned. Councillor Moreau also said something along the lines "I work all day not like those malingerers who don't". Councillor Moreau had demanded an apology following the article regarding a previous Parish Council meeting published in the Lynn News. Mrs Oliver further added that she felt the word "loony" was being directed at Mr and Mrs Davison, but could not recall at what point in the meeting.

Mrs Oliver confirmed that the Parish Council minutes were not recorded verbatim and did not include personal comments made. The minutes were emailed to the Borough Council and County Councillors for comments. The public forum section of the meeting did not require minuting, however the Parish Council were of the opinion it was better to record what was said in order to address the issues raised.

The Investigating Officer asked Mrs Oliver if anyone had provoked the reaction of Councillor Moreau. Mrs Oliver explained that the question had been asked as to why Councillor Moreau had not responded to a planning application. Another parishioner had supported Councillor Moreau stating that he had helped her with her planning application. Mrs Davison had remained calm, quiet and measured during the course of the meeting.

Mrs Oliver confirmed that Mr and Mrs Davison and County Councillor Rockcliffe remained for the whole meeting.

In response to questions from the Panel, Mrs Oliver explained that the remark made regarding "malingerers" was a general statement to those who didn't work but later added she said she thought that the remark had been directed to Mr and Mrs Davison, but could not recall at what point in the meeting the remark was made. The Parish Council were not aware that Councillor Moreau was recording the meeting on 19 January 2009. Mrs Oliver added that Councillor Moreau had made. Councillor Moreau remained for the entirety of the Parish Council meeting on 19 January 2009.

In response to a further question, Mrs Oliver confirmed that the planning application referred to was within the village which the Parish Council had agreed.

Mrs Oliver left the hearing at 10.59 am.

There were no questions to the Investigating Officer from the Panel.

The Panel adjourned at 11.00 am and reconvened at 11.17 am.

Following a technical problem with the IT equipment to enable the Panel to view a recording of the Parish Council meeting on 19 January 2009, the Panel adjourned to 12 noon.

At 12 noon, the Panel viewed part of the recording (20 minutes) of the Parish Council meeting held on 19 January 2009.

The Chairman explained that the recording had limited value and it appeared to be the beginning of the meeting where the exchange of comments had been made between the Councillor Moreau, the complainant the Members of the Parish Council. However, if felt appropriate, the Panel would have the option to recall witnesses at any point during the hearing.

The Investigating Officer invited the Clerk, Mrs Oliver to comment on the timing displayed on the screen of the recording. Mrs Oliver confirmed that the meeting commenced at 7.30 pm and concluded at 9.15 pm. Mrs Oliver reiterated that the Parish Council had no idea that the meeting was being recorded.

In response to further questions from the Investigating Officer, Mrs Oliver confirmed that the majority of dialogue had been between the Parish Councillors and Councillor Moreau at the beginning of the meeting. The whole tone of the meeting had been set by dialogue at the beginning. It would have been better to abandon the meeting.

At the request of the Panel, the Investigating Officer re-wound the recording to the beginning and confirmed the time the meeting had commenced at 20.36. The Legal Advisor commented that the recording device used may have not displayed the correct time and might have been an hour ahead.

The Legal Advisor explained that the recording of part of the meeting viewed by the Panel would be available to view when the Panel had retired to determine their decision.

The Panel confirmed they had no further questions.

The Panel retired at 12.36 pm to consider its decision in private.

At 1.10 pm the Panel reconvened.

The Chairman thanked those present for their participation in the hearing and explained that the Legal Advisor had provided assistance to the Panel on points of law and took no part in the proceedings.

Decision

The Chairman explained that the Standards Committee had reached the following decisions after considering the submissions of the parties:

- (a) That, on balance of probabilities, Councillor Francis Moreau had referred to Mr and/or Mrs Davison at the said Parish Council meeting as 'loony' or 'loopy'. The Panel is satisfied that this was a breach of Paragraph 3(1) of the Code of Conduct in that he did not treat Mr and/or Mrs Davison with respect.
- (b) That this behaviour did not amount to 'bullying' under Paragraph 3(2)(b) of the Code.
- (c) That this behaviour did not amount to a breach of Paragraph 5 of the Code.

Reasons for Decision

The Committee watched and listened to the recording of the meeting produced by Councillor Moreau which appeared to cover the open forum part of the meeting. The Panel found this to be of poor sound and visual quality and inconclusive so far as the allegations were concerned. The Panel therefore discounted this from their considerations.

The Panel were impressed by the independent evidence given to them by Mrs Oliver, the Parish Clerk, who corroborated the statement and evidence given by Mrs Davison that Councillor Moreau had referred to Mr and/or Mrs Davison as “loony” or “loopy” during the Parish Council meeting.

From Mrs Oliver’s evidence, the Panel believed that Councillor Moreau did use the word ‘malingerer’ but were not satisfied that this remark had been directed at Mr or Mrs Davison.

The Chairman invited the Legal Advisor to read out the statement received from Councillor Moreau.

The Legal Advisor read out the statement verbatim as set out below:

I would ask the Standards Committee to take into account the fact that for reasons I do not understand, I am unpopular with the Parish Council as a whole. They indicated that the previous Borough Councillor attended their meetings regularly. This was probably because he was able to as he was a Labour Councillor and his meetings did not clash.

A Parish Councillor telephoned me several times, refusing to leave a message with my secretary. When I contacted her by dialling 1471 to obtain her telephone number, she stated that she had no need for my assistance. This supports my theory that the Parish Council have a grudge against me and I fear this whole complaint has been made in an attempt to defame my character. I understand that you might find this difficult to believe, but I do think the evidence speaks for itself.

I believe that I go to great lengths to help people in the parish, often making house calls when it is convenient for them, taking and making telephone calls. I always return calls when a message is left for me. If it is not on the same day it is because of my work commitments which sometimes mean I am away from home or are home too late in the evening (I think it is impolite to telephone people late in the evening in case they are elderly or have young children who would be woken by the call).

The Chairman invited the Investigating Officer to suggest an appropriate sanction.

The Investigating Officer suggested a form of apology as no other occurrences had been reported apart from the meeting on 19 January 2009.

The breach was not severe enough to warrant suspension or disqualification. In response, the Chairman's reaction was there was no suggestion of a need for an apology.

At 1.18 pm the Panel retired in private to consider the appropriate sanction to impose on Councillor Moreau.

At 1.30 pm the Panel reconvened and the Chairman announced the following sanction:

Sanction

The Standards Committee reached the following decision after considering the submissions of the Investigating Officer and a written statement submitted by Councillor Moreau.

The Panel decided to impose the sanction of censure on Councillor Francis Moreau.

The censure will take effect from the date of the decision notice.

In reaching this decision the Committee had regard to:

- Councillor Moreau had not previously breached the Code of Conduct.
- Councillor Moreau did not accept that he had been disrespectful to Mr and Mrs Davison and the Committee did not feel that it required him to offer them an apology it would carry and meaning or weight.
- A partial or full suspension of the Councillor would be unreasonable and disproportionate to the breach found proved.

Right of Appeal

Councillor Moreau has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal the Panel of the Standards Committee's findings. The President of the Adjudication Panel must receive written notice requesting permission to appeal within 28 days of the member's receipt of notification of the Panel of the Standards Committee's finding.

Publicity

Following the Panel Hearing, the Investigating Officer undertook to write and advise Councillor Moreau that with regard to the allegation in that he had breached the Code of Conduct, a notice would be required to be published in the local press.

The meeting closed at 1.32 pm