

**STANDARDS COMMITTEE
TUESDAY 11 JULY 2017 AT 10.00AM**

PRESENT: Councillor Mrs Bradley (Chairman), Mrs Bowman, McDonald, Nedved
(as substitute for Councillor Mrs Mallinson), Mrs Parsons and
Stothard.

ALSO PRESENT: Councillor C Nicholson, Parish Council Representative
Mr K Thomas, Independent Person

OFFICERS: The Monitoring Officer
Principal Lawyer

ST.05/17 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Mrs Mallinson and Ms Patrick.

ST.06/17 DECLARATIONS OF INTEREST

Councillor Mrs Bowman declared a personal interest in accordance with the Council's Code of Conduct in respect of agenda item A.2 – Code of Conduct - Councillor C Raine. Her interest related to the fact that her husband had been in attendance as a City Councillor at one of the Parish Meetings discussed in the Investigation Report.

ST.07/17 PUBLIC AND PRESS

The Monitoring Officer reported that Councillor Raine had requested that the Committee consider the report in private. The Monitoring Officer had considered the request and advised the Committee that there was no confidential information included in the report and there was no justification under Schedule 12A of the Local Government Act 1972 to move the item into private.

RESOLVED - It was agreed that the items of business in Part A be dealt with in public.

ST.08/17 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 31 March 2017 be noted.

ST.09/17 CO-OPTION OF PARISH COUNCIL REPRESENTATIVE

In accordance with the Council's Scheme of Delegation the Standards Committee were invited to co-opt a Parish council representative onto the Committee in a non-voting capacity for 2017/18.

It was moved and seconded that Councillor Craig Nicholson be appointed the Parish Council representative on the Standards Committee for Municipal Year 2017/18.

RESOLVED – That Councillor Craig Nicholson be appointed as the Parish Council representative (non-voting) on the Standards Committee for Municipal Year 2017/18.

ST.10/17 CODE OF CONDUCT – COUNCILLOR CHARLES RAINE

The Monitoring Officer submitted report GD.40/17 which detailed a complaint that a Farlam Parish Councillor had breached the Code of Conduct. The complaint required determination by the Committee in accordance with the Council's arrangements for dealing with such matters.

The Monitoring Officer reported that Mrs Thomson had made a complaint that Councillor Charles Raine of Farlam Parish Council had breached the Code of Conduct which regulated the behaviour of Members of the said Council. In accordance with the arrangements for dealing with such complaints, the matter had been reviewed by the Monitoring Officer, the Chairman of Standards Committee and an Independent Person and it was decided that the complaint passed the threshold test for further investigation. Accordingly the Monitoring Officer appointed the Council's Principal Lawyer to carry out the investigation.

The Report included the relevant guidance for Members, a copy of the complaint made by Mrs Thomson and the full Investigation report.

Councillor Raine had indicated that he would not attend the hearing but had submitted a detailed reply to the Investigation report for consideration by the Committee, attached to the report as Appendix 5. In accordance with the approved arrangements for dealing with Standards matters, the Committee confirmed that they were content to proceed to hear the matter in Councillor Raine's absence.

The Principal Lawyer outlined the key areas of the investigation report:

13 May 2015 – Councillor Raine had been elected to Farlam Parish Council and completed a Notification by Member of Pecuniary and Other Registrable Interests form which included details of Councillor Raine's property which lay directly adjacent to the complainants land.

18 February 2016 – The complainants submitted their application for planning permission on their land which shared a boundary with Councillor Raine's land.

9 March 2016 – Scheduled meeting of Farlam Parish Council was attended by Councillor Raine but not the complainants. The minutes for the meeting showed that Councillor Raine declared an interest in the planning application and recorded that the Parish Council would register their 'objection' to the planning application. The 'objection' was submitted and uploaded onto the complainants file within the City Council's planning portal and was open to public inspection.

11 May 2016 – Scheduled meeting of Farlam Parish Council was attended by both Councillor Raine and the complainants. Each Parish Council meeting had a public participation section which gave members of the public the opportunity to raise items which had not been included on the agenda. The Parish meeting was suspended for the public participation item. The minutes of the meeting showed that no declarations of interest were submitted and that two members of the public were in attendance.

When the meeting got to the public participation item the formal business of the meeting was suspended and the complainants addressed the Parish Council regarding their objection to the planning application. Full details of the meeting were set out in the report along with the minutes of the meeting.

In preparing the investigation report the Principal Lawyer interviewed Alison Riddell, Clerk to Farlam Parish Council, Mrs Thomson and Councillor Raine, full details of which were included in the report.

Mrs Thomson's complaint was that Councillor Raine failed to mention the ownership of the land adjacent to the planning application and that he rented that land out.

Councillor Raine confirmed that he knew the complainants personally and had been aware that the planning application would be considered by the Parish Council. He had sought advice from the Parish Clerk who had then sought guidance from the Cumbria Association of Local Councils (CALC). He had been advised that it was 'a bit of a grey area' as the status of the parish council was that of 'consultee only'. Councillor Raine had declared a non-pecuniary interest but had felt that he had not needed to leave the room.

Ms Riddell had explained that the details of the planning application had been received and added to the Parish meeting agenda as usual. Councillor Raine had contacted her to query whether he needed to declare a pecuniary interest in the planning application which related to land adjacent to his own farm. She confirmed that she contacted CALC who had informed her that it was a grey area and she advised Councillor Raine that he did not need to declare a pecuniary interest neither would he be required to leave the room.

The Principal Lawyer concluded by highlighting the regulatory requirements set out on page 60 of the report.

In response to Member's questions the Principal Lawyer and the Monitoring Officer clarified the following:

- The suspension of the Parish Council meeting to allow for public participation was a procedure that Farlam Parish Council had adopted.
- Legal advice for the suspended period of the meeting would be that Parish Councillors were still at the meeting as Councillors and would be covered by the Code of Conduct. A declaration for an interest should be made at the beginning of the meeting or at the moment a Member became aware of the interest. When the issue relating to the planning application was mentioned in the public participation section of the meeting, Councillor Raine should have declared his interest, i.e. when he became aware of it.
- CALC were not interviewed as part of the investigation.

The Monitoring Officer set out his advice and reminded the Committee that a Member had a Disclosable Pecuniary Interest (DPI) in land if he had any beneficial land which was within the area of the relevant authority. Councillor Raine's field was within Farlam Parish Council's area and he had a beneficial interest as he owned the land, he had correctly registered this on his notification of register of interest form.

Section 31(1) of the Localism Act 2011 stated that if a member was present at a meeting of the Council and had a DPI "in any matter" to be considered, or being considered, at the meeting then the member:

- May not participate, or participate further, in any discussion on the matter at the meeting, or
- Participate in any vote, or further vote, taken on the matter at the meeting.

Councillor Raine's DPI was 'in' his field not the complainants' field, which was adjacent, therefore, he was not caught by Section 31.

The Monitoring Officer stated that the Standards Committee had to give consideration to the law relating to bias and the guidance set out within the agenda document pack. The discussion of the planning permission on the land adjacent Councillor Raine's was sufficient to create an interest on his part and he had recognised that and sought advice before declaring an interest. The Committee were asked to consider if an ordinary member of the public with full knowledge of the facts would think that the interest was sufficient to influence the way in which Councillor Raine voted.

He concluded by stating that the application for planning permission was the field adjacent to Councillor Raine's and a member of the public would be very likely to believe that Councillor would take into account his ownership of the adjacent field when deciding how to vote; it would influence his vote.

Accordingly, in his view, there had not been a breach of the Code of Conduct, however, the law of bias was applicable and Councillor Raine was correct to declare his interest but, applying the public interest test, should not have participated in the discussion of the item.

The Independent Person understood that Councillor Raine had not breached the Code of Conduct but felt strongly that he had breached the laws of bias and that he should have declared his interest and left the meeting. He felt that by remaining in the meeting Councillor Raine, potentially, could have prevented other Parish Councillors from speaking about the matter freely.

In accordance with the Procedure for determination of allegations about personal conduct of Council Members the respective parties then withdrew from the meeting whilst the Committee gave detailed consideration to the matter.

RESOLVED – The Standards Committee decided:

- that Councillor Raine had **not** breached the Code of Conduct;
- Councillor Raine did have an interest in the matter (the planning application relating to the field adjacent to the one he owned) before Farlam Parish Council on 9 March 2016 which he correctly declared. Applying the public interest test, the Committee agreed that Councillor Raine's interest was such that he should not have participated in the discussion on the matter.
- When the matter arose in the public participation section of Farlam Parish Council's meeting on 11 May 2016 Councillor Raine should have declared an interest at that point and not participated.

The Standards Committee recommended that Councillor Raine undertake refresher training on the rules relating to decision making/bias.

As an aside, there was a general discussion and it was agreed that it would be helpful if the Monitoring Officer offered to provide refresher training for Parish Chairman and Parish Clerks to promulgate back to Parish Councillors.

Reasons for the Decision

The Committee received and considered the Investigating Officer's report into the complaint and also considered Councillor Raine's written response. The Committee also took into account the advice and opinion of an Independent Person, a Parish Council representative and the Monitoring Officer.

The Committee also took into account the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, S31(1) of the Localism Act 2011 and the law of bias. The Committee stressed the importance of fully complying with the rules relating to bias as they exist to (a) protect decisions of the Council from challenge and (b) to promote openness, transparency and confidence in the system of local government within which we operate.

(The meeting ended at 10.56am)