

**PRIVATE AND CONFIDENTIAL REPORT**

**MJB/1/2/2012**

**REPORT OF AN INVESTIGATION UNDER s60 OF THE LOCAL  
GOVERNMENT ACT 2000 INTO AN ALLEGATION CONCERNING  
COUNCILLOR JOHN KILBY OF HORMEAD PARISH COUNCIL**

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## **1.0 Executive Summary**

### **1.1 Allegation**

The complaint is that Councillor John Kilby has failed to treat Colin Marks who is the clerk to Hormead Parish Council with respect as an employee and as the proper officer of the clerk to the Parish Council meeting in public.

It is alleged that Councillor Kilby has failed to treat Colin Marks with respect by accusing him of fraud in a public meeting.

I have investigated the complaint made and in doing so have taken email evidence from Councillors Elizabeth Collery, Elaine Harding, Geoff Abbey, David Ginn, ex Councillor Brian Stone and Councillor John Kilby.

### **1.2 Finding**

My finding is that there is evidence that Councillor Kilby failed to comply with the Code of Conduct adopted by Hormead Parish Council.

## **2.0 Councillor John Kilby's official details**

2.1 Councillor Kilby is an elected member of Hormead Parish Council. He was originally co-opted to fill a vacancy in September 2006 and was elected to be a Parish Councillor in May 2007 and again in May 2011. There is no record of Councillor Kilby attending a training course for the Code of Practice.

## **3.0 Summary of allegations and conclusions on whether there have been failures to comply with the Code of Conduct**

3.1 Colin Marks, Clerk at Hormead Parish Council, complained that Councillor John Kilby failed to comply with the Code of Conduct as follows:

- Failed to treat Colin Marks with respect both as an employee and as a proper officer of the Town Council in public.

3.2 Specifically Colin Marks complained that Councillor Kilby who is a Councillor with Hormead Parish Council, failed to comply with the Code of Conduct as follows:

- Councillor Kilby accused Colin Marks of fraud in respect of an expenses claim during a meeting of the Hormead Parish Council on 13<sup>th</sup> October 2011.

3.3 Colin Marks says he did not hear the remarks himself, but Councillors confirmed at the 10<sup>th</sup> November 2011 meeting that they had heard them, and the minutes of the meeting were subsequently amended to reflect this.

3.4 Colin Marks states that he was stunned to hear of this accusation as the matter had been explained and resolved prior to that meeting, and was not relevant to anything on the agenda.

3.5 He further states that the public record shows that he has been accused of fraud by a Councillor, an accusation that was unwarranted, totally unjustifiable, unacceptable and is a stain upon his character. Furthermore at no time has he received an apology.

3.6 This report investigates whether by his conduct Councillor John Kilby has failed to treat others with respect. The report considers whether Councillor Kilby failed to comply with the paragraph 3 of the Code of Conduct.

3.7 I have also considered whether paragraph 5 of the Code has been breached but do not find any evidence of this.

3.8 My finding is that there is evidence that Mr Kilby made this accusation on 13<sup>th</sup> October 2011 against Colin Marks and thereby failed to comply with the Code of Conduct paragraph 3.

### **3.0 The Code of Conduct**

3.1 Hertford Town Council has adopted the model Code of Conduct.

3.2 The relevant part of the Code of Conduct is as follows:

- Paragraph 3 of the Code states a Member must 'treat others with respect'.

- Paragraph 5 of the Code states that a Member must not 'conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute'.

3.3 The seventh General Principle of the Annexure to the Code states

- Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

#### **4.0 Investigating Officer's findings of fact**

- 4.1 I have relied upon evidence from Councillors Elizabeth Collery, Elaine Harding, Geoff Abbey, David Ginn, ex Councillor Brian Stone, Colin Marks and Councillor John Kilby, together with a copy of the minutes of meetings of Hormead Parish Council held on 13<sup>th</sup> October, 11<sup>th</sup> November and 8<sup>th</sup> December 2011.
- 4.2 Colin Marks was appointed Clerk to Hormead Parish Council in July 2011, the previous clerk having left shortly before. The previous Chairman did not stand for re-election so a new Councillor became Chairman.
- 4.3 On 13<sup>th</sup> October 2011 Colin Marks was clerking a meeting of the Hormead Parish Council and was asked to leave for an item concerning his contract of employment.
- 4.4 Councillor John Kilby accused Colin Marks of fraud in relation to a previous expenses claim.
- 4.5 A successful application was subsequently made for the minutes of this meeting to be amended to reflect this accusation.

#### **5.0 Reasoning**

- 5.1 I must now consider whether the actions of Councillor Kilby failed to comply with paragraph 3 of the Code of Conduct.

- 5.2 Paragraph 1 states that it is the responsibility of a Councillor to comply with the provisions of the code and paragraph 2 confirms that this is whenever a Councillor conducts the business of the Authority in an official capacity. Paragraph 3 of the code states that a Member must treat others with respect.
- 5.3 This paragraph is not intended to stand in the way of lively debate as such discussion is a crucial part of the democratic process. A very clear line has to be drawn between the Code of Conduct and the freedom to disagree with the views and opinions of others. However, I consider that an accusation of fraud goes far beyond this, and is a serious matter, being not only disrespectful but potentially slanderous too, especially when spoken about the Clerk to the Meeting who was not even there to defend himself.
- 5.4 An adjudication Panel in a previous case (APE 0419) has decided that you can be the victim of disrespect even if you did not witness the disrespectful behaviour. Therefore a Member's disrespectful treatment of an officer who is not present may amount to a failure to comply with the Code.
- 5.5 I have found that there is compelling evidence that Councillor Kilby has behaved in a disrespectful manner by accusing the Clerk of fraud in a public meeting. I consider therefore that Councillor Kilby did fail to comply with paragraph 3 of the Code of Conduct.

### **Finding**

My finding on all the circumstances of this case is that in accordance with the Local Government Act 2000 there is evidence of a failure to comply with the code.

## APPENDIX A

### Schedule of evidence taken into account

<u>Document Number</u>	<u>Description</u>	<u>Page Number</u>
1.	Complaint including	1 - 14
	Minutes of Hormead Parish Council meeting 13th October 2011	15
	Minutes of Hormead Parish Council meeting 10 <sup>th</sup> November 2011	16
2.	Draft Minutes of Hormead Parish Council meeting 8 <sup>th</sup> December 2011	17
3.	Code of Conduct adopted by Hormead Parish Council	18 - 23
4.	Evidence of Cllr Collery	24-25
5.	Evidence of Cllr Abbey	26
6.	Evidence of Cllr Stone	27
7.	Evidence of Cllr Harding	28
8.	Evidence of Cllr Ginn	29
9.	Evidence of Cllr Kilby	30
10.	Evidence of Colin Marks	31



**COMPLAINT FORM :**  
**CODE OF CONDUCT FOR MEMBERS**

(Please read the 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

**To The Chairman**  
**Assessment Sub-Committee**

**A. Your details**

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<b>Title:</b>	Mr
<b>First name:</b>	Colin
<b>Last name:</b>	Marks
<b>Address:</b>	[REDACTED]
<b>Contact telephone:</b>	[REDACTED]
<b>Email address:</b>	[REDACTED]
<b>Signature:</b>	[REDACTED]
<b>Date of complaint:</b>	1/12/11

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- Members of the Assessment Sub-Committee
- Monitoring Officer of the Council
- the Parish Clerk (if applicable)

A brief summary of your complaint may also be shared, by the relevant Sub-Committee with the Member(s) you are complaining against. If you have serious concerns about your name and a summary, or details of your complaint being



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released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

2. Please tell us which complainant type best describes you:

- A member of the public
- An elected or co-opted Member of the Council
- An independent member of a Standards Committee
- A Member of Parliament
- A Monitoring Officer
- Other council employee, contractor or agent of the Council (Parish Clerk)
- Other ( )

3. Equality Monitoring Form - please fill in the attached form.

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### B. Making your complaint

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The sanctions available to a Standards Committee are governed by law and more serious sanctions are only available to the Adjudication Panel for England. For a brief summary of sanctions available, please refer to the Information for Complainants.

4. Please provide us with the name of the Member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name
Cllr	John	Kilby

5. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

See attached

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It is also important that you provide all the evidence you wish to have taken into account by the Standards Committee when it decides whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If the allegation(s) being made occurred over 28 days of the alleged behaviour or conduct, clearly explain why the complaint was not made during that period of time.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

*See attached*

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(Continue on separate sheet(s), as necessary)

### C. Confidentiality of complainant and the complaint details

**Only complete this next section if you are requesting that your identity is kept confidential**

6. In the interests of fairness and in compliance with the rules of natural justice, we believe Members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him / her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example:
- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
  - may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Assessment Sub-Committee will consider the request alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

## EAST HERTFORDSHIRE DISTRICT COUNCIL

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

(Continue on separate sheet(s), as necessary)

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### D. Remedy sought

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7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

If the accusation of fraud is found to be unjustified, I would like a statement that would clear my name.

(Continue on separate sheet(s), as necessary)

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### E. Additional information

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8. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.

## EAST HERTFORDSHIRE DISTRICT COUNCIL

9. In line with the requirements of the Disability Discrimination Act 1995, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
10. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

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### **F. Process from here**

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11. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be presented to a meeting of the Assessment Sub-Committee for consideration / determination. You and the Member against whom the complaint has been made will not be allowed to attend the deliberations of the Sub-Committee as the matter will be considered in private.
12. The Sub-Committee may resolve to:
  - (a) dismiss your complaint, with reasons;
  - (b) ask you for additional information, with reasons;
  - (c) refer your complaint to the Monitoring Officer for investigation (or other action); or
  - (d) refer your complaint to the Standards Board for England if the complaint does not fall within the jurisdiction of the Standards Committee.
13. You will be notified after the meeting and given information on any further stage(s) in the process at that time.

#### **Monitoring Officer Contact details:**

The Monitoring Officer – Simon Drinkwater  
East Herts Council  
Wallfields  
Pegs Lane  
Hertford  
SG13 8EQ

Tele: 01992 531405

# EAST HERTFORDSHIRE DISTRICT COUNCIL

## Monitoring Form – Local Assessments of Complaints Standards Committee - Assessment Sub Committee

### Working towards equal opportunities

East Hertfordshire District Council is committed to a policy of equality of opportunity in both employment and service provision. We seek to ensure that no person receives less favorable treatment on the grounds of gender, race, or ethnic origins, marital status, disability, age, sexual orientation, family responsibilities, religion, trade union involvement or political belief or is disadvantaged by conditions or requirements which cannot be shown to be justifiable.

<b>White</b>	<b>Mixed</b>	<b>Asian</b>	<b>Black</b>	<b>Chinese or other ethnic group</b>
White British	White and Black	Indian	Caribbean	
White Irish	Caribbean	Pakistani	African	
Any other White background	White and Black African	Bangladeshi	Any other Black background	Chinese
<input checked="" type="checkbox"/>	Any other mixed background <input type="checkbox"/>	Any other Asian background <input type="checkbox"/>	<input type="checkbox"/>	Other <input type="checkbox"/>

\*Categories used are those utilised by the Office of Population Censuses and Surveys

Do you have a physical or mental impairment which has a substantial and long term adverse effect on your ability that you wish to declare under the Disability Discrimination Act?

Yes  No

**Subject: Complaint re Cllr John Kilby, Hornead Parish Council**

**By: Colin Marks, Clerk to Hornead Parish Council**

### **Preamble**

I have decided to make this complaint after a lot of deliberation and having sought advice from several sources. However, the decision to proceed has been entirely my own. My initial reluctance was due to two main factors: 1) I am concerned that a clerk making a complaint against one of his councillors could make the working relationship difficult, whatever the outcome. 2) As a member of the Standards Committee there is a concern that I might be perceived as running to my colleagues for support. However, I believe on balance this complaint needs to be made because of its serious nature.

### **Background**

I was appointed Clerk to Hornead PC in July 2011. The previous clerk had left 2 months earlier. The Chairman of the last 4 years did not stand for election in May and a new councillor became Chairman. With no clerk and little experience he understandably struggled and resigned as Chairman the day of my interview, which was conducted by the latest Chairman. Another councillor resigned the following week.

The new Chairman and I had a huge backlog of work and issues to resolve, and we suffered from the lack of continuity. I reported to him that I was having to spend considerably more time than my allotted 9 hours a week (ave 39 a month) and he told me to submit a claim for extra hours, allowed under my contract, which would be considered by the council.

### **The Subject: Expenses, September 2011**

I sent the agenda and related documents for the 13 October PC meeting (my second as Clerk) to councillors on 8 October. Among them was a daily breakdown of my time and expenses for September, which I provided on my own initiative (document A herewith). I should emphasise that this was NOT required under my contract, and I had never intended it to be a detailed record of how I spent my time, but rather a simple record of the number of hours worked per day. On 10 October, Cllr Kilby queried by email some items with the Chairman (**document B herewith** - emboldened type mine). Among them was my claim for attending the September East Herts Rural Conference. I had previously informed the Council that I would be attending, but that my registration had already been paid for by Standon Parish Council (of which I am a member).

At the Conference I did participate on behalf of Hornead PC (as well as Standon), and a few days afterwards, District Councillor Rose Cheswright telephoned me and asked why Hornead had not been represented. I replied that I had been there, and that I had sat next to her, to which she answered that she had meant why no Parish Councillors had attended. This was quite light hearted, but helped set in my mind that I had indeed represented Hornead PC there. I consequently (but incorrectly) recorded that Conference time and mileage on my daily log.

Cllr Kilby, on 10 October, picked up my mistake of including it in my expenses; the Chairman took it up with me and I immediately amended the expenses sheet (**document C herewith**). The Chairman emailed Cllr Kilby on 11 October (document D herewith – emboldened type mine) to explain that the error had been acknowledged and corrected. The amended expenses sheet (**C**) was submitted to Councillors at the meeting with an apology and explanation. That is what the draft minutes of that meeting briefly recorded.

### **My Complaint**

In the Parish Council meeting on 13 October, Cllr Kilby accused me of fraud in respect of my September expenses claim.

I admit I did not hear the remark, but when approving the Minutes of that meeting in the November PC meeting, a councillor challenged the Minutes as being incorrect and asked for an amendment and the accusation to be included. The Chairman asked councillors to confirm whether they had heard the accusation and whether the minutes should be amended accordingly. It was agreed they should. There followed a recorded vote to approve the Minutes, which was resolved 4:2 in favour of the amendment (**document E herewith**). Cllr Kilby did not attempt to deny or explain the comment, and voted to approve the amended minutes. See draft Minutes for 10 November (yet to be approved – **document F herewith**).

I was stunned and did not challenge the accusation at the time. In agreeing that the comment was heard, no other councillor gave any indication that they agreed with the substance of it; rather, indications were to the contrary. However, after considerable reflection, I believe it right to make this complaint because the comment was defamatory, made in public against a Parish Council employee, was gratuitous since the matter had been explained and resolved before the meeting and was not relevant to anything that was before the Council that evening. I was totally transparent about my expenses – on my own initiative and more so than any previous clerk – submitting them for scrutiny 4 clear days before the meeting. It was a genuine mistake.

The public record shows that I have been accused of fraud by a councillor, an accusation that was unwarranted, totally unjustifiable, unacceptable, and is a stain upon my character. In the intervening time since the remark was made, or recorded, Cllr Kilby has made no attempt at an apology or expressed any indication of regret.

Comr Marks  
30 November 2011



Document A

SALARY SEPTEMBER 2011		
Hours	Rate	Salary
39	10.20	£397.80

**Timesheet & expenses**

**SEPTEMBER 2011**

Date	Time	Actions	Mileage	Phone	mins	Printing \$	Postage & Stationery	cost	Incl VAT
01-Sep	2.0	admin							
02-Sep	5.0	Finalise agenda		RED/EHC/	47	120	Mall Agendas	£ 4.50	
03-Sep	1.5	post agenda notices	12						
04-Sep	2.0	admin							
05-Sep	3.0	Meeting Chairman	8	Mandy Irons	10				
06-Sep	1.0	admin							
07-Sep	2.0	MEADS: check cleaning needs*	9	Spar/EHC/	15		Key tags	£ 1.00	£ 0.16
08-Sep	1.0	post notices	10	HAPTC for advice	35	116	Ink cartridge	£ 17.74	
09-Sep	2.0	admin		Chairman/HAPTC/M.Cavill	90	4			
10-Sep	0.5	admin					Meads cleaning materials*	£ 12.69	
11-Sep	1.5	Notices/fix toilet roll holder/ deliver cleaning items to Mandy*	12	Michelle Cavill re Cricket/ broken toilet roll holder	7				
12-Sep	3.0	Notices	11						
13-Sep	3.0	Admin for planning application							
14-Sep	3.0	HAPTC Finance training course	47						
15-Sep	5.0	EHC Rural Conference	25	Chairman	40				
16-Sep	1.0	admin							
17-Sep	0.5	admin							
19-Sep	2.0	admin							
20-Sep	2.0	admin							
21-Sep	3.0	Meeting Chairman	8						
22-Sep	3.0	SLAA meeting, EHC	18						
23-Sep	2.0	admin							
26-Sep	1.0	admin							
27-Sep	3.0	Meads/RED/DEG	9						
28-Sep	3.0	EHAPTC meeting, Ware	12						
29-Sep	1.0	admin							
30-Sep	1.0	admin							
<b>Total mileage @ 40p/mile</b>			<b>181</b>	<b>Total hours @ 8p/min</b>		<b>244</b>			
<b>Total hours</b>	<b>58.0</b>		<b>£ 72.40</b>		<b>£ 19.52</b>	<b>240</b>	<b>Total</b>	<b>£ 35.93</b>	<b>£ 0.16</b>

MEADS BREAKDOWN (INCL ABOVE)*			
Hours	3.5	10.20	£ 35.70
Mileage	21.0	0.40	£ 8.40
Cleaning supplies etc**			£ 12.69
			<b>£ 56.79</b>
**VAT included			£ -

Broadband contribution at £8 per month	£ 8.00
Space, lighting, heating & electricity at £3 per month	£ 3.00

SUMMARY	
Mileage	£ 72.40
Phone	£ 19.52
Postage/Stationery	£ 35.93
Broadband	£ 8.00
Home office	£ 3.00
	<b>£ 138.85</b>
Salary: 39 hours	£ 397.80
Additional hours	£ 193.80
<b>Total</b>	<b>£ 591.60</b>

Additional hours worked September (over basic 39 hours)			
<b>TOTAL</b>	<b>19.0</b>	<b>10.20</b>	<b>£193.80</b>

**From:** John Kilby [mailto: [REDACTED]]  
**Sent:** 10 October 2011 18:19  
**To:** RobbD  
**Subject:** Parish Council

Hi Robbie

Having seen the breakdown of Colin's charges for September, I have the following queries regarding this amount which represents a whole year's clerk's fees for some small parishes:

- 1 I would like to know how many of the admin hours represent receiving telephone calls from councillors. Admin is not an adequate description.
- 2 Why has it taken 7 hours (3<sup>rd</sup>, 8<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>) to post notices in one week?
- 3 Have we instructed him to attend to the Meads Pavilion (for toilet roll holders)? I thought we agreed at an earlier meeting that these things would be done by councillors.
- 4 **Colin attended the EHC Rural Conference as Standon Councillor. He specifically did not include his presence as the Hormead clerk.**
- 5 Did we request and authorise Colin to attend the EHAPTC meeting at our expense? Did he represent Hormead or Standon?
- 6 Have we agreed £8 per month for broadband and £3 home as office?
- 7 Why does it take 5 hours to finalise the agenda?
- 8 Can we ask Colin to separate any costs for the Meads (which should be minimal) to general clerk work?

We hoped with Colin's extra efficiency that we would save money compared to the previous clerk, instead we are spending even more, which is completely unacceptable

John



Reply

RE: Parish Council - clerk financials

from:

to:



date: Tue, Oct 11, 2011 at 12:28 PM

subject: RE: Parish Council - clerk financials

Hi John

Thank you for your email below. You have reminded me that I need to circulate Colin's Contract of Employment to all. It is completely based on Caroline's and Marty's Contracts (the previous clerks).

I have spoken to Colin and he will answer the details as far as possible. I do not have any more detail than you on your points, beyond the following:

- 3. Cllr Ginn was elected to deal with Meads requirements but has decided only to report to the Council on this interest group. It was agreed that Colin would deal direct with Meads suppliers at our last meeting, 11.216.
- 4. Having spoken to Colin, this is an error which he will correct.
- 6. These were agreed with Caroline and are just repeated for Colin.
- 8. See bottom of detailed sheet.

As Colin is the first Clerk who has actually volunteered to provide this information, you must realise that Caroline also was paid for excess hours on Council business, mainly on Meads of course but also on additional time for seminars and courses as appropriate. I do feel that, from the time of the Annual Parish Council Meeting onwards, we have asked the Clerk to take a great deal of time seeking advice for the Council on issues peripheral to the normal Council requirements of previous administrations. However, it is Council business, whether or not we have had such difficulties before.

best regards

**Robb**

\*\*\*\*\*  
\*\*\*\*

The Clerk was accused of fraud by Cllr Killey with regard to his expenses in PC business.

RBA

11.231 FINANCE

1. The report of the Council's finances for the period 31 August to 30 September 2011 were received (Appendices A(1) and A(2)).

There was a discussion on the number of additional hours the Clerk had recorded and whether they could be justified. Concerns were raised by one Councillor that the Council would not be able to sustain that level of cost and it had been hoped by him that the new Clerk would be able to reduce previous clerk's additional costs or even reduce the basic hours contracted. The issue was highlighted because the Clerk had, on his own initiative, produced a daily activity log, which was appreciated at the last meeting. However, the consensus was that the basic time was fair and had not been an issue previously. It was accepted there had been a lot of extra work covered recently. A view was expressed that the Meads representative should sort out minor repair work there rather than pay the clerk to do it. It was agreed to monitor the situation and review in November.

ALL

Finance Summary:	£
Opening available balance 31/08/11:	11,414.50
Plus income to 30/09/11:	550.00
Less expenditure to 30/09/11:	<u>3,044.36</u>
Available to Council:	8,920.14
Plus unrepresented September cheque	<u>30.00</u>
(Reconciled to bank statement 309):	<u>8,950.14</u>

**RESOLVED: That the Accounts Statement be accepted.**

2. The Chairman reported that he had not completed the Expenditure against Budget report.

3. The list of orders for payment was presented. Concerns were raised about contract invoices that were not being submitted on a strictly monthly basis, eg for Meads maintenance and pitch preparation. This created cash flow issues.

**RESOLVED: To monitor cash flow issues created by irregular bill patterns.**

Clerk

The invoices presented were authorised and it was agreed to defer the signing of cheques to the end of the meeting (Appendices C, C1 and C2).

**RESOLVED: To approve all invoices presented for payment.**

Clerk

4. The BDO Audit Annual Return was submitted for approval.

**RESOLVED: To accept and approve the Annual Return.**

Clerk

The Clerk to display the requisite information on one Parish notice board for a minimum of 14 days.

# HORMEAD PARISH COUNCIL

**Minutes of the Council Meeting held on Thursday  
13 October 2011 in Hornead Village Hall at 8pm**

**PRESENT:** Cllr Robert Denham (RED), Chairman; Cllr David Ginn (DEG), Vice-Chairman; Cllr Geoff Abbey (GA); Cllr Elaine Harding (EH), Cllr J Kilby (JK), Cllr Brian Stone (BS); Cllr Elizabeth Collery (EC) following her co-option

Clerk: Colin Marks

Mrs Marty Kilby, resident and member of the Village Hall Management Committee (VHMC)

**ACTION**

**11.223 Apologies for absence**

- 1. Councillors:** None
- 2. Other Councillor absences:** None
- 3. Others:** District Cllr Rose Cheswright; Reverend Carol Kimberley; PCSO Amanda Higham

**11.224 Casual Vacancy**

One application for the position had been received, from Mrs Elizabeth Collery. This was discussed and her co-option unanimously agreed.

**Resolved: That Mrs Elizabeth Collery be co-opted to the Parish Council**

Cllr Collery signed the Declaration of Acceptance of Office and the Register of Members' Interests and was then welcomed to the Council.

**11.225 Declarations of Interest**

Cllr Harding, Cllr Ginn and Cllr Kilby each declared a personal interest in respect of Hornead Village Hall.

Cllr Denham declared a personal interest in the Village School, being a governor.

Cllr Collery declared personal interests in matters relating to the Toddler Group, which she runs, and Leapfrogs pre-school, being a committee member. She declared a prejudicial interest in Planning Application 3/11/1430/FP Little Horneadbury Farm, which is adjacent to her property.

**11.226 Minutes of Parish Council Meeting 8 September 2011**

Two amendments to the Draft Minutes were made:

11.204: Cllr Abbey, Cllr Ginn and Cllr Harding requested the words "they all live very close to the Village Hall site" be deleted.

11.213.6, para 2: Cllr Ginn requested the words "needed to be trimmed" be removed.

Cllr Kilby asked to make a comment on the appended report by Cllr Stone; the Chairman said he should put it on the next agenda.

**RESOLVED: That the Minutes of 8 September 2011 as amended be agreed and accepted as a true and accurate record of the meeting.**  
5 agreed, 2 abstained

DRAFT MINUTES, SUBJECT TO APPROVAL BY THE COUNCIL ON 8  
DECEMBER

## HORMEAD PARISH COUNCIL

### Minutes of the Parish Council Meeting held on Thursday 10 November 2011 in Hormead Village Hall at 8pm

**PRESENT:** Cllr Robert Denham (RED), Chairman; Cllr David Ginn (DEG),  
Vice-Chairman; Cllr Geoff Abbey (GA); Cllr J Kilby (JK), Cllr Brian Stone  
(BS); Cllr Elizabeth Collery (EC)

Clerk: Colin Marks

PCSO Amanda Higham

**ACTION**

**11.245 Apologies for absence**

1. **Councillors:** Cllr E Harding (work)
2. **Other Councillor absences:** None
3. **Others:** District Cllr Rose Cheswright; Reverend Carol Kimberley;  
Chrissie Withers

**11.246 Declarations of Interest**

Cllr Ginn and Cllr Kilby each declared a personal interest in respect of Hormead Village Hall. Cllr Denham declared a personal interest in the Village School, being a governor. Cllr Collery declared personal interests in the Village Hall (joining the committee), the School, and possibly police matters in respect of her employer, the CPS.

**11.247 Minutes of Parish Council Meeting 8 September 2011**

Amendments were made as follows:

- 11.230.1 Planning: 3/11/1430/FP: amend No Objection to No Comment
- 11.231.1 Finance: Cllr Ginn pointed out that Cllr Kilby's comment regarding the Clerk's expenses was not minuted and asked that the following be inserted: "The Clerk was accused of fraud by Cllr Kilby with regard to his expenses on Parish Council business." A discussion followed; neither the Clerk nor the Chairman had heard the remark, but following a show of hands it was agreed that it had been said and should be inserted between the 3<sup>rd</sup> and 4<sup>th</sup> sentences of the paragraph.
- 11.230.3 SLAA Report: Cllrs Stone said he thought the area of land identified as the Village Hall site in the Clerk's report was in fact the adjacent site of the farm barn and referred to a Call for Sites map. The Clerk was adamant that the map produced at the SLAA meeting referred to the Village Hall site. He was asked to provide a copy of the map for councillors to inspect.

It was proposed the Minutes be accepted as amended; Cllr Ginn requested a recorded vote.

**RESOLVED: By 4 votes to 2 that the Minutes of 13 October 2011, as amended, be agreed and accepted as a true and accurate record of the meeting.**

Agreed: Cllr Abbey, Cllr Collery, Cllr Kilby, Cllr Stone.

Opposed: Cllr Denham, Cllr Ginn

DRAFT MINUTES, SUBJECT TO APPROVAL BY COUNCIL  
HORMEAD PARISH COUNCIL

**Minutes of the Parish Council Meeting held on Thursday  
8 December 2011 in Hormead Village Hall at 8pm**

**PRESENT:** Cllr Robert Denham (RED), Chairman; Cllr David Ginn (DEG),  
Vice-Chairman; Cllr Geoff Abbey (GA); Cllr Elizabeth Collery (EC);  
Cllr Elaine Harding; Cllr John Kilby (JK)

Clerk: Colin Marks

PCSO Amanda Higham and one other PCSO  
District Councillor Rose Cheswright and 4 other members of the public.

**ACTION**

**11.268 Apologies for absence**

- 1. Councillors:** None
- 2. Other Councillor absences:** None
- 3. Others:** County Cllr Jane Pitman

**11.269 Declarations of Interest**

Cllr Ginn and Cllr Kilby: personal interest in respect of the Village Hall; Cllr Abbey and Cllr Harding: prejudicial interest in respect of the Village Hall; Cllr Collery: personal interests in respect of the Village Hall, the School, and possibly police matters; Cllr Denham: personal interest in respect of the School.

**11.270 Minutes of Parish Council Meeting 10 November 2011**

There was a discussion following Cllr Kilby saying that he did not make the remark about the Clerk's expenses. However, four Councillors affirmed that he did. It was **RESOLVED by 5 votes to 1 that the Minutes of 10 November 2011 be agreed and accepted as a true and accurate record of the meeting.**

**11.271 Minutes of Extraordinary Parish Council Meeting 17 November 2011**

Following discussion, it was **RESOLVED by 3 votes to 1 (2 abstained) that the Minutes of 17 November 2011 be agreed and accepted as a true and accurate record of the meeting.**

**11.272 Chairman's Announcements:**

The Chairman had no announcements.

**11.273 PCSO Report**

PCSO Higham reported that for the period 10 November to 8 December no crimes were recorded in the parish. Four crimes were reported in the surrounding area, 3 involving cars and 1 a shed, but overall the area remains quiet. In the wider district there is an increase in thefts from white vans. The Chairman thanked her for attending to give the report.



*Hormead Parish Council, Herfordshire*

*Local Authorities (Model Code of Conduct) Order 2007 No.1159*

THE MODEL CODE OF CONDUCT  
FOR PARISH AND TOWN COUNCILS

Part 1

General provisions

**Introduction and interpretation**

1.— This Code applies to **you** as a member of an authority.

(1) You should read this Code together with the general principles prescribed by the Secretary of State (see Annexure to this Code).

(2) It is your responsibility to comply with the provisions of this Code.

(3) In this Code—

“meeting” means any meeting of—

(a) the authority;

(b) any of the authority's committees or sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

(4) References to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

**Scope**

2.— Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### General obligations

3.— You must treat others with respect.

(1) You must not—

- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006<sup>(\*)</sup>);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be—
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not—

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is—
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
  - (i) act in accordance with your authority's reasonable requirements; and
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. Paragraph 7 does not apply to your authority.

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## Part 2

### Interests

#### Personal interests

- 8.— You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),  
of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
    - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
    - (ix) any land in your authority's area in which you have a beneficial interest;
    - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
    - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
  - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
    - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
    - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

9.— Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(1) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(2) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(4) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

### **Prejudicial interest generally**

10.— Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(1) You do not have a prejudicial interest in any business of the authority where that business—

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
  - (i) this sub-paragraph does not apply to your authority;
  - (ii) this sub-paragraph does not apply to your authority;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

11. Paragraph 11 does not apply to your authority.

### **Effect of prejudicial interests on participation**

12.— Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee; and

(b) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **Part 3**

### **Registration of Members' Interests**

#### **Registration of members' interests**

13.— Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### **Sensitive information**

14.— Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(1) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(2) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## Annexure - The Ten General Principles

The general principles governing your conduct under the *Relevant Authorities (General Principles) Order 2001* are set out below:

### *Selflessness*

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### *Honesty and Integrity*

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### *Objectivity*

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### *Accountability*

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### *Openness*

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### *Personal Judgement*

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### *Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### *Duty to Uphold the Law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### *Stewardship*

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

### *Leadership*

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## NOTE ON REMARK MADE BY CLLR JOHN KILBY

I am asked to recount what I heard at a Parish Council meeting on 13<sup>th</sup> October 2011 regarding remarks made by Cllr John Kilby in respect of an accusation of fraud against the clerk Mr Colin Marks.

I did hear Cllr Kilby say that Mr Marks had made a fraudulent claim or words to that effect. I do not recall the precise words used I am afraid. I believe his comment was in relation to a claim made for expenses which had in fact been incurred on behalf of another council and for which Mr Marks had apologised. On reflection I believe it may have been at a later stage in the council meeting than it appears in the minutes which I imagine you will already have a copy of. Further discussion took place about the Clerk's salary in his absence towards the very end of the meeting and it may well have been at that point that the word fraud was used. I suspect I am led to that conclusion because the next month's minutes record that neither the Clerk nor the Chairman heard the comment. You will have noted that the allegation of fraud did not appear in the original draft of the minutes of 13<sup>th</sup> October 2011 but was added at the next council meeting.

I do not think it was said more than once or dwelt upon as if it had been I am certain I would more readily recall the detail. It has not been repeated at any council meeting since although there have been further discussions about the Clerk's expenditure generally not least in the preparation of the budget. It is clear that Cllr Kilby believes that the Clerk's income and expenses are too high and feels that the councillors should take more responsibility for jobs that need doing. I mention that because despite ongoing discussions in a similar vein the allegation has not been repeated.

I have no note of any of the above and as this was my first parish council meeting everything was new to me and frankly a complete eye opener as there was a good deal of animosity and bad feeling generally between the councillors. Complaints had previously been made by Cllr Kilby against members of the council about not declaring interests; allegations had been made about Cllr Kilby incorrectly registering the Village Hall land and tensions were palpably running high. It was a very bad tempered meeting all round and anything that was said I do think needs to be analysed against that background.

I am sorry I cannot be more precise but I had literally only just been co-opted onto the Council – at that very meeting – and was not at all au fait with council business and procedure and had to take that on board as well as the content of discussions.

I do not know how far the complaint against Cllr Kilby goes but in my view Cllr Kilby often gets an unwarranted hard time on the council largely relating to his role as Chairman of the Village Hall Committee (which I also joined shortly after joining the Parish Council) which is endeavouring to get a new village hall built. The history is long and tortuous but I certainly do not think he deserves the opprobrium he has engendered in this regard. He has himself faced repeated accusations of dishonesty and unscrupulous behaviour in relation to his efforts which I as a fraud prosecutor do not believe to be borne out. However other councillors believe he has acted inappropriately particularly with regard to registering the land. Given that he has registered it with the Charity Commission, on their advice, such allegations are wrong in my opinion. I mention this because in the context of

everything that has been going on within the Parish Council since I joined it, the allegation that Mr Marks acted fraudulently was but a fragmentary moment. Of course any such allegations must be taken seriously and investigated properly but in my view Cllr Kilby's comment may appear more elevated and serious in the discussion of it now than it ever did at the time. That it was added to the minutes later does not necessarily reflect the tone at the time and may be a reflection more of the animus and the personalities involved.

Elizabeth Collery

17<sup>th</sup> January 2012



There was an item on the agenda on the 13 October (Item 11.244) to discuss and agree the Clerk's contract of employment.

The Clerk left the room.

There was quite a lot of discussion and Coucillor Kilby was not happy about some of the Conditions of Contract.

Earlier in the meeting there had been discussion (under item 11.231) about the Clerks expenses for the previous month and Coucillor Kilby had queried some of the details and the need for all the hours carried out by the Clerk.

The Clerk explained that he had attended a meeting relevant to the Parish the previous month and ,as our clerk , had initially claimed expenses.

I believe there had already been discussion between the Clerk and John Kilby (prior to the meeting) and the Clerk had already withdraw these expenses as he had initially attended the meeting as a Councillor of Standon PC.

**John Kilby mentioned this again under item 11.244 saying that the Clerk had been fraudulent by initially including expenses for attending the meeting.**

I hope my comments are helpful

Geoff Abbey

I was indeed a Hormead Parish Councillor and attended the meeting on 13th October 2011. My clear recollections are that the Clerk, Colin Marks, was asked to leave the room whilst we, the Council, discussed his Contract of Employment. During that discussion Councillor Kilby, who was not happy with some of the terms of the contract nor indeed the appointment of Colin Marks in the first place, considered that Mr Marks had intentionally overclaimed his expenses and that action was committing fraud.

Mr Kilby has a history of such behavior and I have personally been on the receiving end of untrue and unfounded accusations in the past leading to my resignation from the Council.

You may well be aware that there is a lot of controversy in Hormead at the moment regarding the Village Hall and this again is as a result of Mr Kilby's actions and behavior.

Action needs to be taken in order that there is no continuence of this.

Sorry I cannot recollect the exact words used by Councillor Kilby but have no doubt that he accused the Clerk of fraud

Brian Stone

I was present at that meeting on 13th October 2011 and those alleged remarks made by Councillor Kilby in relation to an accusation of fraud against the Clerk Colin Marks regarding his expense claim are correct I did hear it.

Elaine Harding

18.1.12

With reference to the parish council meeting on the 13th October

Yes i did hear Councillor Kilby accuse the clerk (Mr Marks) of fraud. When we come to discuss and agree the clerks expenses Mr Kilby bought up an item that wasn't on the amended agenda. He proceeded then to verberly attack the clerk and repeatedly accused him of fraud, over his expenses when he attended a meeting on council business.

The clerk informed us, that he had already informed the chairman before the meeting that he had made a error on his expenses. Mr Kilby knew about this before the meeting had taken place.

The meeting that the clerk attended was on behalf of Standon and Puckeridge Council, he did also report back on this meeting to the Hormead Parish council as well.

My view over the expenses Mr Marks made, was an mistake, and he was honest about this and informed the chairman and the councillors of his mistake.

Cllr David Ginn      19.1.12

The claim that I made disrespectful remarks was initiated by David Ginn who is running an on-going vendetta against the Village Hall Committee and myself as chairman in particular.

Subsequent minutes of the parish council record that neither the chairman Robbie Denham or the clerk Colin Marks heard me make any derogatory remarks at the meeting. The remark I made was in a frivolous manner and was that if this had been an MP's expenses he could have been accused of fraud, I did not accuse him of fraud directly.

The issue arose when I pointed out that the clerk had charged Hormead parish Council 5 hours plus petrol for attending a meeting which he had specifically attended as a Standon parish councillor. He was on the list of attendees at this meeting as a Standon parish councillor and confirmed to two previous Hormead clerks who were also attending the meeting that he was not representing Hormead parish council. Furthermore, Hormead parish council had not instructed him to attend on their behalf. He was therefore not entitled to charge Hormead parish council and after a weak attempt to justify the claim, he acknowledged that it was out of order and withdrew this item from his expenses.

I can provide copies of the parish council minutes and Mr Marks's original expense claim.

John D Kilby

23.1.12

As I didn't hear it, my information is based upon what councillors affirm was said. So in as simple a summary as I can:

1. The comment was reportedly made at the Parish Council meeting on 13 October.
2. My understanding from the discussion regarding approval of the Minutes is that it was made during Agenda item 11.231, when I was in the room and simply missed the comment in the hum-drum of heated debate.
4. If it was repeated during Agenda item 11.244, I was not in the room; I was invited to leave because the terms of my contract of employment were being discussed.
5. When approving the Minutes for that meeting on 10 November, a councillor (Ginn) requested the comment be recorded. You will see from the amended Minutes I submitted that the amendment was made to agenda item 11.231 Finance. The comment about the number of extra hours I had been required to work (and be paid for) was made by Cllr Kilby. The ensuing discussion was somewhat heated because other councillors did not agree with Cllr Kiby's premise that this was setting a pattern for future expenses levels, but rather accepted that the unusually high work load was in a limited context and would be reviewed at the next meeting. Since the matter was raised in that context, I understood the comment to have been made at that time.
6. When the amendment was proposed, Cllr Kilby did not attempt to deny he made the comment.
7. A recorded vote was requested for the approval of the Minutes to be amended. It was approved by 4:2. Cllr Kilby was among those who approved the amended Minutes. (Cllr Ginn, who proposed the amendment, voted against the approval of the Minutes. When subsequently questioned as to why he proposed an amendment and then did not approve the Minutes, he said that it was a different agenda item with which he disagreed and which he wanted to raise later. I mention this as clarification in case it appears in other testimony).
8. Subsequently, I understand that two councillors (Harding and Stone) say they heard the comment made during discussion on the final agenda item 11.244, the Clerk's Contract of Employment, during which I (and the public) left the room. Whether this was a repeat of the earlier comment, which would therefore have been said twice, I cannot say.
9. At the 8 December meeting, the amendments made in November were agreed by 5:1 to be an accurate record, although Cllr Kilby then denied having made the comment. Five councillors however, confirmed the record as accurate. I provided a draft of those Minutes with my complaint; I can confirm that at the 12 January PC meeting, the December Minutes were approved without amendment.

Colin Marks 19.1.12