

NORTH HERTFORDSHIRE DISTRICT COUNCIL

Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF
Telephone: (01462) 474000
Text Phone: (01462) 474800
DX 31317, Letchworth



FINANCE, POLICY & GOVERNANCE DIRECTORATE
Strategic Director: Norma Atlay

Our Ref: JT/LL13152
Your Ref:
Contact Jeanette Thompson
Direct Dial No: 01462 474370
Fax No: 01462 474227
E-mail: Jeanette.thompson@north-

11 March 2016

Dear Mrs Farmer

Re: EHDC standards complaint - draft report and your comments

Thank you for taking the time to consider the draft report and respond (your email of 25 March 2016) regarding the above. I have considered your comments and now provide responses to the same.

For ease of reference I have provided each response with direct reference to your numbered paragraphs. Where I believe warranted, I have amended the report/ and or included your comments and my response. A copy of the comments and my responses shall be provided to the Monitoring Officer.

Your comment:

1. Paragraph 1.6 – I am not known as Mrs Denison to anyone in my personal capacity either as a resident of Much Hadham or as a member of the SA or as a member of the tennis club and I would ask you to please remove the reference to Denison.

My response:

My report is a statutory regulatory one and all the emails I have received from you are from **Alex Denison**. The emails you also sent to others have been from this email address (for example your exhibit references AF2, AF8, AF11, AF12 and AF13). It would therefore be remiss of me not to mention in this report that these emails are from you (as complainant), so that this is obvious to the Monitoring Officer and any Member or the Independent Person who may read it/ review the relevant documents. *I have however, rephrased this as follows:*

“1.6 The complaints were made by Mrs Alexandra Farmer (who has the email address name ‘Alex Denison ’),..”

Your comment:

2. Paragraph 2.1 – Mrs Bannerman confirms she was provided with a copy of the code of conduct on her initial appointment as a councillor and had been a councillor since 2013 so Mrs Bannerman was aware of the contents of the code of conduct.

My response:

Noted, as applicable to all Councillors. The point relating to training is one relevant to recommendations – see 6.24 of the report.

Your comment:

3. Paragraph 5.5 bullet point 4 – where is the evidence that in 2013 a decision was taken by the PC to take back the pavilion from the SA, renovate and manage it? I do not believe this was ever discussed or agreed upon by the PC in any PC meeting. If it was, it was not communicated to the SA.

My response:

5.5 sets out pertinent issues/ facts as a summary and this is a practical interpretation of the events. However, I have amended this bullet point to reflect the evidence you exhibited at AF6:

“On or around 2012 a decision (referred to in AF6) was taken by the Parish Council to renovate the Pavilion and thereafter (during 2014) to get involved in the management of it. The latter followed the management disputes referred to in the bullet point above. Mrs Bannerman played a lead role in taking the Pavilion Renovation project forward (in the practical organisational sense).”

Your comment:

4. Paragraph 5.5 bullet point 7 – the payment of accounts is never discussed openly at PC meetings and the residents present have absolutely no idea what is on the list . John Ingham simply puts the list in front of the relevant councillors and they sign the cheques. The payment of accounts appendix to the October minutes (and this is the first time I have seen this) doesn't even say what the £2840.77 pavilion expenditure was for and does not refer to the locks.

My response:

The Parish Clerk is the Proper Officer for Council business and most likely the appointed section 151 Officer for the Council's financial affairs. The Clerk is an employee of the Parish Council and therefore it does not fall within my remit to criticise or make comments in this regard. Mr Ingham has confirmed that the expenditure was approved. This would be an administrative function and accordingly a matter for the Parish Council or the auditors if they concluded that the practice was incorrect/ should change.

Your comment:

5. Paragraph 6.7 - I think there is a word missing as the second sentence doesn't make sense. I think it should be a “when” not a “that” after the words criticising constantly.

My response:

Noted and changed to “when”.

Your comment:

6. Paragraph 6.22 bullet point 3 - You have stated that you “have taken account that..... . “ On what evidence have you taken account of this belief of Mrs Bannerman's please? There is no evidence that I am aware of that the questions I raised in the October meeting were explained elsewhere or prior to that date. No accounts of any pavilion expenditure or income had been produced to the PC prior to this date . I only became aware of certain expenditure as a result of references in pavilion committee minutes and on Facebook.

There is no evidence in any PC minutes that these had been approved by the PC so where would I have obtained answers to the questions I raised. Mrs Bannerman (who ran the PC Facebook page) might have a copy of the relevant Facebook page detailing some of the references to expenditure in relation to which I asked questions and this will show the time line.

My response:

You appear to have misinterpreted my comments. Mrs Bannerman's witness statement is evidence (as is yours). I have taken into account that *she may have believed this* – due to the email exchanges previously and MHSA meetings she attended and the Pavilion Committee (See Mrs Bannerman's statement paragraphs 39, 40, 42, 45, 46 and 48).

Mrs Bannerman has also commented that she maintains the phrase "what is she criticising" was a question. I have added this as a bullet point to 6.22 in the final report.

I have taken into account that Mrs Bannerman believed (as per her witness statement evidence) in such issues / points **and concluded that there is still a case to answer on that alleged breach of the Code.**

Your comment:

7. Paragraph 6.22 bullet point 5 - You have stated that in reaching your conclusion you "note". Prior to the October meeting I had not met Councillor Hunt or Marianne O'Neil (it is in fact Mrs O'Neil and Mrs Bannerman who were friends as is evidenced by the Facebook page attached to Mrs Bannerman's statement). I had met Sue Weatherall probably about a dozen times in 15 years of living in the village. You have used the word "collusion" which in most people's minds (and in the dictionary) refers to an agreement between people to act secretly or illegally in order to deceive or cheat someone. I am shocked that this word has been used in your report as it is defamatory in respect of me, Mrs Weatherall and Mrs O'Neil. You have stated that there is no evidence for this and yet you have noted this in reaching your conclusion. The fact that two people or more can come to the same conclusion is not evidence of collusion. I believe that Mrs Weatherall and Mrs O'Neil raised their questions because of what had appeared on Facebook.

My response:

I note that you have taken offence at the word "collusion" but I do not agree it specifically refers to individuals, nor do I agree on the narrow interpretation, which can also mean agreement/ knowledge or approval. I do not accept that this defames you. To address your concerns, however, I have amended this bullet point to:

- I also note that post complaint Mrs Bannerman and others believed there had been pre arrangement on this issue (*I was presented with no evidence for this*); however, at the point at which the statement was made by Mrs Bannerman, no other questions had been raised by other parties."

Your comment:

8. Paragraph 7.5 – you have said that you haven't seen any other complaints about the Buy a Brick donations but you have not approached any of the other witnesses who are resident in the parish.

My response:

The complaints I refer to are standards complaints. I have added the word “standards”. It is not within my remit to seek out complaints from others on the issue. I have added a foot reference to this to explain:

“Mrs Farmer’s comment on this in the draft report was that I had not seen other complaints, as I had not approached any of the other witnesses who are resident in the parish. It is not within the remit of this investigation to seek out other standards complaints and I was not sent any others by the EHDC Standards Sub-Committee to consider.”

Your comment:

9. Paragraph 7.10 - I have backed up the majority of my statement with evidence. Mrs Bannerman, Mr Baxter and Mr Ingham have made numerous defamatory statements which they have not backed up with any evidence and this is the sort of behaviour the various bodies in the village have had to put up with for the last 18 months. For example Mr Ingham, Mrs Bannerman and Mr Baxter have made statements about what I allegedly said at the October meeting but the minutes of that meeting prepared by them and attached as Appendix I do not reflect those statements. I could have made endless unpleasant comments about what I think about the way Mrs Bannerman and Mr Baxter have behaved and the competency of Mr Ingham which I have not because I have no written evidence to back them up and therefore they could be perceived as defamatory. It seems they have not afforded me the same courtesy. Another example - Mrs Bannerman refers to me attending the pavilion committee meetings - as I explained in my statement I attended the July meeting only. It is evidenced that I did not attend the others as the minutes states who the attendees are on the face of them. It is interesting to note in those July minutes that Mrs Bannerman resigned as a school governor because of the “politicisation of the best interests of the children” – the common denominator in these issues is not the village school, the village hall committee or the SA . Mrs Bannerman refers to SB3 and says to you by email “she obviously received them” – I have never said I did not get the July minutes and in fact I have expressly stated that this was the only meeting I attended. I did discuss the football fees/finance in August as a result of what was said about this in the July minutes. Mrs Bannerman says I came to every parish council meeting – again no evidence to support this. I can provide evidence that I did not attend every meeting but only those set out in my witness statement from flight confirmations to France for example.

My response:

Mrs Bannerman is entitled to give her witness evidence, as are you. It was not made clear from the complaint that you had been nominated to sit on the Pavilion Committee and had attended one of the meetings; nor when I interviewed you – hence the question post interview in my email to you of 25 January 2016 asking for more information.

Mrs Bannerman sets out her evidence on the issue. I did not state in the report that you attended more than one meeting and my conclusions have been based on my interpretation of the evidence that was available, the law / guidance where applicable to Councillors and the MHPC Code of Conduct (as set out under 7.17-7.32).

Your comment:

10. Paragraph 7.12 – if the appendix referred to by Mr Ingham were effective terms of reference for the pavilion committee why did Tony Baxter draft new terms after the October meeting – I can only infer that it was a direct result of the shortcomings of the committee raised by either me or Councillor Hunt.

My response:

As I have set out in my conclusions in the report, I believe this is an administrative matter for the Parish Council. I will, however, comment as follows: It would be recommended practice to have clear and unambiguous terms of reference when setting up a committee or sub-committee, but it is not a specific requirement of sections 101 and 102 of the Local Government Act 1972, which cover the arrangements for discharge of functions by Local Authorities and appointment of Committees.

The Parish Council Toolkit (2009), whilst a little dated, still provides useful guidance (page 58):

*“Parish councils have **a wide flexibility** as to the number of committees (and sub committees) appointed **and their terms of reference**. **Clear and certain written terms of reference confirm the nature, extent and limitations of the duties or powers which have been delegated**. It is important that **any delegation arrangements are regularly reviewed to ensure that they meet the needs of the parish council in changing circumstances**. The scope of any delegation, including any limitation, should be reviewed to ensure the arrangements are efficient.*

There is no standard model in respect of the appointment of committees (and sub committees) and other delegation arrangements that will suit all parish councils.”

The words in bold are my emphasis. There is wide flexibility in terms of the format and no standard model. Whilst it is recommended that these are clear and unambiguous, I have seen many forms over the years that on reflection would need clarification and or change.

The Parish Clerk as the Proper Officer has put forward his opinion on this matter and I would concur that in their simplest form the appendix C to the May 2015 minutes denotes the scope of activities/ area of remit that could fall within a definition of terms of reference.

It is of course noted that Dr Baxter put forward new terms of reference in October 2015, but Cllr Hunt (as per the amended minutes 6 October 2015) stated that he was concerned about (amongst other things)“.. *lack of constitution and terms under which the Committee was working*”. I would point out that of those two issues, it is a legal requirement under the Local Government Act 2000 for a *local authority* to have a constitution which includes standing orders, the Code of Conduct for Members and other things prescribed by the Secretary of State; it is not a requirement for Committee or Sub-Committees to do so (nor would it be advisable, otherwise this would confuse parties as to the status of the Committee).

In any event I have included your comment and part of the response in the report.

Your comment:

11. Paragraph 7.13 – see my paragraph 2 above. Even if I could have heard the payments being approved at the end of the October meeting (which I did not) the payment had not been raised with or approved by the PC before or at the time of me raising my questions in October – further evidence that I did not know the answer to the questions I raised.

My response:

I am afraid I do not understand the reference to paragraph 2 above (i.e. 2.1?). See my response. I note your comment; however, paragraph 7 deals with your allegation that Council resources were not used in accordance with the Council's requirements, not the questions you raised at the meeting.

Your comment:

12. Paragraph 7.14 – where is the evidence that these discussions with Herts Cricket and the ECB would result in grants if the “recreation ground was open to all parishioners”. The grounds are open to all parishioners just as Grange Paddocks leisure centre owned by East Herts is open to all- but people have to pay to use certain facilities in order to maintain them, including the pavilion as managed by the PC.

My response:

The evidence comes in the form of witness evidence from Dr Baxter (paragraph 29) and Mrs Bannerman (paragraph 28).

Your comment:

13. Paragraph 9.4 – reference is made to the minutes of 6th October, which are attached as Appendix I. I don't believe this is the approved (signed off by Dr Baxter) version of the minutes – because I know that at the meeting on 3rd November (on the PC website) several amendments were approved by the Parish Council that relate to item 13 (ii), the discussion about the Pavilion Committee, before the minutes were passed as a true and accurate record. Some of those changes may impact this paragraph 9.4. Mr Ingham should provide you with the corrected minutes, as signed off by the Chairman for the purposes of your investigation.

My response:

I wrote to Mr Ingham on 15 December 2015 and asked for a copy of the approved minutes. I received a copy of the minutes by letter dated 18 December (received on 22 December 2015). At the point of preparing the report, the minutes were not on the website (nor were they until 8 April) and Mr Ingham has now confirmed these are the correct copy. I have downloaded a copy and made appropriate amendments.

Your comment:

14. Paragraph 9.5 - reference is made to subsequent complaints against Councillor Hunt. Not only were these complaints not referred to for investigation by EHDC but EHDC Standards sub-committee on 24 November 2015 criticised the handling of the meeting and was pointed in its comments (directed to the pavilion committee members and the Clerk) on the need for transparency and to be welcoming of questions from residents (which would include me, Mrs Weatherall and Mrs O'Neill). I have obtained the full text of the Standards Sub-Committee report on line.

My response:

I am aware of that fact and have seen the letter sent to the Clerk. It is still of significance that a number of complaints were made and Dr Baxter considered and acted on those complaints.

Your comment:

15. Paragraph 9.16 – it seems that Councillor Hunt should be asked for his record of what was said to him as from all the references to him in the report it is a key account that is missing to justify reference to “by all accounts”. EHDC dismissed the subsequent complaint

against Councillor Hunt through lack of sufficient evidence of what was actually said (see the Standard Sub-committee report online).

My response:

You have yourself indicated that Cllr Hunt outlined the “shortcomings of the Pavilion Committee” in the Complaint. By the accounts of Mr Ingham, Dr Baxter, Mrs Bannerman, Cllr Keys, Cllr Keogh, Mr Carey and Mr Morris (as part of the complaints made) and of Mr Ingham and Dr Baxter in their witness statements Cllr Hunt was “critical”. The amended minutes indicate that “Cllr Hunt *raised concerns about failings on financial accountability, agendas, minutes and actions of the pavilion Committee meeting, good corporate Governance, lack of a constitution and terms under which the committee was working*”. In normal parlance that would be seen as being critical. This caused complaints (this is a matter of fact, regardless of whether these were accepted by the Standards Sub-Committee) and upset as evidenced in the witness evidence of Mr Ingham and Dr Baxter.

As a lawyer you will be aware that evidence can be oral (witness) and documentary. I have been instructed to investigate the issue and have prepared the report having taken into account the oral and written evidence available and reasonably obtained in this matter. Given the Councillors resigned on 1 December 2015, I have limited the interviews to the main parties. Despite this I have spent some considerable time on the matter. Additionally my primary conclusion was that this particular complaint issue *could not be a breach of the code – as the principles are not part of MHPC’s Code of Conduct*. In the light of these considerations, I do not believe at this stage that I should obtain further witness evidence as you have requested without further instruction. Should the Monitoring Officer wish me to contact Cllr Hunt then s/he can instruct me to do so. I do not believe it is warranted in the absence of this for the reasons outlined.

Your comment:

16. Paragraph 9.18 and 9.20 - “(Dr Baxter) would appear to have chaired the meeting fairly” and “be willing to challenge poor behaviour wherever it occurs”. This is clearly in disagreement with EHDC Standards sub-committee conclusion referred to above.

My response:

I was instructed to investigate this issue and a potential breach of principles in relation to Cllr Hunt, and have come to my conclusions having reviewed the documents, interviewed witnesses and considered the same (and relevant legislation and the MHPC Code).

The fact that the Standards Sub-Committee instructed the Monitoring Officer to write a letter before I investigated the issue, does not, I believe bind me to any specific conclusions on this particular complaint issue. The letter sent by the Monitoring Officer on 30 November 2015, stated that whoever was chairing should use that office to achieve the objective of mutual respect and when the meeting became heated should have called for a temporary adjournment.

When I interviewed you, you stated that Dr Baxter dealt with you respectfully (including specifically at the meeting when you asked questions – your paragraph 32). Dr Baxter allowed a number of questions from residents – which according to the Clerk (paragraph 13) was well in excess of the allowed standing order time (as, I would conclude, a fairer balance on this matter). There is no indication that he tried to prevent Cllr Hunt from speaking on the matter or reduce the time he spoke on the issue (which as Chairman he would have been entitled to do). I would conclude that was an objective approach.

Your comment:

17. Paragraph 10.5 and 10.7 – Who told Mrs Bannerman new locks were needed? Who said the new pavilion would be uninsured if the locks were not replaced? I understand it was a locksmith. Did this locksmith then carry out the work ? Had the locksmith reviewed the insurance position? Why was the work urgent? Where is the quote and invoice for this work? Who is the insurance person referred to who “came over and said that they were not insuring the building”. The pavilion was already insured and following Mrs Bannerman’s request in August the SA increased the insurable value for the pavilion. It seems no one on the pavilion committee or the PC was in control of this situation or taking responsibility and this is evident from the statements made by Mrs Bannerman and repeated in your report in paragraphs 10.5 to 10.7.

My response:

As indicated in my findings and reasons 10.10-10.12, I believe this to be an administrative matter (not a MHPC Code of Conduct matter) and for the reasons set out, in the alternative a use of Council resources in accordance with its requirements. You may raise the questions above with the Clerk as Proper Officer or the Auditor/ or seek to review the year end accounts should you wish to do so.

Your comment:

18. Paragraph 12.4 – can the emails referred to as being sent from me please be evidenced as appendices so we know what these are?

My response:

Dr Baxter has not exhibited emails.

Your comment:

19. The fact that the parish council in December, after the resignations, (which after the resignations comprised 3 of the members of the council in place prior to and in October) produced accounts for the pavilion refurbishment and ensured all the donations received have now been applied to the refurbishment project rather than to cover operating costs (see Appendix E to the December minutes) demonstrates that not all of the PC were aware of the workings of the pavilion committee as that committee had not been reporting to the full council and after resignation of those council members who were on the pavilion committee sought to put the accounts in order .

My response:

Again, as per my findings I would consider this an administrative matter and one that the Proper Officer/ section 151 officer is responsible for primarily and the Parish Council as a body. I did not consider this to be an issue relating to the MHPC Code of Conduct.

Yours sincerely

Jeanette Thompson
Senior Lawyer & Deputy Monitoring Officer
Legal Services