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27 September 2010

Dear Member of the Standards Committee: Hearing Sub-Committee

NOTICE IS HEREBY GIVEN THAT a meeting of the **STANDARDS COMMITTEE: HEARING SUB-COMMITTEE** will be held in the Council Chamber at these Offices on Wednesday 6 October 2010 at 10.00 am when the following business will be transacted.

Yours sincerely

Chief Executive

Standards Committee: Hearing Sub-Committee Membership:

Mr A M Hayes	(Chairman)
Mr G J Fowler	(Independent Member)
Councillor S M Le Chevalier	(District Councillor)
Councillor D R Lloyd-Jones	(District Councillor)
Mr B A C Curtis	(Town and Parish Representative)

Members of the Sub-Committee are asked to ensure they bring their Standards Reference Pack with them to the meeting.

AGENDA

1. **APOLOGIES**
2. **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3. **DECLARATIONS OF INTEREST**

Members are required to disclose the existence and nature of a personal interest at the commencement of the item of business to which the interest relates or when the interest becomes apparent. An explanation in general terms of the interest should also be given to the meeting. If the interest is also a prejudicial interest, the Member should then withdraw from the room or chamber.

4. **LOCAL DETERMINATION PROCEDURE** (Pages 3-5)

The procedure that the Sub-Committee will follow in conducting the hearing.

5. **STANDARDS COMMITTEE CASE NO SC023(c)** (Pages 6-115)

To consider the attached report of the Governance Investigator.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
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Large print copies of this agenda can be supplied on request.



Dover District Council

Standards (Hearing) Sub-Committee

Summary of Local Determination Procedure

Representation

1. The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Sub-Committee, another person who is a non-legal representative.

Advice

2. The Sub-Committee will take procedural advice from the Democratic Support Officer and legal advice from the Legal Adviser, at any time during the hearing or while they are considering the outcome.

Introductions

3. After all parties have been formally introduced; the Chairman will explain how the Sub-Committee is going to run the hearing.

Preliminary Procedural Issues

4. The Sub-Committee will determine any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process. If the Member is absent it will decide whether or not to proceed.

Making Findings of Fact

5. The Sub-Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
 - If there are no disagreements the Sub-Committee will proceed to the next stage of the hearing (item 15).
 - If there are disagreement that have been notified in advance the Sub-Committee will proceed to item 6.
 - If the Member wishes to disagree with any fact in the investigator's report but has not given notice prior to the hearing he/she must give good reasons for not doing so. After considering the Member's explanation the Sub-Committee will determine whether to:
 - (a) Proceed to item 15 relying on information in the investigator's report;
 - (b) Proceed to item 6; or
 - (c) Postpone the hearing for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.

6. The investigator to make any necessary representations to support the relevant findings of fact in the report and may call witnesses to give evidence.
7. The Member may ask questions of the investigator and any witnesses called by him or her.
8. The Sub-Committee may ask questions of any party.
9. The Member to make representations and may call any necessary witnesses to give evidence.
10. The investigator may ask questions of the Member and any witnesses called by him or her.
11. The Sub-Committee may ask questions of any party.
12. The investigator and Member to sum up.
13. The Sub-Committee will consider the representations and evidence in private in the presence only of the Democratic Support Officer and Legal Adviser.
14. The Chairman will announce the Sub-Committee's findings of fact in the presence of all parties.

Did the Member fail to follow the Code?

15. The Member to make representations as to whether or not there has been a breach of the Code of Conduct.
16. The investigator to make any representations.
17. The Sub-Committee may question any party.
18. The Member to sum up.
19. The Sub-Committee will consider the representations in private in the presence only of the Democratic Support Officer and Legal Adviser.
20. The Chairman will announce the Sub-Committee's decision as to whether or not the Member has failed to follow the Code of Conduct in the presence of all parties.

If the Member has not failed to follow the Code of Conduct

21. The Sub-Committee to consider whether it should make any recommendations to the authority.

If the Member has failed to follow the Code of Conduct

22. The Sub-Committee to consider any representations from the investigator and the Member as to:
 - (a) Whether or not the Sub-Committee should set a penalty; and
 - (b) What form any penalty should take.

23. The Sub-Committee may ask questions of any party.
24. The Sub-Committee will consider the representations in private in the presence of the Democratic Support Officer and Legal Adviser and decide whether or not to impose a penalty on the Member and, if so, what the penalty should be.
25. The Chairman will announce the Sub-Committee's decision in the presence of all the parties.

Recommendations to the Authority

26. The investigator may make any verbal or written representations that the Sub-Committee should consider making any recommendations to the appropriate authority, with a view to promoting high standards of conduct among Members.
27. The Sub-Committee will determine whether any recommendations are necessary.

The Written Decision

28. The Sub-Committee will provide a short written decision on the day of the hearing. It will also issue a full written decision as soon as possible after the hearing and in all cases within two weeks of the hearing.
29. The full written decision will be sent to the relevant parties as follows:
 - The subject member;
 - The complainant;
 - The Standards Committee of any other authorities concerned;
 - Any Town or Parish Councils concerned; and
 - Standards for England.

Publicity

30. Where the Sub-Committee reaches a finding of a failure to comply with the Code of Conduct a summary of the decision will be published in at least one newspaper circulating in the area of every authority concerned and in any other publication that is considered appropriate by the Sub-Committee.
31. Where the Sub-Committee reaches a finding of no failure to comply with Code of Conduct, the member who is the subject of the hearing may request that the summary of the decision not be published.



Agenda Item No 5

CASE REF SC023a

CLLR B W BINFIELD

Colleen Kiesel
Governance Investigator
9 June 2010

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1 Summary of Complaint

1.1 The complainant is Mrs Michelle Cooper, Clerk to Whitfield Parish Council. The Monitoring Officer recognises Whitfield Parish Council as the body corporate for the complaint as per the resolution set out in Minute No. 170 of the meeting of Whitfield Parish Council held on 8 September 2009.

1.2 The complaint relates to the conduct of Cllr Binfield from February 2008 to December 2009, and relates to correspondence sent by Cllr Binfield to other members of Whitfield Parish Council repeatedly accusing them of incompetence, misconduct and conspiracy. The complaint also alleges that this correspondence was insulting and intimidating on both a personal and professional level and is unreasonably impacting on the operation of Whitfield Parish Council.

1.3 The complaint is attached as Appendix 1

2 Referral for Investigation

2.1 In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Initial Assessment Sub-Committee of the Standards Committee decided to refer the allegation to the monitoring officer for investigation. This report is the result of that investigation.

2.2 The Sub-Committee identified below the paragraphs of the Code of Conduct, which may apply to the alleged conduct.

- 3(1) You must treat others with respect
- 3(2)(b) You must not bully any other person
- 5 You must not conduct yourself in a manner that could reasonably be regarded as bringing your office or authority into disrepute

2.3 Part of the consideration of the sub-committee was that the complaint was part of a continuing pattern of mis-conduct that is unreasonably disrupting the business of the Parish Council. Previous complaints involving Cllr Binfield have been as follows:

SC010 Councillor Binfield complained about Councillor Capper
Paragraphs 3, 4(a), 5 and 6
No Further Action

SC011 Councillor Binfield complained about Councillor Goodsell
Paragraphs 3, 4(a), 5 and 6
No Further Action

SC012 Councillor Binfield complained about Councillor Ditcher
Paragraphs 3(a), 3(b) and 5
No Further Action

SC015 Councillor Ditcher complained about Councillor Binfield
Paragraphs 3(a), 3(b) and 5
No Further Action

3 Investigation process

3.1 The investigation was delegated to Dover District Council's Governance Investigator by the Monitoring Officer under powers contained within the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.

3.2 The following people were interviewed as part of the investigation process

Cllr David Ditcher

Cllr Brian Binfield

Mrs Cooper, Clerk to the Council

Cllr Keith Gowland

Cllr Jeff Goodsell

Notes from the interviews are attached as Appendices 2 to 6

4 Findings

4.1 Cllr B W Binfield

4.1.4 Councillor Binfield is a member of Whitfield Parish Council (WPC), an authority covered by this Standards Committee, and was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.

4.1.2 Councillor Binfield has served as a Member since May 2007

4.1.3 Councillor Binfield has not received any training on the Code of Conduct.

4.2 History behind the complaint

4.2.1 Cllr Binfield sits on the Roads & Footpaths Committee. The committee had spent some considerable time in discussing & planning a project to install barriers to restrict motor bike access to Whitfield's recreation ground. The project was subsequently halted by the Parish Council. Cllr Binfield had personally spent much time on the project. At a meeting of the Committee on 19 February 2008, Cllr Binfield submitted a chronology of events and some notes to be added as an appendix to the Minutes of the meeting. The minutes are available to the public. The notes are attached as Appendix 7 to this report. Cllr Binfield requested that a copy of the handwritten notes he handed to the Chair of the committee be obtained and presented to the Standards Committee alongside the Minutes. These are attached as Appendix 7a.

4.2.2 On seeing the Minutes of the Roads & Footpaths Committee Cllr Goodsell wrote to the Chair of the WPC, see Appendix 8. Cllr Binfield responded to Cllr Goodsell regarding his concerns on 9 March 2008, see Appendix 9. In his interview, Cllr Binfield stood by his comments in his reply to Cllr Goodsell. There then followed several exchanges of correspondence between these two councillors. Examples of this correspondence are attached as appendices 10-12.

4.2.3 On 17 December 2008, Cllr Binfield circulated a Memo to other Parish Councillors concerning the outcome of complaints SC010 – SC012. See Appendix 13. Cllr Goodsell replied on 29 December 2008, see Appendix 14. Cllr

- Ditcher's response to Cllr Binfield, also dated 29 December 2008 is shown as Appendix 15. Cllr Binfield views this email as defamatory.
- 4.2.4 On 30 December 2008 Cllr Capper, Chair of the Council, advised Cllr Binfield, via email, to desist from discussing previous complaints, see Appendix 22.
- 4.2.5 There followed a further exchange of emails, between Cllrs Binfield, the Clerk to the Council & Cllr Goodsell, commencing with Cllr Binfield's Memo of 14 January 2009 at Appendix 16. Other correspondence is shown at Appendices 17 to 21.
- 4.2.6 Following this Cllr Binfield sent three further Memos to Cllr Ditcher, 6 March 2009, 9 April 2009, and 8 June 2009. These are shown as Appendices 23-25.
- 4.3 Parish Council Action
- 4.3.1 The Parish Council identified during 2008 that Cllr Binfield's behaviour was causing them problems. He would not fully participate in meetings, and criticised others and/or decisions by writing to Members following meetings. This was slowing down the progress of business, and causing some individuals to spend considerable time, unnecessarily in their view, to respond to Cllr Binfield. In addition it was considered by the Council that much of Cllr Binfield's correspondence contained insulting and unnecessarily personal comments.
- 4.3.2 In October 2008 the Parish Council passed a resolution to encourage debate at a meeting. This was to try to eliminate the letters written by Cllr Binfield after meetings, attacking other Councillors and alleging improper conduct. In addition any expectation of privacy concerning the contents of any correspondence from other Councillors was removed. See Minutes at Appendix 26.
- 4.3.3 In February 2009, advice concerning informal approaches to dealing with problems was sought from KALC, and was approved by the Council. See Appendix 27 for a summary of the advice, and Appendix 28 for the appropriate minute.
- 4.3.4 In July 2009 the Councils Standing Orders were revised to include clauses relating to conduct. See Appendix 29.
- 4.3.5 In September 2009, following advice that Cllr Ditcher had received a third letter from Cllr Binfield, see Appendix 30, the Council resolved to report his behaviour to the Standards Committee, Appendix 31
- 4.4 Cllr Binfield's response to Parish Council action
- 4.4.1 Cllr Binfield did not attend the October 2008 meeting, and there is no recorded comment from him concerning the resolution.
- 4.4.2 On learning of the proposal to adopt the KALC advice, Cllr Binfield wrote a letter of objection to the Clerk. His letter and the Clerks response are attached as Appendices 32 & 33.
- 4.4.3 Cllr Binfield did not attend the July 2009 meeting. The 3rd letter to Cllr Ditcher was received by him on 21 August 2009. The Clerk has confirmed that Cllr

Binfield was sent an agenda, detailing the proposed changes to the Standing Orders, and a copy of the minutes within a few days of the meeting.

4.5 Application of the Code of Conduct

4.5.1 Four Memos sent by Cllr Binfield to Cllr Ditcher shown as appendices 16, 23, 24 & 25 are included in the allegations concerning potential breaches of the Code of Conduct.

4.5.2 Cllr Binfield has claimed that the last 3 of these Memos were a private matter between him and Cllr Ditcher, and nothing to do with the Parish Council. He posted the first two of these to "Mr Ditcher" and the last one to "Mr & Mrs Ditcher". The Memos are addressed to "David Ditcher Only" from "Brian Binfield". By contrast, earlier Memos are addressed to "Councillors X & Y" from "Councillor Binfield". Cllr Binfield claims that these three Memos are related to his pursuance of a potential claim for defamation against Cllr Ditcher.

4.5.3 Cllr Binfield has quoted the judgement in the case of the former Mayor of London, Mr Livingstone and an Evening Standard Reporter as precedent for his case.

4.5.4 The advice of the Standards Board, (Case Review 2007, Q11, Appendix 36), is that it is "likely to view any private discussion of authority business, either with members or with the authority's officers, as carrying out the business of the member's office. Only where there is very clear evidence that the conversation was not concerned with performing authority business will it fall outside paragraph 2(1) of the Code of Conduct."

4.5.5 With respect to the Memos to Cllr Ditcher:

- That dated 14 January 2009 discusses Council business and was circulated to all Parish Councillors.
- The first two paragraphs of the memo dated 6 March 2009 refer directly to earlier documentation, 14 January 2009 & 29 December 2008 both of which included Parish Council business, and had been circulated to other Councillors.
- The Memo dated 9 April 2009 refers back to documents dated 14 January 2009 & 6 March 2009.
- The Memo dated 8 June 2009 commences with comments on a conversation held immediately prior to a parish Council meeting, when both Councillors were in attendance in their capacity as Parish Councillor for the Parish Council meeting; in the second part of paragraph 5 it refers specifically to Parish Council business.

4.5.6 Cllr Goodsell has confirmed that on occasion he has received Parish Council correspondence from Cllr Binfield via the post.

4.5.7 Consequently, with regard to:

- (i) the Standard Boards advice,
- (ii) the actions taken by the Parish Council to address Cllr Binfield's behaviour,
- (iii) that the Memos all make reference to official business within part of them,
- (iv) that Cllr Binfield has previously sent Council correspondence to others via the post

I have concluded that the last 3 Memos to Cllr Ditcher do concern Council business, and that the Code of Conduct therefore does apply to Cllr Binfield's actions in writing these.

5 Potential breaches of the Code of Conduct

5.1 Para 3(1), You must treat others with respect

5.1.1 Correspondence to Cllr Ditcher

5.1.1.1 The Memos sent to Cllr Ditcher are attached as Appendices 16, 23, 24 & 25.

5.1.1.2 Mrs Ditcher has written a letter detailing her feelings on opening the letter from Cllr Binfield on August 21st 2009. Her letter is shown as appendix 34.

5.1.1.3 The content of the letters caused Cllr & Mrs Ditcher to eventually involve the police. The attending officer has confirmed that his view was that this appeared to him to be two people who did not get along. He was shown several letters which included homosexual references, but were not directly threatening. He advised both parties to desist from direct contact, and that any future correspondence should be via solicitors. He was aware that one party had already engaged a solicitor. Summary of telephone conversation with PC Harris is at Appendix 35.

5.1.1.4 Cllr Binfield has stated that his own solicitor has advised him to desist from writing to Cllr Ditcher pending the consideration of this complaint.

5.1.1.5 Cllr Binfield has claimed that these Memos are "legally correct", and any disrespect is in Cllr Ditcher's/ the readers perception of the letters. They are however, most likely to be perceived as both shocking and derogatory to any reader.

5.1.2 Correspondence to others

5.1.2.1 In his statement Cllr Goodsell lists the personal comments made against him in various correspondence from Cllr Binfield. See Appendix 6. He sees little difference in these and in the comments made by Cllr Ditcher about Cllr Binfield in his email of 29 December 2008, that is reference to a persecution complex, and to bullying.

5.1.3 Conclusion

5.1.3.1 In the Code of Conduct, the Standards Board states:

“Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack.”

5.1.3.2 As detailed earlier in this document, the Parish Council have made attempts to deal with Cllr Binfield's behaviour.

5.1.3.3 Based on the evidence presented, I am of the opinion that the Memos sent by Cllr Binfield to Cllr Ditcher constitute both unreasonable & excessive personal attacks. Each successive document is progressively more shocking, the final one being sent via post addressed to both Mr & Mrs Ditcher, after the change to the Parish Councils Standing Orders. As such, Cllr Binfield has not shown respect for Cllr Ditcher or to Mrs Ditcher.

5.1.3.4 Comments to Cllr Goodsell have been initiated over a variety of topics. Viewed individually, the comments made are not as distasteful as those made to Cllr Ditcher. However, the accumulation of comments over a period of time does bring into question the level of respect Cllr Binfield has for his fellow Councillor. Consequently I consider that he has not shown respect for Cllr Goodsell.

5.2 Para (2)(b), You must not bully any other person

5.2.1 In the Code of Conduct, the Standards Board states:

“Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence.”

5.2.2 Bullying Cllr Brooks

5.2.2.1 In his e-mail of 29 December 2008, Cllr Ditcher refers to the documenting of Cllr Binfield's bullying of Cllr Brooks in Parish Council minutes. This refers to the attachments to the Roads & Footpaths committee of 19 February 2008, see Appendix 7.

5.2.2.2 In the meeting with Cllr Binfield on 18 March 2010, it was clear that Cllr Binfield was not aware that this constituted the bullying behaviour alleged by Cllr Ditcher.

5.2.2.3 Cllr Binfield has stated that, prior to this complaint, Cllr Brooks has not complained of bullying, and therefore this documentation in its self does not support any allegation of bullying. He claims his document attached to the minutes of the Roads & Footpaths Committee contains fair comment.

5.2.2.4 It should be noted that the minutes of the Roads & Footpaths Committee, 19 February 2008, record the resolution “That Cllr B Binfield's Chronological Order of Events document and his notes taken during discussion be appended to the Minutes for information purposes.” Whilst this minute does not specifically refer to Cllr Binfield's document calling for Cllr Brooks' resignation, it does show that the Committee made the decision to include Cllr Binfield's records as part of their

minutes. Consequently responsibility for the publication of these documents rests with the Committee.

5.2.2.5 No additional evidence of Cllr Binfield bullying Cllr Brooks has been presented.

5.2.3 Conclusion

5.2.3.1 In respect of the allegation of the bullying of Cllr Brooks, I find that Cllr Binfield has been robust in his declaration of loss of confidence in a fellow Councillor during a committee meeting, but that the Roads & Footpaths Committee took the decision to publish his documentation. The evidence as presented does not therefore support that Cllr Binfield has bullied Cllr Brooks.

5.2.4 Bullying Cllr Ditcher

5.2.4.1 Cllr Binfield's Memos to Cllr Ditcher should be considered as part of the complaint made by Whitfield Parish Council. When considered against the Standards Boards definition of bullying, they meet the characteristics of being offensive, intimidating, malicious, insulting and humiliating. Additionally, there has been a series of these, each progressively nastier than the previous. The last document was addressed to both Mr & Mrs Ditcher, therefore with the aim of also hurting Mrs Ditcher, and so attempting to intimidate Cllr Ditcher.

5.2.4.2 Cllr Binfield has stated that his purpose was to obtain an apology from Cllr Ditcher for his earlier comments. However, this objective seems to have been lost amongst the increasing level of insults made as each letter is written. It is possible that Cllr Binfield thought that by ensuring Mrs Ditcher knew the contents of his letters, he could exert influence to obtain his apology.

5.2.5 Conclusion

5.2.5.1 I find that Cllr Binfield's correspondence to Cllr Ditcher meets the Standards Boards definition of bullying. Mrs Ditcher has written to explain the affect the incident had on her, Appendix 34. I therefore conclude that both Councillor & Mrs Ditcher have been bullied by Cllr Binfield.

5.3 Para 5, You must not conduct yourself in a manner that could reasonably be regarded as bringing your office or authority into disrepute

5.3.1 The Clerk to the Council has suggested that Cllr Binfield may have brought his office into disrepute through his conduct at Parish Council & committee meetings. She also confirmed that to date, the Parish Council has been successful in its attempts to contain any adverse publicity and questions from the public.

5.3.2 It has been confirmed the conversation as recorded in Cllr Binfields Memo to Cllr Ditcher dated 8 June 2009 (appendix 25), was initiated by Cllr Ditcher. As such Cllr Ditcher should take some responsibility for any public knowledge of the dispute between themselves.

5.3.3 In his Memo dated 17 December 2008 to Cllrs Capper, Goodsell & Ditcher, Cllr Binfield states "The fact of the matter is also - can anyone writing to Councillor Capper and David Ditcher in the future requesting confidence through

correspondence rely on that facility – It is my opinion that the answer is no!” See Appendix 13. Having decided that Cllr Ditcher was unable to respect his requests for privacy, Cllr Binfield should have been aware that his future correspondence would be shown to / discussed with other Councillors. The Clerk to the Council has confirmed Cllr Ditcher gave her copies, which she filed. As far as she is aware, knowledge of the memos from Cllr Binfield to Cllr Ditcher has been restricted to members of the Parish Council.

5.3.4 In addition, the Parish Council had resolved that there should not be an expectation of privacy in relation to documentation shared between themselves. (Appendix 26.)

5.3.5 Conclusion

5.3.5.1 Due to the steps taken by the Parish Council in removing any expectation of privacy in correspondence between themselves, and Cllr Binfield's own document of 17 December 2008, commenting on others not keeping confidences, I consider that there could be no reason for Cllr Binfield to expect that his Memos to Cllr Ditcher would not be discussed with / by the other Parish Councillors. Evidence from the Clerk to the Council and Cllr Goodsell confirm that the matter has been contained within the Parish Council. There is no evidence to show any adverse public perception of the Parish Councillors, or the Parish Council, caused by Cllr Binfield's behaviour.

5.3.5.2 Had the police officer who attended Cllr Ditcher's complaint considered police action necessary, and the nature of the complaint made become public, then Cllr Binfield may have brought his office into disrepute. This however has not happened.

5.3.5.3 Consequently I do not consider that Cllr Binfield's behaviour has brought his office or authority into disrepute.

6 Responses to the Draft Report

6.1 The Draft Report was circulated to Cllr Binfield, Cllr Goodsell, ex-Cllr Ditcher and the Clerk to the Parish Council for their agreement. Cllr Binfield was the only person to make comments on the content of the report. His letter is produced in full at Appendix 37, with the Governance Investigators comments on the points raised at Appendix 38.

Chronology

19 February 2008	Cllr Binfield's notes relating to the barriers appended to the minutes of the Roads & Footpaths Committee. These include a page of criticism of Cllr Brooks.
Undated	Letter to the Chairman from Cllr J Goodsell re the attachments to the minutes of the Roads & Footpaths Committee, referring to "the vindictive nature of the attack on Cllr Brooks".
14 Oct 2008	Parish Council meeting – resolution requiring active participation of Members
17 December 2008	Memo from Cllr Binfield to Cllr Capper, Goodsell & Ditcher, cc'd to others.
29 December 2008	Email from Cllr D Ditcher to others following earlier Memo from Cllr Binfield. Message refers to sender having a persecution complex, and states "... reminding Cllr Binfield of his bullying of Cllr Brooks which is well documented in Parish Council Minutes..."
14 January 2009	Memo from Cllr Binfield to Cllrs Goodsell & Ditcher, copied to others. Refers to Cllr Ditcher's allegation of bullying, and demands an apology.
14 January 2009	Memo from Cllr Binfield to Clerk to the Council, requesting intervention.
10 February 2009	Parish Council meeting – resolution accepting KALC advice
6 March 2009	Memo from Cllr Binfield to Cllr Ditcher, refers to memo dated 14 January 09 from Cllr Binfield to Cllrs Goodsell & Ditcher, making derogatory remarks & demanding apology
9 April 2009	Further memo from Cllr Binfield to Cllr Ditcher.
Shortly after 8 June 2009	Cllr Ditcher returns a letter, unopened to Cllr Binfield
14 July 2009	WPC adopts revisions to their Standing Orders, requiring members to, observe the Code of Conduct, uphold the good reputation of the Council and strengthening the role of the Chair. Cllr Binfield was not present at the meeting
21 August 2009	Letter dated 8 June received by Cllr & Mrs Ditcher.
23 August 2009	Email from Cllr Ditcher to other WPC members, advising that he had received another letter from Cllr Binfield, and had reported it to the police. Both parties interviewed by police.
8 September 2009	WPC resolved to refer Cllr Binfield's conduct to the Standards Committee

Appendices

	Date	Document
1		Complaint
2		Summary of meeting with Cllr David Ditcher
3		Summary of meeting with Cllr Binfield
3a		Cllr Binfield's initial response to the complaint
4		Summary of meeting with Mrs Cooper, Clerk to the Council
5		Conversation with Cllr Gowland
6		Summary of meeting with Cllr Goodsell
7		Roads & Footpaths Committee Minutes 19 February 2008
7a		Photocopy of Cllr Binfield's document obtained from the Chair of the Roads & Footpaths committee
8	Undated	Document addressed "Dear Chairman" from Cllr Jeff Goodsell
9	9 March 08	Document to Cllr Goodsell from Cllr Binfield
10	Undated	Cllr Goodsell's reply to Cllr Binfield email of 9 March 09
11	9 March 08	Response to Cllr Goodsell from Cllr Binfield
12	11 March 08	Email Cllr Binfield to Cllr Goodsell copied to all Whitfield Parish Councillors and Clerk
13	17 Dec 08	Memo Cllr Binfield to Cllrs Capper, Goodsell and Ditcher
14	29 Dec 08	Email Cllr Goodsell to all
15	29 Dec 08	Email from Cllr Ditcher to others
16	14 Jan 09	Memo Cllr Binfield to Cllrs Goodsell & Ditcher
17	14 Jan 09	Cllr Binfield to Clerk
18	16 Jan 09	Email Cllr Goodsell to Cllr Binfield
19	19 Jan 09	Memo Cllr Binfield to Cllr Goodsell
20	19 Jan 09	Email Cllr Goodsell to Cllr Binfield
21	25 Jan 09	Email Cllr Goodsell to all
22	30 Dec 08	Email Cllr Capper to Cllr Binfield
23	6 Mar 09	Memo Cllr Binfield to Cllr Ditcher
24	9 April 09	Memo Cllr Binfield to Cllr Ditcher
25	8 June 09	Memo Cllr Binfield to Cllr Ditcher
26		Minutes of the Council meeting October 2008
27	5 Feb 09	Email from clerk to all Cllrs circulating advice from KALC
28		Minutes of the Council meeting February 2009
29		Minutes of the Council meeting 14 July 2009
30	23 Aug 09	Email Cllr Ditcher to others
31		Minutes of the Council meeting 8 September 2009
32	7 Feb 09	Memo to Clerk from Cllr Binfield
33	10 Feb 09	Memo Clerk to Cllr Binfield
34		Letter from Mrs Ditcher
35		Summary of telephone conversation with PC Harris
36		Extract- Case Review 2007
37		Cllr Binfields response to the Draft Report
38		Governance Investigators comment on Cllr Binfields response

This complaint is on behalf of Whitfield Parish Council and relates to the conduct of Cllr Binfield, of Whitfield Parish Council, from February 2008 until the present day.

Since this time, Cllr Binfield has written numerous letters, memos and emails which have repeatedly accused his fellow councillors of incompetence, misconduct and conspiracy and have also been insulting and intimidating on both professional and personal levels. This action by Cllr Binfield has caused personal distress to Councillors and their families, has severely affected the smooth running of Whitfield Parish Council and has brought the Council into disrepute.

A full set of the correspondence and relevant minutes of Parish Council Meetings are attached to this complaint.

It is the opinion of Whitfield Parish Council that Cllr Binfield has breached the Code of Conduct. Although previous complaints to the Standards Committee have resulted in "No further Action" decisions because the individual complaints were not considered serious enough to justify the range of sanctions available to the Committee or the Adjudication Panel for England, it is the opinion of the Council that Cllr Binfield's conduct is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Parish Council and there is no other avenue left to deal with the matter, other than by investigation.

Furthermore, it is the opinion of the Council that the most recent letters from Cllr Binfield to Cllr Ditcher (dated 6th March 2009 and 8th June 2009) may be serious enough to breach the Code in their own right. The last memo (8th June) was reported to the Police who subsequently interviewed Cllr Binfield.

Cllr Binfield's actions began during Roads and Footpaths Committee meetings. Disagreement on the installation of barriers around the Parish Recreation Ground resulted in insulting comments and allegations of incompetence from Cllr Binfield against Cllr Brooks.

When the full Parish Council voted against proceeding with the barrier project and comments were made about Cllr Binfield's conduct in the matter, Cllr Binfield started writing letters, memos and emails to Cllrs Goodsell, Ditcher and Capper. These initially referred to alleged intimidation, incompetence, misconduct, and breaches of the Disabled Discrimination and Human Rights Acts, but over time became more insulting and intimidating on a personal level.

The Parish Council have made repeated attempts to resolve the problem. The issue has been discussed at a number of Parish Meetings without any satisfactory outcome.

At the October 2008 Parish meeting, the following resolution was passed:

"Parish Council meetings are the proper forum for discussion on Council business and Council business should be dealt with at these meetings.

Councillors should take part in discussions at these meetings, if they so wish, and not sit in relative silence, recording events, to subsequently write letters attacking fellow councillors and committees, making allegations of improper conduct.

If a Councillor wishes to write to others on matters directly relating to Parish Council business they should not require that the letter is withheld from other Councillors."

Following a meeting between the Parish Clerk and representatives from KALC the following resolution was passed at Whitfield Parish Council Meeting 10th February 2009:

"This Council adopts the advice given by KALC in the email dated Tuesday February 3rd 2009 as the reasonable requirements on the conduct of the members of Whitfield Parish Council in relation to the Code of Conduct."

Cllr Binfield did not participate in the discussions at the Parish Meetings nor did he abide by the resolutions passed: He continued to send letters, memos and emails.

Whitfield Parish Council considers that Cllr Binfield has breached the following sections of the Code of Conduct:

Para 3 (1) “You must treat others with respect”.

While criticism of ideas and opinion is part of democratic debate, Cllr Binfield’s actions have subjected individuals to unreasonable and excessive personal attack.

Para 3 (2)(b) “You must not bully any person”.

Cllr Binfield’s conduct amounts to bullying and harassment of his fellow Councillors. The Code’s Guide for members states that “Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health”. The

Cllr Binfield failed to raise any genuinely felt issues or concerns that he may have had in the correct way or in the proper forum. His criticism took the form of personal attacks of an offensive nature, and crossed the line of what is acceptable behaviour.

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

Cllr Binfield’s actions have brought Whitfield Parish Council into disrepute. His letters, memos and emails are to fellow councillors and relate to Parish Council issues that are, therefore, discussed at Parish Meetings that are attended by the Public and press.

It is also the opinion of Whitfield Parish Council that Cllr Binfield has breached the following General Principles of the Code of Conduct prescribed by the Secretary of State in the Annexure to the Code and, therefore, the Code of Conduct itself:

Honesty and Integrity - 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.

Accountability - 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 - 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.

Respect for Others - 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.

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

While the General Principles do not create a statutory obligation for members and while accepting that the Standards Committee cannot accept allegations that they have been breached, the Principles do define the standards that members should uphold, and do serve as a reminder of the purpose of the Code of Conduct. The May 2007 Guide to the Code states that a failure to act in accordance with the general Principles may amount to a breach of the Code of Conduct.

Summary of Interview with Cllr David Ditcher
25 February 2010

Cllr Ditcher agreed to the interview being recorded, and was read the preamble as recommended by the Standards Board.

The parts of the Code of Conduct potentially breached by Cllr Binfield, identified by the Initial Assessment Sub-Committee for investigation were confirmed as paras 3(1), You must treat others with respect, 3(2)(b), You must not bully any person, and 5, You must not conduct yourself in a manner that could reasonably be regarded as bringing your office or authority into disrepute.

The complaint identified two pieces of correspondence from Cllr Binfield to Cllr Ditcher, dated 6 April 2009 and 8 June 2009. In addition, a document dated 9 April 2009 had been received by Cllr Ditcher, and this is to be included in the evidence supporting the complaint.

Cllr Ditcher confirmed that he had not received any other correspondence from Cllr Binfield to be considered as part of the complaint.

As with all the correspondence, the last document, dated 8 June 2009 was received via the post. Having already received two documents, Cllr Ditcher recognised the handwriting on the envelope as that of Cllr Binfield. Therefore he did not open the envelope, but crossed through his address, and wrote "Return to Sender" on it along with Cllr Binfield's address. The letter was later re-packaged, with the address type-written on the envelope, and addressed to both Mr & Mrs Ditcher. It was posted on 20 August 2009, received on 21 August 2009. Mr Ditcher was out, and Mrs Ditcher opened the envelope and read the Memo. Mrs Ditcher was upset at its contents. Mr Ditcher considers that it was underhanded of Cllr Binfield to resend the letter and address the envelope to both he and his wife.

Because Mrs Ditcher was so upset at the contents of the letter, Mr Ditcher contacted the police. On Sunday 23 August 2009, PC Harris interviewed Mr Ditcher and then went to interview Cllr Binfield. Cllr Ditcher believes that PC Harris spoke to Cllr Binfield in the presence of Mrs Binfield, who, at that time was unaware of the correspondence. PC Harris returned to Cllr Ditcher the same day. He gave Cllr Ditcher a crime number, and said if he had any more correspondence from Cllr Binfield he was to ring the police and quote the crime number. Further correspondence would be viewed by the police as harassment, and Cllr Ditcher would be entitled to commence criminal proceedings against him. Cllr Ditcher believes that PC Harris warned Cllr Binfield as to his future conduct with regard to contact with Cllr Ditcher.

Cllr Ditcher was asked if he had shown the earlier letters to PC Harris. He confirmed that he would have shown at least one of them to establish that this last letter was part of a series of letters of an insulting nature from Cllr Binfield.

The correspondence is marked for Cllr Ditchers attention only. Other councillors were aware of them because Cllr Ditcher told them. He kept the Clerk to the Parish Council updated as the problems went back some time.

Cllr Ditcher wanted to end the attacks from Cllr Binfield. His approach to doing this was to ignore the correspondence. He was aware that Cllr Goodsell had replied to some unpleasant emails he had received from Cllr Binfield, and that they had eventually ceased. Cllr Ditcher expressed the opinion that, because he did not reply to Cllr Binfield, he thought he was afraid of him and continued to bully him by continuing to send the letters until he eventually went to the police. Cllr Ditcher re-iterated that he did this because his wife was so upset at what she had read.

Mrs Ditcher suffers from high blood pressure. Following police intervention she was frightened in case Cllr Binfield went to their house to threaten them. Although Cllr Ditcher did not think this likely, Mrs Ditcher was still frightened to the extent that she was nervous of opening the mail in case a further letter from Cllr Binfield arrived.

It was suggested that the likely incident which initiated the correspondence from Cllr Binfield was Cllr Ditcher's e-mail dated 29 December 2008 to other parish councillors, which includes the phrase "...reminding Cllr Binfield of his bullying of Cllr Brooks which is well documented in Parish Council Minutes..." Cllr Ditcher confirmed this. He stated that it was not just his opinion that Cllr Brooks was bullied by Cllr Binfield, but other Parish Councillors thought so too. Cllr Brooks was afraid of Cllr Binfield, which was why he would not bring a complaint against Cllr Binfield himself. Cllr Brooks had told Cllr Ditcher he admired his stance with Cllr Binfield.

Cllr Brooks had originally been on the Roads & Footpaths Committee, but asked to come off it as he no longer wanted to associate with Cllr Binfield.

The Minutes of the Roads & Footpaths Committee 19 February 2008, include Cllr Binfield's records & notes on a project to install barriers which include a written attack on Cllr Brooks. Cllr Ditcher is of the opinion that this does constitute bullying. Cllr Ditcher could not recall any other record of bullying within the Council minutes.

The first correspondence from Cllr Binfield, 14 January 2009, demands an apology from Cllr Ditcher, who confirmed that one has not been offered. Cllr Ditcher does not consider he owes an apology to Cllr Binfield, as he considers Cllr Binfield's actions do amount to the bullying of Cllr Brooks.

Cllr Binfield rarely attends meetings. He does not take part in discussions, writes notes throughout, and is generally the first to leave. Subsequent to meetings he uses his notes to the detriment of the running of the Councils business.

Cllr Binfield has never approached Cllr Ditcher with a view to sorting out the issue. On one occasion, as Cllr Binfield entered the room prior to the start of a Council meeting, Cllr Ditcher said to him "Have you brought your poison pen?" Cllr Binfield stood over

Cllr Ditcher and asked him, in a manner Cllr Ditcher found threatening, if he had a problem with him, to which Cllr Ditcher replied he had. Cllr Ditcher confirmed he asked Cllr Binfield if his wife knew he was sending the type of correspondence. Cllr Binfield said she did. He then went on to say “you will always come out second best”. Cllr Ditcher did not respond. This was witnessed by other councillors and the PCSO attending the meeting. This is the only time they have ever spoken. This incident is referred to in Cllr Binfield last letter dated 8 June 2009.

Cllr Binfield’s first letter threatens Cllr Ditcher with his solicitors if he does not apologise. Cllr Ditcher confirmed he has never heard from solicitors acting on behalf of Cllr Binfield, and furthermore, that he never expected to.

In February 2009 the Clerk to the Council circulated to all councillors some advice the Chair of Whitfield Parish Council had received from KALC. Cllr Ditcher was not certain whether this advice was in respect of his issues with Cllr Binfield and confirmed that the Chair had never taken up the suggestion of “a quiet word” with him.

Cllr Ditcher confirmed that as far as he is aware, no-one outside the Parish Councillors (and possibly their spouses), are aware of the correspondence he has received from Cllr Binfield.

I confirm that the above is an accurate representation of the interview

Signed by Cllr Ditcher

Date 4 March 2010

Colleen Kisiel
Governance Investigator
26 February 2010

Summary of meeting with Cllr Brian Binfield
18 March 2010

Cllr Binfield agreed to the meeting being recorded and was read the preamble as recommended by the Standards Board for England.

It was confirmed that Cllr Binfield had received a copy of the decision notice indicating the alleged breaches of the Code of Conduct, along with a copy of the complaint. Cllr Binfield had not to date seen copies of all the documentation supporting the complaint.

Cllr Binfield had already acknowledged that he had sent the letters central to the complaint to Cllr Ditcher, and that the 3 letters dated 6 March 2009, 9 April 2009, 8 June 2009 were sent solely to Cllr Ditcher. A letter dated 14 January was sent to Cllr Ditcher & others as indicated in the header.

Cllr Binfield stated that he is of the opinion that the complaint document is selective, and that its content is biased and prejudicial towards himself. The complaint mentions a reaction by him, but does not refer to the reason for that reaction.

It was acknowledged that some of the documentation submitted with the complaint may not be relevant, and that a list of all the documentation would be provided to Cllr Binfield. Cllr Binfield was shown Cllr Ditcher's email of 29 December 2008, containing the allegation that Cllr Binfield may be suffering from a persecution complex, and the allegation of bullying of Cllr Brooks.

Cllr Binfield commented that the whole matter was potentially sub-judicial, that it was a private matter outside Whitfield Parish Council which he is bringing against Cllr Ditcher. Cllr Binfield confirmed he has engaged a solicitor to advise him on the matter.

Cllr Binfield again reiterated that the complaint document is selective, and that its content is biased and prejudicial towards himself. It does not take account of the reason for his reaction. The reaction follows a libellous statement by David Ditcher in December 2008. Cllr Binfield had written to Cllr Ditcher asking him to withdraw the statement, which was confirmed to be the email of 29 December 2008, sent to one person and copied to others by the sender. In Cllr Binfield's opinion the statement is libellous. Cllr Binfield has engaged his solicitor to pursue this, completely outside of Whitfield Parish Council, which is why it could be sub-judicial.

Cllr Binfield was advised by the investigator that Cllr Ditcher had stated he had not heard from Cllr Binfield's solicitor. Cllr Binfield stated that he had been advised by his solicitor that until this complaint had been sorted, he should hold back on his legal action.

Cllr Binfield confirmed he was happy to co-operate with the investigation. The matter was simple. Cllr Ditcher libelled him. He wrote to Cllr Ditcher asking him to withdraw the accusation, see letter dated 14 January 2009, sent to Cllrs Goodsell & Ditcher, copied to others. Cllr Binfield explained that at this time it was Council policy to copy

correspondence to all Members of the Council. However, all his subsequent correspondence has been to Cllr Ditcher personally.

The email of 29 December 2008 forms the basis of the affair. In his reply to Cllr Ditcher, Cllr Binfield states “There is no justification or lawful excuse to injure my professional and/or personal reputation as a Whitfield Parish Councillor. Your written email to Peter Capper regarding my alleged bullying of Cllr Brooks is defamatory.” This formed the basis of the start of correspondence to Cllr Ditcher. Cllr Binfield expressed dissatisfaction with the inclusion of this document as part of the investigation, as it was not specifically mentioned in the complaint, but was happy to bring this matter to a conclusion. He again re-iterated that the complaint document is selective, and that its content is biased and prejudicial towards himself. The complaint mentions a reaction by him, but does not refer to the reason for the reaction. It was explained that the investigation was Cllr Binfield’s opportunity to correct this and to put his case to the Standards Committee. To enable this documentation not included in the complaint may be useful to show the complete picture.

Cllr Binfield was shown a copy of the Minutes of the Roads & Footpaths Committee dated 19 February 2008, as this is Cllr Ditcher’s evidence of Cllr Binfield’s bullying of Cllr Brooks being documented in Council records. Cllr Binfield’s notes on the history of the Barriers, and a note calling for Cllr Brooks’ resignation are attached to the Minutes. Cllr Binfield stated that this was fair comment.

Included with the complainant’s documentation was an undated note Cllr Goodsell had addressed to the Chair, saying he was appalled by the vindictive nature of the attack on Cllr Brooks. Cllr Binfield stated that there had never been a complaint from Cllr Brooks concerning this.

Cllr Binfield claimed that the original documents, his hand written notes from the meeting on 19 Feb 2008, were missing. The minutes of the meeting are not taken verbatim, sight of his original documents may assist the investigation – the typewritten version may not be an exact copy of the hand written notes. Cllr Binfield requested that attempts be made to obtain his original notes, as these indicated that Cllr Brooks contradicted himself throughout the discussion. Cllr Binfield trained as an arbitrator, and his notes were taken in accordance with his regular practice when acting as arbitrator – columns to show the time and what was said. Cllr Binfield handed the notes to the Chair at the end of the meeting, and so they accurately record the conversation. There was no opportunity to change them.

It was confirmed that the note which called for Cllr Brooks’ resignation was typed by Cllr Binfield. Cllr Binfield stands by these comments, bearing in mind the content of the notes. He was unable to recall when he wrote this note, before or after the meeting. It was confirmed that the Chronological order of events was pre-prepared, and, given the length of time which has elapsed, Cllr Binfield is content with the assumption that these additional notes were also prepared in advance of the meeting.

Cllr Ditcher does not consider his allegation of bullying to be libellous because of this documentation attached to the minutes. Cllr Binfield confirmed that he has been advised by his solicitor that the statement made by Cllr Ditcher is libellous. However, Cllr Binfield could not confirm that these minutes had been seen by his solicitor. He had not provided his solicitor with a copy. Cllr Binfield had not seen them himself recently, needing time during this interview to re-acquaint himself with their contents.

Cllr Binfield was again advised he should produce any evidence he has to explain his position. It was explained that Cllr Ditcher had referred to the minutes in support of his case, and the investigator was ensuring Cllr Binfield was aware of this. Cllr Binfield commented that Cllr Ditcher was entitled to his opinion, and again requested that the original copy of the notes from the meeting on 19 Feb 2008 be obtained.

Cllr Binfield was invited to make further comment on his Memo on 14 January 2009. He stated that all he had ever asked for was an apology, and the content of the following letters have always asked for an apology and for the statement to be withdrawn. He confirms he had never been offered an apology. Cllr Binfield stated that he has been humiliated and embarrassed by Cllr Ditcher at various Council meetings.

The Memo of 6 March 2009 was shown to Cllr Binfield, who confirmed that the correspondence was sent via the post. Cllr Binfield was asked how he would have reacted if he had received such a letter. His response was “damage limitation”, he would have killed it dead and moved on. If it needed an apology – and in his opinion one was needed, he would have said he was sorry, shaken hands and moved on. The whole issue could have died a year ago, and they could have moved on. The people of Whitfield could have benefited from them acting as Councillors, and not being diverted by this.

Cllr Binfield’s attention was drawn to the last 2 paragraphs in particular. He stated that he believes Cllr Ditcher does have a head in the sand attitude, as he is ignoring the issue. If he was to walk in and say “I’m sorry Brian, lets call it a day”, there would be damage limitation and we’d be done. All Cllr Binfield is asking for is an apology so that they can all get on and do what they’re employed to do in the first place. With regard to point 7 of the letter – Cllr Binfield claimed it is legally correct and it’s about perception. It was suggested to Cllr Binfield that it was not the sort of comment the reader would wish to see when being asked for an apology. Cllr Binfield again said it was legally correct.

The Memo of 9 April 2009 was discussed. Cllr Binfield confirmed it was sent solely to Cllr Ditcher, and forms part of his claim against him. He again stated that it is nothing to do with Whitfield Parish Council. He confirmed that there is nothing wrong with the letter. Cllr Binfield was asked how he would have reacted had he received the letter. He claims that he would not have let the issue escalate to this level, he would have already dealt with it – seeing damage limitation as key.

Cllr Binfield stated that Cllr Ditcher has never given him the opportunity to talk – that Cllr Ditcher would not do so. Cllr Ditcher has chosen not to speak to him, or to others Cllr Binfield has asked to try and conclude the matter. Cllr Binfield again confirmed that

his solicitor has advised that there is nothing legally wrong with the correspondence. Cllr Binfield again asserted all he wanted was an apology.

The memo dated 8th June 2009 was written shortly after a Council meeting. Cllr Binfield claims that as soon as he entered the room for the meeting Cllr Ditcher shouted out “have you brought your poison pen with you”, and referred to the conversation as recorded in the Memo. Cllr Binfield stated that he wrote down at the time exactly what Cllr Ditcher said. Cllr Ditcher has not disputed the conversation, but gave the impression that he did not shout this across the room, but was close to Cllr Binfield at the time. Cllr Binfield stated that the distance could have been about 10feet (3m).

Although this was an opportunity for them to discuss the matter this did not happen. Cllr Binfield feels he has made all the running, asking for an apology and Cllr Ditcher declining to do so.

Cllr Ditcher claims that he returned this correspondence to Cllr Binfield, unopened. Cllr Binfield agreed with this. Cllr Binfield commented that this was typical of Cllr Ditcher. If he recognised Cllr Binfield’s handwriting he would have considered what might have been in the envelope and sent it back. Cllr Binfield expressed that there was no sign of damage limitation on Cllr Ditcher’s part, or that he was looking to end the issue by the sheer act that he returned the envelope. At this stage there was no one else involved in the matter as far as Cllr Binfield was concerned – it was strictly private.

Cllr Binfield confirmed that he later returned the letter in a new envelope, with a type written label addressed to Mr & Mrs Ditcher, commenting he would have had the letter in June had he opened it. This prompted the complaint to the police.

Cllr Binfield commented that the referral of the letter to the police has been highly elaborated. He then read from a prepared document, that on Sunday 13 Sept 2009 Cllr Ditcher contacted the police in relation to a letter. PC Harris, acting on information received from David Ditcher informed him that this was a civil and not a police matter and should be dealt with by the parties concerned and their respective legal advisors. The police didn’t want to know. The impression Cllr Ditcher has given to Whitfield Parish Council, that Cllr Binfield had been warned off, is completely wrong. The discrepancy in the dates was discussed, as Cllr Ditcher had stated that PC Harris visited on 23 August – two weeks earlier. Cllr Binfield confirmed that regardless of the date, he did receive a visit. He recalled he showed PC Harris the Memo, and was advised it was a civil matter, and he was not warned off as suggested by Cllr Ditcher. Cllr Ditcher has informed the investigator that PC Harris had said further correspondence would be viewed as harassment, and Cllr Ditcher could commence criminal proceedings if he felt so inclined. Cllr Binfield replied that this was hearsay.

Since the police intervention nothing has happened.

Cllr Binfield produced a document he had prepared prior to the meeting to address each point of the complaint as submitted by the Clerk to the Parish Council. He drew specific

attention to not having had the bundle of documents submitted with the complaint. Additionally, the Decision Notice:Referral for Investigation and the complaint document had been made available to the public, at a Parish Council meeting, without the bundle of documents supporting the complaint.

Cllr Binfield's document & numbering of the complaint is attached to this statement.

As these notes were discussed, the following additional information was gathered

- The police did not issue any formal warning / caution to Cllr Binfield in relation to the correspondence sent to Cllr Ditcher.
- Cllr K Gowland was the third party who attempted to organise a meeting between Cllr Ditcher & himself to conclude the matter. Cllr Gowland is the only Whitfield member who has tried to assist in concluding the matter.
- The Chair of the Council has not approached Cllr Binfield for a quiet word, as suggested by KALC.

The investigator referred back to the complaint, which alleges that through the letters there is evidence of bullying Cllr Ditcher. Professional criticism has moved into insulting personal criticism. Looking again at the last letter, Cllr Binfield emphasised that it was sent personally to Cllr Ditcher, and was nothing to do with the Parish Council. It had been re-sent to Mr & Mrs Ditcher. Cllr Binfield was told that Mrs Ditcher opened it, and was shocked at what was written. It was partly her reaction which prompted Cllr Ditcher to report the matter to the police. Cllr Binfield replied that Cllr Ditcher should have thought of this in the first place, and done some damage limitation months & months earlier. He had the opportunity to conclude the matter, and chose not to. The Council's compliant acknowledges that professional challenge & debate is necessary, but alleges the letters descend into personal insult. Again Cllr Binfield re-iterated that this was a private matter. He did acknowledge that it stemmed from Council matters, but that Cllr Ditcher had chosen not to end the matter.

Cllr Binfield was asked if he could see that the letter was insulting on a personal level. He replied that the letter was not insulting, it was Cllr Ditcher's perception of it. Cllr Binfield was asked if he meant the letter to be insulting when he wrote it. He replied, firm & hard, and stated the letter was not insulting. Cllr Binfield claims to have quoted the last paragraph of the letter from The Times newspaper. The information on George Galloway was publicised nationally. Again he stated it was not meant to be insulting, it was Cllr Ditcher's perception which made it insulting. When asked about Mrs Ditcher's reaction, Cllr Binfield queried why Cllr Ditcher hadn't told his wife, and declined to discuss this further.

It was agreed Cllr Gowland would be contacted, and Cllr Binfield referred back to point 8 of his document (attached) in which he had made attempts through Cllr Gowland to resolve the issue. Cllr Gowland had assured Cllr Binfield that he had approached Cllr Capper, who had refused to attend a meeting to conclude this matter. Also Cllr Gowland approached Cllr Ditcher and was told to go away, that he was just Brian Binfield's mouthpiece. Cllr Capper would only attend a meeting to bring this matter through to a conclusion only if he could be chairman of that meeting.

It was agreed that Cllr Binfield would be sent a schedule of the information provided with the complaint, with an indication of which documents may be used. This list will however be subject to change as the investigation progresses. Cllr Binfield would ensure all the evidence he wishes to rely on has been provided. The KALC advice, Feb 2009, was documentation Cllr Binfield wished to have included, with his subsequent correspondence with the Clerk, and his hand drafted notes from Feb 2008 if available.

Cllr Binfield was asked if he wished to add anything else. He indicated that there had been no complaint from Cllr Brooks, so Cllr Ditchers allegation was groundless. He had made contemporaneous notes, which had been handed immediately to a third party, and were therefore an accurate record of what happened at the meeting. Cllr Binfield stated that Cllr Brooks does change his mind, and if a record of this is bullying, then the world is in a sorry state. The note calling for Cllr Brooks' resignation was pointed out by the investigator. Cllr Binfield again reviewed the document, and confirmed that in his opinion Cllr Brooks was irresponsible, and he stood by his comments.

Cllr Binfield again expressed that the letters to Cllr Ditcher were a private matter.

Confirmed as an accurate record of our meeting

Cllr Brian Binfield:

Date: 30 March 2010

Colleen Kisiel
Governance Investigator
20 March 2009

Statement of Brian William Binfield

DATE: 19 FEBRUARY 2010

CASE No. SC023a

This Document to be read in conjunction with Attached Document marked A1

Initial and Opening Comment

- A1.** The Following Statement is written to follow the contents of an - **Untitled - Undated – Unsigned and Double Sided** document reputed to be a form of a complaint from Whitfield Parish Council to the Standards Committee of Dover District Council.
- A1.1** I am fully aware of the identity of the complainant. Please be advised that it is not Michelle Cooper (Whitfield Parish Clerk) as all the correspondence seems to suggest.
- A1.2** A complainant must have full knowledge of the complaint in this and any matter, and be able to answer all relevant questions that are posed by the Standards Committee and/or an Arbitration Panel and myself and my legal representatives. Michelle Cooper in the guise of the complainant will not be able to achieve this.
- A1.3** David Ditcher has chosen to hide behind a smoke screen and evade all questions/letters etc since his libellous comment in December 2008. From that date David Ditcher has orchestrated and manipulated other members of Whitfield Parish Council to meet his own ends.
- A1.4** I am fully aware that David Ditcher is using the facilities of Whitfield Parish Council – illegally and un-constitutionally – and not as **Para 13/14** of their complaint letter.
- A1.5** David Ditcher has misused his office in this matter. The principles do define the standards that members must uphold – and may I remind the complainants that a failure to act in accordance with the general principles may amount to a breach of the code of conduct.
- A1.6** When this matter with the Standards Board is complete I intend to pursue a claim for liable against David Ditcher.
- A2** Several copies of the complaint document (without attachments) were left with other copies for me and members of the public to pick up (left by the parish clerk) as I/we left a Whitfield Parish Council meeting on - 10 November 2009.
- A3** The complaints document is selective in its content and is completely bias and prejudicial towards the addressee. The complainants mention a re-action by myself, but have not mention the reason for that re-action
- A4** **The complaint document is selective** in the sense that a libellous statement regarding myself has not been mentioned. The libellous statement was made in an email dated 29 December 2008 at 11.03am regarding my alleged 'Persecution Complex' and alleged bullying of a councillor namely Laurence Brooks by David Ditcher. It has never been mentioned in any form by the complainants. That particular email was sent to one person and copied to five others by David Ditcher with a hard copy to Laurence Brooks.

- A5** The omissions of this libellous comment are being masked by the complainants - by the incorrect comment made in paragraph 6 of the complaint document.
- A6** I responded to that email written by David Ditcher on the 10 January 2009 regarding his written comments and subsequently my alleged 'persecution complex' and 'bullying of Laurence Brooks' which I perceived as being libellous. In that letter I indicated that there is no justification or lawful excuse to injure my professional and/or personal reputation, and that his written email to Peter Capper regarding my alleged bullying of Laurence Brooks is defamatory.

I have numbered the paragraphs within the complaint document – **1 to 30** and have answered them accordingly.

- 1.0.** The document indicates that the complainant is Whitfield Parish Council and/or on behalf of them – I am aware that at least 3 of its current members do not support this claim and as such – the complainants via the Parish Clerk should remove their anonymity and identify themselves as members of Whitfield Parish Council who do support the claim (and the claim should be made in their names only) (as members of Whitfield Parish Council) or the claim should be struck out at this stage for being invalid and/or anonymous. The document is badly written and erroneous.
- 2.0.** I have written letters to councillors within Whitfield Parish Council identifying their lack of professionalism regarding several matters requiring knowledge of statutory documents such as the DDA (Disabled Discrimination Act) and HRA (Human Rights Act). Their actions in dealing with these matters have been incompetent. If they feel intimidated over their incompetency in dealing with this matter correctly – so be it.
- 3.0.** A full set of correspondence and relevant minutes of Parish Council Meetings were **NOT** attached to the complaint document and I have never been in receipt of the afore mentioned documents.
- 4.0.** No codes of conduct have been breached. Any previous complaints have resulted in 'No further Action' been taken. The remainder of the comment is opinionated and not evidenced.
- 5.0.** First line - opinionated – my letters to David Ditcher were private and confidential and it was my intention that they were always written to David Ditcher personally.
- Complainants last line** – hear say evidence only. However, on or before Sunday 13 September 2009 David Ditcher informed the Kent Police – regarding the private memorandum that I sent to him. P. C. Harris of the Dover Police (acting on information received from David Ditcher) informed me at approximately 9.15am on that day – stating that it was a civil and not a Police matter and should be dealt with between the parties and if necessary their respective legal advisors/solicitors.

Note: - I have been present at a council meeting when other council members have indicated to me that they have been told by David Ditcher that I have been warned off by the Police in this matter – This is a complete fabrication and I put it to David Ditcher to provide that strict proof.

6.0. Statement – This item is irrelevant brought to a conclusion and minuted as such at wpc meeting May 2008.

7.0. Statement - See Item 2.0 above

8.0. I have also made repeated attempts to resolve this matter through a third party (a member of Whitfield Parish Council) without a satisfactory outcome. I am informed by my third party member the following: -

8.1. He has spoken to the Whitfield Parish Council chairman Peter Capper who has refused to attend a meeting to bring this matter through to a successful conclusion. I requested an independent chairman to 'chair' a meeting – this was refused.

8.2. Again my third party member approached David Ditcher to try and bring this matter through to a successful conclusion – David Ditcher told my third party to **'go away you are just Brian Binfield's mouth piece.'**

All efforts by my-self to bring this matter through to a satisfactory outcome have been block by the complainant. Nos 8/1 and 8/2 above can be substantiated.

9.0. Statement by Complainant

10.0. Statement by Complainant

11.0. Statement by Complainant

12.0. Statement by Complainant

13.0. Statement by Complainant

14.0. Whitfield Parish Council may have adopted the advice of the KALC. However, Crispin Davies (Acting Local Council Advisor) responded by email in early February 2009 and stated:-

14.1. To end the issue there is no magic formula as human nature is involved. But it seems sensible to KALC for the Chairman to have a word with the relevant Councillors to explain that it is in the Councils best interest for the issue to be put to bed irrespective of individual feelings.

14.2. Individual councillors may feel that they wish to take private action for defamation by another councillor.

14.3. Whitfield Parish Council has not followed the advice of KALC – **see Item 8 above.**

- 15.0. Hearsay and not substantiated by evidence.
- 16.0. Opinion only
- 17.0. Quotation from Code of Conduct document
- 18.0. Opinionated hear say and not evidenced.
- 19.0 Quotation from Code of Conduct document.
- 20.0 Opinionated and not evidenced (first line only). Remainder of that paragraph is a quotation from The Code of Conduct and is irrelevant.
- ✕ 21.0 Personal view/opinion taken by the complainant, based solely on a personal unqualified judgement.
- 22.0 Quotation from Code of Conduct document.
- ✓ 23.0 Any/all my letters have been factual I require clarification identifying times, dates and names. Of the any/all times that I may have brought the council into disrepute.
- ✓ 24.0 Opinionated and not the view of all of wpc – untrue and irrelevant re-worded statement taken from the Code of Conduct.
- ✓ 25.0 Quotation from Code of Conduct document.
- 26.0 Quotation from Code of Conduct document.
- 27.0 Quotation from Code of Conduct document.
- 28.0 Quotation from Code of Conduct document.
- ✓ 29.0 Quotation from Code of Conduct document.
- 30.0 The complainants own 're-worded' statement taken from various pages of the 'The Code of Conduct' (guide for members May 2007).
 I don't know what point he is making but the complainant and scribe of Whitfield Parish Councils complaint document is well know for his distinctive comments and contributions and support for anti-establishment groups. Membership of a local action group has seen the rise in the challenge to progress in the community which will emphasize the importance geographically to Whitfield and Dover. The cost of this challenge to the residents of Whitfield is circa £11.5K to date.
 I believe that previous leadership of Whitfield Parish Council has been associated with middle of the road politics (neither left nor right). However, this view is often criticized (in many guises) and

the council are swinging to the left in support of 'anti-establishment' and not the power of the right and popular culture. Therefore every move to remove centre of the road politics is taken by them.

It's at all times like this I confirm that I acted as an individual and not as a Whitfield Parish Councillor, below is a recent established precedent.....

Note: Precedent – Livingstone v Adjudication Panel - a High Court decision made by Mr Justice Collins on the 05 October 2006 overturned a suspension concerning the alleged breach of standards following a Standards Boards and subsequent Adjudication Panels decision that the former Mayor of London Mr Ken Livingston **did not** bring his office into disrepute regarding '**a form of words**' used by Mr Livingston referring to a Evening Standard reporter and Nazi concentration guards.

The Adjudication Panel's decision was attacked by Mr Livingstone on the grounds that the Adjudication Panel members ought not to suspend a democratically elected official from office, describing their actions as "**striking at the heart of democracy**".

The final judgement upheld Mr. Livingstone's appeal and stated that the Adjudication Panel had misdirected itself, although the judge stated that the Mayor should have apologised. Mr. Livingstone apologised for any offence that he may have caused on the 07 December 2006.

Meeting with Mrs M Cooper, Clerk to Whitfield Parish Council
1 April 2010

Mrs Cooper agreed to the meeting being recorded and was read the preamble as recommended by the Standards Board.

It was explained to Mrs Cooper that Cllr Binfield claimed that the correspondence from himself to Cllr Ditcher was in his private life, in pursuance of his claim against Cllr Ditcher for libel. The fact that he had sent this correspondence via the post, and addressed it to "David Ditcher only", as opposed to Cllr Ditcher, and that it was from "Brian Binfield" not Cllr Binfield was pointed out. Mrs Cooper was asked what it was that made this Council business. Mrs Cooper agreed that most of his correspondence was via email. She stated that the Councillors considered it was a Council matter, since the correspondence stemmed from Council business, and it had been discussed at Parish Council meetings. The other Councillors were aware of the correspondence from Cllr Ditcher. Cllr Ditcher had supplied copies of the correspondence to the Clerk, she was unaware of who else might have been given a copy. Copies of the Memos dated 6 March 2009 and 9 April 2009 had been given to the Clerk within a day or two of their receipt. The Clerk recalled that Cllr Capper, the Chairman of the Council, was with Cllr Ditcher when one of the letters was given to her. The Clerk filed both documents. They were not shown round to anyone by the Clerk. Following receipt of the third letter in August 2009, Cllr Ditcher e-mailed various members of the council and the clerk advising that he had referred the matter to the police. The Council are bringing the complaint because the letters come from Parish Council actions, and things have been said at Council meetings. The Councillors believe that Cllr Binfield would not be doing what he has done if he were not a Parish Councillor. It was explained to the Clerk that the action Cllr Binfield is proposing to take against Cllr Ditcher is in his private life, and not part of his role as a Councillor.

The revised standing orders were adopted on July 14th 2009. Cllr Binfield was not at this meeting, but would have had an agenda, with an attachment showing the proposed change to the Standing Orders, and he would have also received a revised set of the standing orders, with the amendment, within a few days of the meeting. The proposed change was adopted without any change at the meeting.

The third letter to Cllr Ditcher, dated 8 June 2009, but received by him towards the end on August (per Cllr Ditchers email to the Clerk & others), is the only item which potentially is in breach of the Councils revised Standing Orders, having been re-mailed by Cllr Binfield subsequent to the adoption of the paragraphs referring to Conduct.

Mrs Cooper was not at the meeting on 12 May 2009 referred to in the Memo dated 8 June 2009. She was able to supply a diagram to show the usual places in which the Councillors sat.

The complaint details that Cllr Binfield has caused personal distress to others, has affected the smooth running of the Council, and brought the Council into disrepute. The

Clerk was asked to elaborate on this part of the complaint. The correspondence supplied as evidence to the complaint shows the nature of Cllr Binfield's correspondence to other Councillors, and how this has become personal. The fact that he corresponds so much, rather than discussing matters in meetings, has led to protracted arguments, involving the time of others, including the Clerk, unnecessarily dealing with matter that could have been dealt with in meetings. The conversations at the Roads & Footpaths committee showing lack of confidence in the Chair of the Council were conducted in public, as was the conversation detailed in Cllr Binfield's Memo of 2 June to Cllr Ditcher. The public were therefore aware of dis-harmony between Councillors. The Clerk agreed that the whole committee were responsible for the vote of no-confidence in the Chair. The whole Council were responsible for the agreement of the wording of the complaint.

Cllr Goodsell may be able to assist in explaining why it was thought that Cllr Binfield was responsible for the Roads & Footpaths Committee's lack of confidence in the Chair. He was key in discussions in his capacity as vice chair.

The clerk confirmed that she thought that the correspondence between Cllr Goodsell & Cllr Binfield would have been contained within the Parish Council, unless it had been discussed in the Council chamber. (one emailed in error to a third party)

The Council has received questions from the press enquiring into what is going on. They have heard rumours – a reported from Dover Express used to attend meetings regularly. However, he lost interest as nothing seemed to happen with the barriers. He rings up to find out what is happening, but is not told anything. It was confirmed that he is questioning what is happening between the Councillor, and Cllr Binfield is central to his questions. The Clerk is aware the reporter has contacted the Chair, who has told him nothing, but does not know if the reporter has tried to contact Cllr Binfield directly. Nothing has appeared in the local press.

With respect to the local community, the clerk is not aware that any member of the public has asked any questions, and is doubtful that any rumours are circulation locally. She was asked again how the Council had been brought into disrepute, and replied that it was through councillors' conduct at meetings.

It was put to the Clerk that, excluding the letters to Cllr Ditcher, correspondence from Cllr Binfield to others was not particularly insulting. Questioning of personal competencies was to be expected. The letter dated 14 Sept 2008 to Cllr Capper was reviewed. The relevance of the issue of indemnity insurance was queried. The clerk explained that Cllr Barraclough had suggested someone who would undertake a risk assessment. Cllr Gowland commissioned another party. Cllr Binfield was an associate of the party which the Council had no authority to pay, Cllr Binfield made a big thing of seeking the indemnity of the "official" party – this is not seen as relevant to the investigation. This letter sparked the complaint by Cllr Binfield against Cllrs Capper & Ditcher. Letter was meant as part of the background rather than specifically showing bullying / disrepute.

The Memo dated 17 December 2008 from Cllr Ditcher re complaint SC010-SC012 was discussed. Cllr Binfield expresses an opinion that Cllr Ditcher is unable to keep correspondence confidential. It was confirmed that Cllr Binfield generally copied his correspondence to all, with the exception of those letters where he has requested confidence, and that this is generally clearly marked. There is no general rule within the Council about copying round correspondence – it is entirely up to individual councillors.

The Clerk was asked for specific example of bullying / not treating others with respect. She stated that the tone of the letters does not show respect.

The only example of bullying Cllr Brooks as recorded in the minutes is as per the minutes of the Roads & Footpaths Committee Feb 2008. The Clerk was not at the meeting. She believes that the committee agreed to have the documents attached, as per the minute. Additionally, that the Deputy Clerk had confirmed to her that Cllr Binfield read from some notes during the meeting, which included him calling for Cllr Brooks to resign. She therefore believes that his notes as per the appendix were what he read out at the meeting. She believes that Cllr Binfield typed the notes himself – he could have photo-copied his hand written notes immediately after the meeting.

The Chair instigated the complaint against Cllr Binfield as a breach of the new Standing Orders. In respect of the complaint the clerk expressed an opinion that “ridicule” rather than “disrepute” would be a fairer assessment of how the SO’s had been breached.

There are generally about 4 members of the public who attend Council meetings. The public rarely attend committee meetings, so it would be unlikely any public were in attendance at the Roads & Footpaths Committee in February 2008, when Cllr Binfield called for Cllr Brookes resignation. A record of the public attendees is not kept. The Clerk confirmed that on occasion representatives from the Whitfield Action Group attend & will report back to the group on the Council activities. Otherwise any public are generally attending as individuals, and, in all probability would not be reporting back to anyone.

Cllr Binfield’s own attempt at a reconciliatory meeting with Cllr Ditcher was discussed. The KALC advise was in connection with the lack of confidence in the Chair, and not re. the Cllr Binfield / Ditcher correspondence. Cllr Gowland had felt that the Parish Council had a role in a reconciliatory meeting, but no one seemed to accept his suggestion.

Cllr Binfield had stated in his response to the complaint that at least 3 members do not support the complaint. The Clerk confirmed that the decision at the Council meeting on 8 September was unanimous – her notes from the meeting show all were in favour. Only Cllr Binfield did not attend the meeting.

Cllr Binfield also claimed that the complaint was made available at the end of a meeting for the public to take a copy. The clerk disputed this, saying that Cllr Capper handed a draft of the complaint to all councillors. It had been agreed that Cllr Goodsell would draft this for agreement by the Council. Her records confirmed the date of this to be the

meeting on 10 November 2009. It was not an agenda item, and is recorded in the minutes of the meeting under any other business. The document was given to Councillors only, and not to any members of the public.

The complaint indicates that the Parish Council had made repeated attempts to solve the problem. The Clerk was asked to elaborate on this. Most of the effort has been to stop the proliferation of correspondence. The Council adopted a minute to encourage all councillors to actively participate in meetings, and not distribute correspondence subsequent to a meeting in place of discussion. Other action was the later change in Standing Orders with respect to conduct.

Only Cllr Gowland has attempted to arrange a meeting between Cllrs Ditcher & Binfield.

There has been informal discussion at some Parish Council meetings, but no formal discussion. It was thought that no other course of action other than a complaint to the Standards Committee would have any effect.

The Clerk mentioned specifically that part of the Parish Council's decision in making this complaint was the prolonged period over which Cllr Binfield had been writing letters, that they were progressively more insulting, and the amount of time taken to address his points & deal with his letters. It was felt that this would not be necessary had he participated fully in meetings.

I confirm that the above is an accurate representation of the meeting.

Mrs M Cooper
Clerk to Whitfield Parish Council

Date 8 April 2010

Colleen Kisiel
Governance Investigator
2 April 2010

Record of telephone conversation with Cllr Keith Gowland
18 March 2010

Cllr Gowland confirmed that he had approached Cllr Capper, the Chair of Whitfield Parish Council, on behalf of Cllr Binfield, suggesting a Parish Council Meeting to discuss the issue between Cllr Binfield & Cllr Ditcher.

Cllr Binfield would not however accept Cllr Capper as the Chair for the meeting. This was not acceptable to Cllr Capper, and consequently no meeting ever took place. No alternative arrangements were ever discussed.

At the time Cllr Gowland was hopeful that a local solution could be worked out, but was not sure what would be acceptable to Cllr Ditcher. However, Cllr Gowland did not have the opportunity to discuss this with Cllr Ditcher.

Colleen Kisiel
Governance Investigator
18 March 2010

Agreed as accurate summary of facts of the conversation:

Cllr K Gowland

Date 20 April 2010

Meeting with Cllr J Goodsell
19 April 2010

Cllr agreed to the meeting being recorded and was read the preamble as recommended by the Standards Board.

It was explained to Cllr Goodsell that Cllr Binfield had claimed that the letters he sent to Cllr Ditcher were part of his private life and not Council business. Cllr Goodsell stated that they started with Council business.

The other correspondence produced to evidence the complaint was discussed throughout the meeting, as a lot of the correspondence produced as evidence is to Cllr Goodsell.

Following the publication of the Roads & Footpaths Committee minutes of the meeting held on 19 February 2008, Cllr Goodsell had written to Cllr Capper as Chair of the Council, expressing his feeling over the notes attached to the minutes calling for the resignation of Cllr Brooks. He acknowledged that the committee had decided to attach the chronological order of event & summary of the discussion, but not the letter. Cllr Goodsell stated that he found it unacceptable for one Councillor to call for the resignation of another at a public meeting. Prior to writing to the Chair, he had met informally with Cllr Gowland, Chair of the Roads & Footpaths Committee, who had agreed that the matter was getting out of hand. Cllr Goodsell was of the opinion that the committee were losing sight of the relevant issues, and thought a separate meeting specifically to discuss the barriers would be the best way forward.

Cllr Goodsell stated that the Parish Council had tried to arrange various meetings to address the issues – particularly those relating to the Cllr Ditcher / Binfield issue. However, Cllr Binfield would not entertain Cllr Capper as Chair of any such meeting, and Cllr Capper would not stand aside as Chair. Cllr Goodsell was unsure whether Cllr Binfield was unhappy with Cllr Capper being Chair for this one specific purpose or whether he wanted him to stand down as Chair of the Council. Cllrs Goodsell & Gowland have had several discussions to try to find a solution.

Cllr Goodsell was asked to clarify if the meeting suggested to discuss the Cllr Ditcher/ Binfield issue was a private meeting of individuals, or a proper Council meeting. He stated that he did not think this had ever been defined, but would be unlikely to be a formal Parish Council meeting, as the Council had tried its best to keep the matter away from the public.

Cllr Goodsell could not understand how Cllr Binfield could claim the matter was private. There had been numerous occasions where the Council had discussed the matter, making resolutions to address the writing of letters after meeting rather than participating in them, and formally adopting KALC advice at the Parish Council to deal with issues, yet Cllr Binfields behaviour continues. It was following the KALC advice that Cllr Binfield refused to participate in meetings as recommended by them with Cllr Capper as Chair.

Other Councillors considered his stance as unreasonable. Cllr Binfield had never stated what arrangements would be acceptable to him.

Following the circulation of the KALC advice by the Clerk, Cllr Binfield had written to the Clerk concerning his legal rights etc. He was unwilling to accept the advice in the spirit it was intended.

Cllr Goodsell produced a list of accusations levelled at him by Cllr Binfield. He does not see these as fair comment, but as personal slights which include :

- Leading the Chairman,
- Making unqualified & belated comments
- Bringing the PC into disrepute
- Discriminating against people under DDA
- Conveniently forgetting documents
- Not respecting the rights of people
- Having delusions of grandeur
- Having a hidden agenda
- Intimidation
- Breaking the Code of Conduct
- Being biased & deliberately evasive
- Being selective and ambiguous
- Self styled antagonistic defender of Cllr Brooks
- Personally attacking other councillors
- Leading & influencing the Chairman
- Breaking Human Rights Act
- Using cheap tricks
- Making unnecessary jibes
- Not proud to be a Councillor
- Having an entrenched management position
- Unable to see the complete picture
- Being manipulating
- Being part to a conspiracy
- Suffering from pre-senile dementia
- Forgetting to copy councillors in on emails
- Deliberately evading issues

Cllr Goodsell expressed surprise, given the accusations Cllr Binfield makes against other Councillors, such as those above, that he can not accept the comments made by Cllr Ditcher in his email of 29 December 2008, (having a persecution complex & the bullying of Cllr Brooks).

Cllr Goodsell expressed his opinion that the correspondence from Cllr Binfield to Cllr Ditcher constituted bullying, and stemmed from Council business & also refers to Council business. They could not therefore be considered as part of his private life. Cllr Goodsell also confirmed that in the past he has received both letters through the post & via email from Cllr Binfield. The last letter refers specifically to a conversation which

took place on arrival at a Parish Council meeting. The claim of it being in his Private life is akin to bullying outside the school gates.

The whole episode has taken an extraordinary amount of Whitfield Parish Council time, particularly when the Council has had other significant things to discuss, e.g. the Core Strategy consultation. It has led to a number of resignations, and current councillors are frustrated by the fact that this keeps cropping up at Council meetings. Cllr Goodsell had himself sought the support of his fellow councillors in deciding how to deal with correspondence he has received from Cllr Binfield. He feels strongly that something needs to happen to ensure Cllr Binfield's behaviour changes.

Cllr Goodsell was asked why the correspondence to Cllr Ditcher was considered to be Parish Council business. Much of the discussion in the Council concerning the matter has happened following the exclusion of the public from the meeting. Cllr Goodsell confirmed two pieces of formal action taken to deal with Cllr Binfield's behaviour – at the October 2008 meeting, where a resolution to encourage full participation in meetings was passed, and February 2009, adopting the KALC advice. Neither action had any lasting effect.

Cllr Goodsell stated that Cllr Binfield has not been open to having a meeting to resolve any issues. In a private session following one Council meeting, including Cllr Binfield, he was unco-operative at trying to find a resolution. Cllr Goodsell was unable to recall the date of this meeting. Additionally Cllr Goodsell stated that when Cllr Binfield refused to co-operate with any meeting chaired by Cllr Capper, he did not suggest what alternatives he would be willing to accept, including for example an alternative chair for that meeting.

The Council's reputation was discussed. The local community magazine (The Whitfield News) has included an item suggesting that all is not right within the Parish Council – but not specifically concerning this complaint against Cllr Binfield. “We hear that Councillors have been sent for re-training, what's happening at the Parish Council ?” Cllr Goodsell confirmed that the Council has tried to keep all the issues involving Cllr Binfield private. The Dover Express have been in touch with the Clerk to try to find out what was happening, but have not been told anything.

The part of Cllr Binfield's Memo dated 17 December 2008, “can anyone writing to Cllr Capper and David Ditcher in the future requesting confidence through correspondence rely on that facility – it is my opinion that the answer is no” was discussed. This would indicate that Cllr Binfield was aware that any subsequent correspondence would be shared. Cllr Goodsell had previously raised with the Parish Council the issue of letters being written in confidence between councillors. Cllr Goodsell sees this as bullying, saying it is what Cllr Binfield does, he writes “blah blah blah, and if you tell anyone I'm coming to get you”. The minutes of the October 2008 meeting include a resolution which states “If a Councillor wishes to write to others on matters directly relating to Parish Council business they should not require that the letter is withheld from other Councillors”. This was adopted as a direct result of Cllr Binfield's earlier actions.

Cllr Goodsell explained that history of the Barriers – that the original suggestion was a kissing gate or similar at the Sandwich Road end of a path to the Recreation Ground, for safety reasons, but that this grew into a larger exercise putting expensive gates at this and other access points, at a cost & scale other Councillors considered to be inappropriate. Cllr Binfield had invested significant personal time, and was disappointed that the scheme did not progress.

Cllr Ditcher has previously submitted a complaint against Cllr Binfield following the first letter he received in March 2009. However, the Standards Committee had judged no further action necessary. Cllr Goodsell re-iterated that this complaint is not just about the letters to Cllr Ditcher, but the whole of Cllr Binfield's behaviour from February 2008, including general bullying & harassment which is now affecting the families of councillors – Mrs Ditcher having opened the last letter from Cllr Binfield.

The Councillors request the intervention of the Standards committee because they feel they have done all they can to change Cllr Binfield's behaviour, short of excluding him from meetings.

At several times during the meeting Cllr Goodsell commented that since being on the Roads & Footpaths Committee himself, he has a good personal relationship with Cllr Binfield.

I confirm that the above is an accurate representation of the interview

Signed by Cllr Goodsell

Date

Colleen Kisiel
Governance Investigator
20 April 2010



WHITFIELD PARISH COUNCIL

Minutes of the Roads and Footpaths Committee Meeting held on Tuesday, 19th February 2008 at 7.30 pm in the Recreation Ground Sports Pavilion, Whitfield, Dover.

Present: Councillor K. Gowland (Chairman)
 Councillor V. Stellyes
 Councillor L. Brooks
 Councillor N. Tomaszewski
 Councillor B. Binfield

Councillor K. Tranter was absent.

260. DECLARATIONS OF INTEREST

Councillor V Stellyes declared a personal interest in Agenda Item 4 (Highways Issues), and Councillor L Brooks declared a personal interest in Agenda Item 5 (Barriers).

261. MINUTES

The Chairman asked that his dissatisfaction with the use of the word 'commissioned' used in connection with Minute No. 227 (Barriers) be noted.

Councillor L. Brooks expressed concern that his comments regarding the Barriers were not minuted.

RESOLVED: That the Minutes of the Meeting held on Tuesday, 15th January 2008 be accepted and signed by the Chairman.

262. HIGHWAYS ISSUES

The Chairman advised that he had attended a Meeting on 15th February 2008 at Whitfield Primary School regarding the relocation of the Crossing Patrol, and road safety issues outside the School. The School had made a video highlighting the issues, and those present put forward proposals for solutions. A package had now been put together which should solve the issues.

The Chairman advised that he had expressed to Kent Highway Services his concerns regarding all outstanding issues (including the weight restriction on Sandwich Road, the Sandwich Road sign and the issue of signage to prevent HGV lorries turning into Sandwich Road). He was informed that the department was short-staffed at present but the matters were in hand, although they may take some time to resolve.

Councillor V. Stellyes asked if there had been any update regarding the flooding in Alison Crescent. He was informed that a letter had been sent to Kent Highway Services and a response was awaited.

The Committee considered the situation regarding the underpass lighting. It was agreed that there was a need to monitor the situation and it was understood that the PCSO was also dealing with this issue.

The Chairman informed the Committee that Whitfield was due its six-monthly check on the state of the roads in February 2008. Concern was raised regarding the lack of progress in the re-instatement of roadworks after the completion of the Gasworks.

The Committee considered Kent Highway Services letter of 23rd January 2008 regarding the Kent County Council Draft Permit Scheme.

RESOLVED: (a) That a letter be sent to Interoute asking that the underpass lighting be repaired as a matter of urgency for safety reasons and a copy of the letter be sent to Dover Police.

(b) That a letter be sent to Transco expressing the Parish Council's concerns regarding the length of time it was taking to re-instate the roadworks after completion of the Gasworks, and asking them to acknowledge receipt within two working weeks, with copies to be sent to Kent Highway Services and Morrisons Contractors

(c) That the Draft Permit Scheme Document be circulated and any comments sent to the Parish Clerk before 14th March 2008.

263. BARRIERS

The Committee considered the Barriers issue in great depth, covering all relevant points from its inception to the present situation involving the Tender and the Risk Assessment.

At 10pm, in accordance with Standing Order 14 and in consultation with the Committee, the Chairman allowed the meeting to continue past the two-and-a-half-hours limit.

Councillor L. Brooks expressed concern regarding the extent and cost of the proposed scheme.

Councillor B. Binfield had prepared a chronological order of events taken from previous Minutes, site visits and correspondence. In addition, Councillor B. Binfield also submitted a handwritten timed schedule of events, written during the discussion on this item.

RESOLVED: That Councillor B. Binfield's Chronological Order of Events document and his notes taken during discussion be appended to the Minutes for information purposes.

Due to shortage of time, Agenda Items 6, 7 and 8 were deferred to the next meeting on 18th March 2008.

The meeting closed at 10.45 pm.

Councillor K. Gowland
CHAIRMAN

Mr Chairman – I request a total of at least 5 minutes and not be restricted to any time clause in procedural matters

Chronological Order of Events

No.	Date	Event	Outcome
1	On or about September 2006	Councillor Gowland receives proposed drawings from Councillor L. Brooks regarding barriers and listens to his concerns regarding motor bikes using paths illegally onto the recreation Ground.	
2	17-Oct-2006	WPC – Roads and Footpath Meeting Councillors decide to meet the following day & discuss all the options for new barriers & gates.	18-Oct-2006. Site Meeting adjacent the Sandwich Road entrance to the Recreation Ground. Councillors Gowland, Brooks & Binfield walk to all the entrances and agree that the matter should be addressed regarding illegal access to the recreation ground.
3	31-Oct-2006	Councillor Binfield request that the parish clerk provides information on the public footpath running from Sandwich Road to Mayfield Road	01-Nov-2006 Parish Clerk responds with information on footpaths
4	04-Nov-2006	Email to Parish Clerk:- Both Councillors Keith Gowland Lawrence Brooks and myself have 'walked the course' - that being the footpath from the Sandwich Road via the end of Mayfield Road and Alison Crescent. Unfortunately whilst the barriers provide access (I'm using that term loosely) for push chairs and some wheel chairs - motor bikes and the like still gain access, and therefore any or all disabled people who use this facility are at risk! The Design of buildings and their approaches to meet the needs of disabled people - to include routes to recreational facilities associated with buildings is clearly defined within BS: 8300 part 5.5.	Email from Parish Clerk:- As we cannot provide wheelchair-friendly pathways around the rec from all entry points, can we not ensure one good and safe access point? Where would we stand if we upgraded the entrance points but a disabled person had problems on softer ground inside the rec? We have a BMX track on the rec so we cannot put up barriers to prevent bikes gaining access. The barriers I have seen to prevent motorbikes also prevent bicycles. Michelle Cooper Whitfield Parish Clerk

5	06-Nov-2006	<p>E-mail to Parish Clerk:- I'm suggesting that we (WPC) identify at each access point that disabled access and disabled access only is provided via the entrance from Crainleigh Drive only (that gets us over any DDA problems).</p> <p>4. The remaining access points (Alison Crescent/Mayfield Road and Sandwich Road) will still have to be addressed i.e. correct signage and barriers for example. Like wise they will have to be made pedestrian friendly. I'm sure we can come with the appropriate scheme that will work.</p>	
6	16-Jan- 2007	<p>Roads & Footpath Meeting Councillor Binfield – takes further sketches from Councillor Brookes regarding proposed barriers & fencing. Discussions with Councillors Brooks & Gowland decide to progress and formulate a scheme.</p>	<p>1. Provides site location plan identifying problems at Alison Crescent Mayfield & Sandwich Road. 2. Provides Information on timber gates and the like.</p>
7	22-May-2007	<p>Roads & Footpath Meeting Discussions continue with all councillors present – DDA is discussed and the possibility of obtaining prices from various contractors</p>	
8	14 -Sept-2007 9.30am to 11.00am	Meeting at the recreation ground with PSCO Caroline Condon, Ray Ball KCC, and Des Connelly. Councillors Gowland, Binfield, Brooks, Stellyes & Tomaszewski.	
9	16-Oct-2007	<p>Roads & Footpath Meeting All the committee present – Councillors: - Gowland, Binfield, L. Brooks & N. Tomaszewski considered the current situation regarding the installation of barriers between Sandwich Road and the recreation ground.</p>	It was resolved that Councillor Binfield would obtain costings from a shortlist of potential contractors capable of completing the barrier work at Sandwich Road, Mayfield Road, Alison Crescent and the Recreation Ground.

10	17-Oct-2007	<p>Email from N. Tomaszewski Hi Brian Apart from Browns of Deal and Jackson's of Stowting as spoken of last night the following may be hopeful:</p> <p>Dale Fencing, Aylesham 0845 3377 073 specialise in Security Fencing</p> <p>G.T. Fencing Sellinge, Ashford 01303 812796 specialise in Commercial and Security Fencing 2 Spec UK Ltd Ashford 01233 636434 Industrial, Commercial and Security Fencing</p> <p>Campbell Fencing Chartham Hatch 01227 730919 specialise in Security Fencing</p> <p>All appear to be reputable, should be DDA aware and fully indemnified.</p> <p>Regards, Nick Tomaszewski</p>	<p>Response from Brian Binfield: <u>PRIVATE AND CONFIDENTIAL</u></p> <p><u>Also to Keith Gowland - Chairman Roads & Footpaths</u></p> <p>Hi Nick - thanks for your email and all the attached named contractors.</p> <p>In the interest of progress I spent some 3 hrs on the telephone today trying to find a contractor who would provide a design and build service (for all the reasons we spoke off last night).</p> <p>I've had a long conversation with Keith today and we agreed to be proactive in this matter. This whole matter has been going on for long enough. So we decide to grasp the nettle (as they say) and get on with it.</p> <p>As far as west Sussex to the west, and Lincon in the north fencing contractors are reluctant to provide the service we require.</p> <p>A majority of them (95%) are just what they are. Respectively all they are capable of is supplying and fixing in position the fencing/gates we require. No design service, just fixing in position a standard item of fencing or posts and gate. No idea of restricted access facilities/DDA requirements/Standard access requirements or even the hint of knowing what they are talking about.</p> <p>(A majority of them promote the fact that they obtain all their materials from Jackson</p>
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			<p>Fencing in any event). So there is a percentage mark up on their product.</p> <p>We (WPC) will have to report back and get some sort of approval and/or funding from various associated bodies.</p> <p>In my opinion the professional service we require if valued is approximately 7% - 8% of construction cost. That's the price we have to pay for being professional in this matter and being politically correct. (to a degree).</p> <p>However, Jackson fencing were very adamant that they would not provide the service we require also. In these days of competitive tendering I can't blame them.</p> <p>However, I remembered speaking to Richard Jackson (their MD) some years ago on a business matter, and gave him a ring. He had his senior surveyor call me later to discuss the matter and we agreed to a site visit early next week whereon Keith and I will meet him on site to discuss and progress this matter.</p> <p>We will keep you informed....</p> <p>Yours sincerely</p> <p>Brian W Binfield - FCIQB Building Consultant Regional Surveying Services Ltd - Chartered Surveyors</p>
11	24-Oct-2007 2.30pm to 3.45pm	Meet Peter Lawson of Jackson Fencing on site at Whitfield to discuss Fencing and Barriers. Also on site Councillor Gowland	Estimate received from Jackson Fencing dated 05 November 2007 in the sum of £7,567 (Exc VAT)

12	15-Nov-2007 2.30pm	Meet M Kennard from Mountcare Construction on site at Whitfield to discuss providing an estimate for gates and barriers	Estimate received from Mountcare Construction 16 th November 2007 in the sum of £9340 (plus VAT)
13	19-Nov-2007 9.30-am	Meet Mr J. B Buddle from J B Buddle – Building and Fencing contractors on site at Whitfield to discuss providing an estimate for gates and barriers	Estimate received from J B Buddle 17-Dec-2008 in the sum of £9650.00 (plus VAT)
14	20 Nov-2007	Roads & Footpaths Meeting:- Councillors present Gowland, Brooks, Stellyes and Tomaszewski.	Minutes confirm the following that:- subject to the adoption of the recommendation below, Kent Highway Services, the Dover Anti Social Behaviour Unit and the PSCO be advised that the quotation from Jackson Fine Fencing would be accepted. Resolved to recommend: - That the quotation from Jackson's fine fencing is accepted at a cost of £7567.38 plus VAT, to be met from the Roads & Footpath provision in the 2008/09 budget.
15	15 Jan-2008	Roads & Footpath Meeting Councillors present Gowland, Brooks, Stellyes and Tomaszewski & Binfield	Councillors discussed the fencing and barrier issues and Councillor Tomaszewski stated that it would be a dereliction of duty if no preventative action was taken. The Chairman informed the committee that he had prepared a (draft) risk assessment on the subject. He further indicated that the costs to be paid for that assessment would be approximately £100.00 including VAT. It was the resolve that the risk assessment be submitted to the full council for approval at the next full meeting.

16	12-Feb-2008	WPC Meeting	<p>The proposal was discussed at the appropriate agenda position.</p> <p>Both the proposal and the risk assessment came under attack from all members of the main committee, to include Councillor L Brooks who instigated the scheme some 18 months ago. In fact it was Councillor L Brooks who seconded the proposal for non acceptance of the scheme. Councillor Brooks also voted against the proposal.</p> <p>Over the past 18 months an exorbitant amount of time, money and resources have been wasted. Personnel from KCC (Highways), PSCO Caroline Condon, the Police Force, Building Contractors, and not to mention Roads and Footpath committee members. I estimate collectively that approximately 180 hrs of productive time has been wasted. Resources from cars to telephone calls to printing to copying.</p>
17	18 Jan 2008	Email to Bryan Cope: requesting financial assistance to complete fencing works	<p>Email fro Bryan Cope dated 01-Feb-2008 saying:-</p> <p>Dear Mr Binfield,</p> <p>I think that Funds may have been used up for this financial year but a new year starts in April so if you could contact Louise Bolton at County Hall she will be able to let you have the necessary forms and information.</p> <p style="text-align: right;">Bryan Cope</p>

I believe that Councillor Brooks has been totally irresponsible in this matter. It was Councillor Brooks that brought this matter to the attention of the Roads and Footpath Committee approximately 18 months ago.

- The scheme itself incorporated the entrances/exits from Mayfield Road, Alison Crescent, Sandwich Road and Beauxfield.
 - 16 months ago on the 17 October 2006 Councillor Brooks was one of the councillors present at the Roads & Footpath meeting who agreed to meet the following day on the 18 October 2006 to walk the whole site to discuss the illegal access to the recreation ground.
 - At the Roads & Footpath Meeting in January 2007 I took further sketches from Councillor Brookes regarding proposed barriers & fencing. There were also Discussions with Councillors Brooks & Gowland on how to decide to progress and formulate a scheme, to include the DDA and the like
 - At any one time within the last 18 months or so Councillor Brooks has been aware of the fullness and extent of the proposed scheme and not as he seems to suggest 'Just the entrance gates off the Sandwich Road'.
 - If as he seems to suggest – that is all he was interested in was the Sandwich Road Entrance (adjacent his home) and not the additional entrances – he is a councillor totally irresponsible for not declaring a possible prejudicial interest in this matter.
 - Or
 - As a councillor he is equally irresponsible for thinking - that only part of the scheme would apply to the Sandwich Road Entrance and not the remaining entrances.
 - Either way he has acted irresponsible in this matter – he cannot 'run with fox and hunt with the hounds'. At the very least he has been forgetful and slipshod, being the instigator of this matter and wasting what I consider to be very valuable time. Not only my time but time wasted by other professionals including the Police Force, KCC and building professionals.
 - Remember Mr Chairman it was at our last committee meeting when Councillors discussed the fencing and barrier issues and Councillor Tomaszewski stated that it would be a dereliction of duty if no preventative action was taken.
- Mr Chairman we have a duty as councillors under the Human Rights Act 1998 and The Disability Discrimination Act 1995 to ensure that all rights and freedoms under those acts are not abused.
- Therefore Mr Chairman: I have lost all faith and the ability to consider Councillor Brooks as a worthy competent councillor on this the roads and footpath committee and

I call on Councillor Brooks to resign from this committee and indeed WPC with immediate effect.

Clarification of Hand written notes taken at the Roads & Footpath Meeting on 19 February 2008 from 7.35 onwards. The original copy of this hand written note has been lodged with the committee chairman.

To try and get my head around this problem I have completed a chronological order of events taken from previous meetings and minutes (see attached)

Item	Time	Comment Made
1	7.35pm	Laurie Brooks – 1 st time tonight that he has declared a prejudicial interest.
2	9.03	Laurie Brooks said it was 'somewhat contentious' (referring to scheme)
3	9.04	Acted responsible in drawing up proposals (Keith Gowland) Accepted draught scheme
4	9.05	L.B stated that the chairman 'fudged the whole thing' He also said that Councillor Barraclough suggested that he would produce a better Risk Assessment on time.
5	9.10	L.B do not believe – that this is not our concern R & F should not get involved
6	9.16	K.G bigger risk on the boundaries of the recreation ground.
7	9.18	L.B said that all they wanted to do was to take a short cut and not use the recreation ground. He also said that he had seen it happening time & time again.
8	9.21	K.G Why was it not picked up by other committees Should remain with this committee.
9	9.22	L.B said – Absolutely and Agreed.
10	9.24	K. Gowland said that there was a registered list of complaints against motor cycles
11	9.26	L. Brooks said – that is where we went wrong When we added more barriers to the scheme
12	9.27	L. Brooks said all is needed was a local lad to knock up a barrier And he could do it better
13	9.31	K. Gowland said we must set an example and address the statutory laws and regulations
14	9.33	L. Brooks Not concerned with the rest of the recreation ground
15	9.34	K.G said that the recreation ground was not part of the scheme
16	9.35	L. Brooks again said he was only concerned about the Sandwich Road Entrance
17	9.38	Councillor Brooks Again said it was his number 1 concern
18	9.40	Councillor Brooks said that Keith Gowland was right to introduce the scheme
19	9.41	L.B said we have not acted irresponsibly
20	9.42	L.B said it was a Roads and Footpath issue
21	9.50	K. Gowland said it is a fare and reasonable risk assessment
22	10.15	LB said that bwb twisted words – vilified – said he declared interest and it was all councillor Binfield's fault.
23	10.16	He screwed it all up.
24	10.20	Bwb indicated that LB was forgetful and when asked to confirm various comments he made within the last hour or so – he said he couldn't

		remember
25	10.28	Bwb also referred to some items above and indicated that he (LB) was contradicting himself
26	10.30	LB asked bwb to explain – he then referred LB to items 2, 5 & 18, 19 & 20 above.
27	10.32	Bwb referred LB to the 180 hrs wasted because of his incompetence
28	10.40	Councillor Tomaszewski indicated to LB that the DDA and the Human Rights Act is law and is there to protect everybody.
29	10.43	Councillor Binfield again referred LB to para 5, 6 & 7 saying how irresponsible he had been

To try & get my head around this ^{problem}.
I have completed a chronological order of events
taken from previous meetings and minutes.

7.35pm this evening,

- 11 Lauree Brooks - 1st time tonight he was declared ^{medical} interest
- 9.03. " said it was "somewhat contentious" ^(referring to scheme)
- 9.04 Acted responsible in drawing up proposal. ^(Keith Gowland)
Accepted draft scheme.
- 9.05 L.B. Stated that the chairman 'fudged the whole thing'
he also said that Councillor Baracloff suggested that he
would produce a better Risk Assessment on time
- ~~9.09~~
- 9.10 L.B. do not believe - that this is not our concern.
R & F should not get involved.
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- 9.18 L.B. said that all that they wanted to do was to
take a short cut and not use the recreation ground
He also said he had seen it happen ~~at~~ some time ago
- 9.21 K.G. why was it not picked up by other committees
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and he could do it better.
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address the statutory laws and regulations.
- 9.33 Not concerned with the rest of the recreation ground
L. Brooks and the Stat laws and Regs.
- 9.34. K.G. said that the recreation ground was not part of the
scheme.
- 9.35 L. Brooks again said he was only concerned about the
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- 9.38 Again said it was his number 1 concern.
C. Brooks
- 9.40 Councillor Brooks said that Keith Gowland was in
the scheme.

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~~9.09~~

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9.41 L.B. said we have not acted irresponsibly.

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11

~~9.45~~ - ~~LB~~

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MSK assessment.

LB said bwb

- 10.15 Twisted words - vilified - said he declared interest
and it was all councillor Binfield fault.
- 10.16 Scrubbed it all up.
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hr or so - he said he couldn't remember.
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that he (LB) was contradicting himself.
- 10.30 LB asked bwb to explain - he then refer LB to
items
- 10.32 bwb refered LB to the 180 hrs wasted because of his incompete
- 10.40 councillor Tomkinson indicated to LB that the PSA
and the HR Act is law and is here to protect
everybody.
- 10.43 councillor Binfield refered LB to para 5, 6 & 7 saying
how times possible he had been.

Dear Chairman

I have read the agenda and attachments for the next Parish meeting and could not believe what I was reading.

I am appalled by the vindictive nature of the attack on Cllr Brooks. To impugn the capabilities of a fellow councillor and to call for his resignation is a disgrace.

The whole saga of the barrier project is becoming more ridiculous at each step and is in danger of bringing the reputation of the Parish Council into disrepute.

This whole thing is escalating out of all proportion.

Our responsibilities are regulated by the Occupiers' Liability Acts of 1957 and 1984 and the Health and Safety at Work etc Act 1974. We have the 'common duty of care' to ensure the health and safety of users of the Recreation Ground, so far as is reasonably practicable. This responsibility relates to the grounds, infrastructure and activities of the Parish and its employees. We do not have responsibility to physically prevent access of people who undertake activities which are not permitted on the Recreation Ground. It is not reasonably practical (or possible) to manage risk from all such activities.

I do not think that this can be dealt with effectively at the Parish Meeting on Tuesday. I would suggest that we need to have a special meeting to deal with each aspect as separate agenda items.

- Matters relating to the risk assessment commissioned by Cllr Gowland.
- To decide on which Committee has jurisdiction on any barriers.
- Discussion on the need for barriers.
- Councillor's interests and conduct in this matter.
- Risk assessments in general and responsibilities for carrying them out.

I have spoken to Cllr Gowland and while we do not agree on the need for barriers and whose responsibility it is, we do agree that the whole matter is getting out of hand and it may be better to deal with all the related issues at a separate meeting.

I will see you on Tuesday.

Regards

Jeff

Dear Jeff-

09 March 2008

1. Further to your email dated 09 March 2008.

Please be assured that the attachments for the next parish council meeting are correct. They have been issued for information purposes only. I also find it very hard to believe that you could not believe what you were reading; after all, the attachments were written verbatim at the time(s) indicated.

?
only second report

not addressed to you.

Whether you're appalled or not is of little consequence to me. The **alleged** vindictive attack was not as you seem to suggest but a clear precise record of a councillor who has a reputation for (forgive the pun) running with the fox and hunting with the hounds or indeed ridding two horses in the same race. It is a matter of record (as minuted by the Parish Clerk) that Councillor Brooks has time and time again said one thing and a short time later completely denied what has previously been said.

No

2. **You're Comment –**

'To **impugn the capabilities of a fellow councillor**'

If you mean to hold responsible or be accountable – well the answer is yes. It is a clear matter of record the way Councillor Brooks has delivered or responded to various comments in a meeting and that he (as all of us are) been fully aware that all comments where recorded!

when & how?

3. **You're Comment –**

'To **call for his resignation is a disgrace**'

Well – I must say that you are certainly not an ally of Councillor Brooks or you would be able to see further than that comment will allow you to!

defamation of character

To Save Councillor Brooks further embarrassment from himself, it is of course the correct procedure to resign. Further recorded minutes of meetings in the future identifying possible various falsehoods would embarrass him even further. This particular damage limitation exercise with Councillor Brooks is indeed the answer.

First and foremost this matter is in the capable hands of the 'Roads and Footpaths Committee' whereon all matters recorded at their meetings are factual.

BR had pre-meditated report urging resignation

response

Note: (For your information) I might add that Councillor Brooks shouted across the meeting table for my resignation also, but I can't see you or any other councillor defending my situation in this matter as you appear to be defending his. **After all, as a parish councillor you should not discriminate against anyone.**

4. **I disagree with your comment:-**

'The whole saga of the barrier project is becoming more ridiculous at each step and is in danger of bringing the reputation of the parish council in to disrepute'

For your information I attended an extraordinary meeting on Thursday 06 March 2008 of the 'Roads and Footpath Committee' held at the Recreation Ground at 7.30pm. This meeting was duly minuted. The one item on the agenda was the 'barrier project'.

No. just not that scheme.

May I bring to your attention that at a previous committee meeting whereon you was present, it was voted on not to proceed by yourself and others with the 'barrier project'.

At the meeting on the 06 March 2008 it was voted on to write to the chairman of Whitfield Parish Council and clearly remind him what his responsibilities are within the role as chairman and leader of Whitfield Parish Council. This has been duly minuted.

if so 6/3 meeting 'ultra viles'

If as I suspect you appear to be leading the chairman by your unqualified and belatedly comments within in your recent email, then indeed it is your self and others that are bringing Whitfield Parish Council into disrepute by discriminating against people who are defined within the **Disabled Discrimination Act 1995.**

now

Your responsibilities are quite clear and they are clearly identified within 'The Model Code of Conduct for Parish and Town Councils' (model Code of Conduct) Order 2007 No.1159.

It is my opinion that you have conveniently forgotten and/or deliberately not mentioned the afore mentioned documents within paragraph 3 of your fax dated 09 March 2008.

Whitfield Parish Council and other public authorities are legally obliged to respect basic human rights also. These became law as part of the **Human Rights Act 1998.**

now is IG doing this

You also have the responsibility as a councilor in this parish to respect the rights of other people - and not exercise yours in a way which is likely to stop them from being able to exercise theirs.

If you abuse any of these rights and freedoms the abuser has a right to an effective solution in law, even if the abuse was by someone in authority.

It is at this stage I will mention that the abuser(s) of the act(s) are joint and severally liable.

5. **I agree with your comment: -**

I do not think that this matter can be dealt with effectively at the Parish Meeting on Tuesday.

It has previously been recorded that you have voted against the barrier scheme, and any comments made at any meeting that you attend on this matter will be deemed as bias.

You have already made you views known on:-

- a) **The Risk Assessment submitted by Keith Gowland.**
- b) You have already commented on what particular sub-committee should deal with the barriers.

You have also made it quite clear that it was not the responsibility of the 'Roads and Footpath Committee' but that of the recreation committee.

You have used the word 'Jurisdiction' within your email, which means the controlling authority. Also in my opinion a rather harsh word to use in these circumstances. Delusions of Grandeur come to mind!

- c) **Discussion on the need for barriers** – In my opinion – the need for the barriers are described within the legislation above.

- d) **Councillors interest and conduct in this matter** – In my opinion you have made a disturbing statement with a hidden agenda. Again, I think you are leading the chairman of Whitfield Parish Council in the way to conduct his business. It is against the Model Code of Conduct to attempt and/or intermidate any person who is likely to do anything which could compromise his impartiality in any matter.

- e) **Risk assessments in general and responsibilities for carrying them out** – In my view a broad statement of little consequence. A matter to be dealt with when a risk is identified.

However, It would be thoughtless of me not to indicate to you that the 'Risk Assessment' as previously promised by the recreation committee (of which you are a member) was to be available to all by the last but one committee meeting. You will obviously be aware that as a recipient of the agenda for the 11 March 2008, that document is not amongst the agenda items.

*Why? **

but not these barriers.

and KG isnt? KG'S POINT?

NO. by KB as individual all.

For the avoidance of any doubt. Im sure the Whitfield Parish Clerk and/or the monitoring officer and/or the standards committee will be able to advise you on any of the above.

If you wish to discuss this matter further with me please do not hesitate to contact me.

Regards

Brian Binfield

Reply to Cllr Binfield's email - 9th March 2008.

Well..... That's me told then

I think many of us were surprised by the content of the attachments to Tuesday's agenda.

Regardless of Cllr Binfield's comments, I am still appalled when fellow councillors are attacked in this way just because they choose to disagree with other councillor's opinions. I will certainly take this attitude whoever is victim of such unbecoming behaviour.

*in support
of chairman*

I personally do not think that the Chairman needs to be reminded what his duties are, but I am sure the Chairman appreciates the concern shown.

It would appear that it is acceptable for a barrage of correspondence to flow from Cllrs Binfield and Gowland, but when I add my own opinion to this I am accused of 'leading the Chairman'. I think Cllr Binfield is sailing close to the wind with such statements.

As far as my 'unqualified comments' are concerned, I am in fact qualified in Health and Safety and Risk Assessment and hold a certificate approved and validated by the Institution of Occupational Safety and Health (IOSH). I carry out Risk Assessments at work on an almost daily basis and am a trained Behavioural Safety Observer.

The legislation I quoted in my earlier email are the Acts that the Health and Safety Executive (HSE) and the Royal Society for the Prevention of Accidents (RoSPA) identify as being relevant to play areas under the control of Local Authorities. Interestingly they do not quote the Human Rights and Disabled Discrimination Acts as the relevant legislation that covers play areas and recreation grounds for Health and Safety purposes.

I resent the implied statement that I am somehow abusing the rights and freedom of others.

I look forward to Cllr Binfield explaining how my email discriminates against people defined under the act and exactly how the Human Rights and Disabled Discrimination Acts are being contravened in relation to the barriers.

✓ For the information of Cllr Binfield, the fact that a matter has previously been discussed and voted upon does not mean that people who voted will be deemed as biased in future votes. Does he consider himself as being biased in any future discussion on the barriers due to him voting in favour of them at previous meetings? I think not!

Regarding Cllr Gowland's Risk Assessment, it is my understanding that the Parish cannot pay for this and therefore cannot use it. I am sure that Cllr Barraclough will provide the information that he said he would provide at no cost to the Parish, along with costings for any risk assessment that may be deemed necessary in time for Tuesday's Parish meeting.

*Committees
P 5 & 6*

I consider it important that the jurisdiction or scope of responsibility and authority of each committee is defined. As I have previously said, if roads and footpaths consider that barriers are needed on roads and footpaths, they should make representation to DDC / KCC who will carry out such actions as they deem necessary on their roads and footpaths and will fund the work that they consider necessary. Recreation will similarly carry out such actions as they deem necessary and will fund the work that they consider necessary in relation to the recreation ground.

*Resolved to
keep KB
informed*

My proposal for 'Councillor's interests and conduct in this matter' to be an agenda item is just that. Cllr Binfield interprets this as a disturbing statement with a hidden agenda. I do not know why, but most of the content of his letter is a mystery to me. I look forward to clarification at the relevant Parish Meeting.

✓ The agenda item for discussion on risk assessments is just that. Cllr Binfield appears not to appreciate that it is not a matter of dealing with it when a risk is identified. There should be a process of risk management which proactively triggers scheduled risk assessment to be carried out with further reviews being periodically carried out at timed intervals or whenever a significant change takes place. It is not a case of doing one when a risk is identified!

Risk assessments should also comply with the HSE's 'Five Steps to Risk Assessment'.

I look forward to further discussing all the issues raised at the appropriate time, either at Tuesday's meeting or at a specially convened meeting to be decided.

Dear Jeff-

09 March 2008 (2nd response)1. **It is Without Prejudice that I make the following comments.**

Emailed to wider

Please be assured that any correspondence that may manifest between us remains strictly at that level, and it is only on that understanding that I respond to you in this manner. This and previous correspondence will remain strictly private and confidential between ourselves and within the confines of Whitfield Parish Council Officers. I expect you to offer me the same facility in any response that you may make.

Further to your reply to my previous email/letter dated 09 March 2008. Thank you for your response.

Introduction

I note that you have been deliberately been evasive and selective in the way that you have chosen to respond to my 1st email. I would call it response by choice, others may call it ambiguous.

I note also that whilst you may be a self styled antagonistic defender of Councillor Brooks – according to your heading on you 1st email Councillor Brooks has not been copied in.

a give them a chance!

I say self styled deliberately – your 1st email and subsequently response clearly identifies that you have copied these documents in to all the councillors on Whitfield Parish Council, yet there is no response or comments from others regarding this recent correspondence.

so up to JG

I know that Councillor Brooks appears not to be computer literate, and therefore I assume that he has not got a computer. However, no where within you responses (2) is it indicated that Councillor Brooks has been copied in by yourself (even with a hard copy of the document).

general be taken out of context

You further indicate in your response that 'Fellow Councillors are attacked'. The word Councillors is a plural which means more than one. Please clearly identify with absolute clarity the other councillors that have been attacked.

You also further indicate that they (again **they** means more than one) choose to disagree with other councillor's opinions. Please clarify the other councillors and their opinions.

May I refer you to the minutes of the roads and footpath meeting whereon it was Councillor Brooks on or about September 2006 that handed to Councillor Gowland a sketch drawing clearly identifying his requirements for replacement barriers at the Sandwich Road entrance because of his concerns regarding motor bikes using paths illegally onto the recreation ground.

May I now refer you to paragraph 15 of your response it says '**a special convened meeting to be decided**' whereon I suggest that Councillor Brooks attends that meeting and answers questions for himself (without the aid or need of others in support) and explains the reasons for his changing motives.

As Councillor Brooks is the author of this scenario further explanation would be required for me at this special convened meeting as to why he is the instigator of this matter and wasting what I consider to be very valuable time. Not only my time but time wasted by other professionals including the Police Force, KCC and building professionals.

I previously indicated that at the very least he has been forgetful and slipshod.

It is also fare to assume that even this letter writing between us is a waste of valuable time!

It was at a previous meeting that when Councillors discussed the fencing and barrier issues that Councillor Tomaszewski stated that it would be a dereliction of duty if no preventative action was taken.

In my opinion Councillor Brooks is not only blameworthy and accountable for his actions but responsible for unnecessary deliberate actions on his behalf.

OK -
take some

Mr Brooks
is not to my knowledge,
taking no action

Your para 1

Please define who are '**many of us were surprised**' by the content of the attachments to Tuesday's agenda. Obviously it would appear that it has been discussed by yourself and others.

As previously indicated to you they have been issued for information purposes only. I also find it very hard to believe that you could not believe what you were reading; after all, the attachments were written verbatim at the time(s) indicated. Also approved and seconded in the proper manner.

Your para 2

The picture that you are now painting is that Councillor Brooks is a victim of unbecoming behaviour - You also indicate that you will certainly take this attitude **whoever** is a victim of such unbecoming behaviour. It's interesting to note that you have chosen to ignore my comment whereon Councillor Brooks called for my resignation also.....

Note: (For your information) I might add that Councillor Brooks shouted across the meeting table for my resignation also, but I can't see you or any other councillor defending my situation in this matter as you appear to be defending his. **After all, as a parish councillor you should not discriminate against anyone.....**

Again I reiterate your previous comment!

You have also chosen to ignore my comment regarding damage limitation...

To Save Councillor Brooks further embarrassment from himself, it is of course the correct procedure to resign. Further recorded minutes of meetings in the future identifying possible various falsehoods would embarrass him even further. This particular damage limitation exercise with Councillor Brooks is indeed the answer.

In my opinion this matter isn't about you (and others) trying to defend Councillor Brooks good name (I'm sure he big enough to do that himself) but as a personal attack on councillors who have chosen to challenge the negative attitude of parish councillors who in turn ignored the requirements of the law.

Your para 3

Agreed

Vote does not have to be unanimous if CB votes against LS proposal

Your para 4

Please define '**barrage of correspondence**' I am only aware of one letter from Councillor Gowland in this matter, and one response to your previous email of today.

Are you using the term Councillors Binfield and Gowland collectively and/or individually.

In the whole entirety of your previous email you have not used the words 'I add my own opinion' as you seemed to use them now. I previously stated to you it is...

.... '**In my opinion** you have made a disturbing statement with a hidden agenda. Again, I think you are leading the chairman of Whitfield Parish Council in the way to conduct his business. It is against the Model Code of Conduct to attempt and/or intermidate any person who is likely to do anything which could compromise his impartiality in any matter....

by defination you are leading the chairman, previously you have said in your response that....

'I personally do not think that the chairman needs to be reminded what his duties are' yet clearly in your email you suggest to the chairman that separate agenda item are:

- Matters relating to the risk assessment commissioned by Cllr Gowland.
- To decide on which Committee has jurisdiction on any barriers.
- Discussion on the need for barriers.
- Councillor's interests and conduct in this matter.
- Risk assessments in general and responsibilities for carrying them out.

You also indicate to the chairman that:-

I do not think that this can be dealt with effectively at the Parish Meeting on Tuesday. I would suggest that we need to have a special meeting to deal with each aspect as separate agenda items.

In my opinion you are leading and influcing the chairman to make important decissions by suggestion and that you as a councillor are not qualified to make.

any cllr may suggest agenda items this is not leading the chairman

Again with in right to do so Not leading - suggesting

Your para 5

Your comment '**unqualified comments**' refer to my No. 4 para 5 of my initial response and refer to unqualified and belated comments within you previous email.....

....'If as I suspect you appear to be leading the chairman by your **unqualified and belatedly comments** within in your recent email, then indeed it is your self and others that are bringing Whitfield Parish Council into disrepute by discriminating against people who are defined within the **Disabled Discrimination Act 1995**.

...and not the comments regarding your own personal certificated and approved qualifications.

Your para 6

No comment as this moment.

Your para 7

Your comment..

I resent the implied statement that I am somehow abusing the rights and freedom of others.

It is not an implied statement at all but a fact. I have previously stated to you...

Whitfield Parish Council and other public authorities are legally obliged to respect basic human rights. These became law as part of the **Human Rights Act 1998**.

You also have the responsibility as a councilor in this parish to respect the rights of other people – and not exercise yours in a way which is likely to stop them from being able to exercise theirs.

If you abuse any of these rights and freedoms the abuser has a right to an effective solution in law, even if the abuse was by someone in authority.

Your para 8

Your comment –

I look forward to Cllr Binfield explaining how my email discriminates against people defined under the act and exactly how the Human Rights and Disabled Discrimination Acts are being contravened in relation to the barriers.

I suggest that you read my comment again...

If as I suspect you appear to be leading the chairman by your unqualified and belatedly comments within in your recent email, then indeed it is your self and others that are bringing Whitfield Parish Council into disrepute by discriminating against people who are defined within the **Disabled Discrimination Act 1995. The DDA** clearly states that: -

You have a responsibility as a councilor in this parish to respect the rights of other people – and not exercise yours in a way which is likely to stop them from being able to exercise theirs. It is my opinion that you are discriminating against disabled people by not supporting and proceed with the scheme.

How?

Your para 9

(1st sentence) – I disagree.

(2nd sentence) – I agree

Your para 10

As day follows night – it is my opinion that non payment of an item doesn't mean that it cannot be used.

I'm also sure that Councillor Barraclough will provide a risk assessment by this coming Tuesday!

Your para 11

Agreed in principle

Your para 12

I have already clarified the situation, but I will repeat it again

Councillors interest and conduct in this matter – In my opinion you have made a disturbing statement with a hidden agenda. Again, I think you are leading the chairman of Whitfield Parish Council in the way to conduct his business. It is against the Model Code of Conduct to attempt and/or intermidate any person who is

likely to do anything which could compromise his impartiality in any matter.

Your para 13

Would this be the same process of risk management that proactively triggered the risk assessment for the new installation of camera's within the recreation ground.

Your para 14

Agreed - but please confirm that WPC has complied to your comment in the past and if so please clearly identify the last occasion.

Your para 15

Agreed (but see introduction)

If you wish to discuss this matter further with me please do not hesitate to contact me.

Regards

Brian Binfield

Not
H&S issue
Protection
of property
RAs
I've done
OK

Whitfield Parish Council

From: <RSSbwb2000@aol.com>
To: <jeff.goodsell@ntlworld.com>
Cc: <whitfieldpc@btconnect.com>; <Thetomaszewski@aol.com>; <Vstellyes@aol.com>; <sal@rashids.freemove.co.uk>; <member@moore200043.fsnet.co.uk>; <sarahgowland01@aol.com>; <d.ditcher@btinternet.com>; <Cooperandy31@aol.com>; <pcapper83@talktalk.net>; <keith562@msn.com>
Sent: 11 March 2008 10:16
Subject: Re: My response to your email dated 10 March 2008

Hi Jeff - thanks for your email.

Your comments on confidentiality are duly noted. However, I will remind you that my latest response to you was sent under the heading of Without Prejudice and that is the way it should be treated. If you request that your correspondence is treated as open (within the confines of NPC) that is fine with me.

Apologies for the error re Keith Bushel [REDACTED] it should have been sent to Keith Barraclough [REDACTED] as far as I'm concerned it was a genuine error on my part.

I can confirm that I have sent a copy to Keith Barraclough this morning at approximately 9.30am.

I can further confirm that I have emailed Keith Bushel and have asked him to delete my email.

I have always acted promptly and correctly in responding to your emails. My responses have always been clear and precise. However, I find your latest email somewhat ambiguous, when you say that you will not respond. I'm asking for clarification of various comments that you have made in writing and you have chosen not to do so. In that event this matter should not be discussed any further until at such times that I am in receipt of the required information. If you are unable to respond or you are incapable of doing so please confirm, or alternatively concede your position in this matter.

You mentioned in your email of yesterday (**cut and pasted below**)

I look forward to further discussing all the issues raised at the appropriate time, either at Tuesday's meeting or at a specially convened meeting to be decided.

I suggest it is the latter (unless with your openness policy you would like the press and public to be present) - certainly after I'm in receipt of the information that I have requested from you.

Regards

Brian Binfield

MEMO

To: Councillor(s) Peter Capper, Jeffrey Goodsell, and David Ditcher.

From: Councillor - Brian W Binfield

Date: 17 December 2008

**Re: Standards Committee Complaint – SC010 – SC012
(For information purposes only)**

Copy: Councillors/Parish Clerk (Michelle Cooper) – Keith Barraclough, Laurence Brooks, Keith Gowland, Carrol Moore, Jill Newport, Steven Osmond, Salim Rashid.

I can confirm that I have now received documentation from Dover District Council's Democratic Services Department identifying their decision. I can further confirm that there is still a right of review by the Standards Committee on receipt of a written request received from me.

If protocol was properly observed by Councillor Peter Capper as requested within my letter to him dated 14 September 2008 (**copy attached for ease of reference**) this whole matter would be null and void and possibly today would remain a figment of every ones imagination.

I believe that their decision is right. It is not in the public interest and even more so the residents of Whitfield to pursue it any further.

However, the fact of the matter is that Councillor Peter Capper did choose to pass on to others copies of the letter. This is evidenced by Councillor David Ditcher's email which clearly identifies that he has a copy.

The fact of the matter is also – can anyone writing to Councillor Capper and David Ditcher in the future requesting confidence through correspondence rely on that facility – It is my opinion that the answer is no!

Peter Capper - in this matter has shown himself to be un-trustworthy with matters regarding confidentially. My letter dated 14 September 2008 points out to him his un-professionalism at a meeting. His reply to my letter was selective – and there are still no signs of forward planning regarding wpc in any/all documentation that has been generally available.

I'm further advised that resignations by past wpc committee members – indicate that is a reason.

Jeff Goodsell - does his job well as vice-chairman by observing etiquette and the requests of others. Whilst being a good advocate and campaigner for wpc – I'm sure he is a capable man and councillor, although he appears to be in an entrenched management position – and not being able to see the complete picture as it unfolds in front of him. His careful and manipulated reply to my letter could only stimulate the minds of all the other councillors in guessing the contents of the letter and exasperate the situation.

David Ditcher – evidence clearly shows that he is in receipt of a copy of the letter from Peter Capper and that he further supported Peter Cappers conspiracy by forwarding on to others an email promoting the distribution of the document – when clearly it requests confidentially. This further shows total disregard and possibly ambiguity for any person and/or person's rights to confidentiality. After all it was the chairman's rights that were being protected.

- I refer you to a quotation from **Councillors Peter Cappers** letter dated 08 October 2008 (copy attached for ease of reference)...

'I suggest that you make your threatened complaint to approach The Standards Board, as is your right'.

- May I also bring to your attention an email from **Councillor David Ditcher** dated 19/09/08 (copy attached for ease of reference) in which it clearly states...

'Cllr Binfield's letter, of which I have a copy'

'He threatens to report the Recreation Committee to the Standards Board'.

'He should also carefully consider whether or not he wishes to remain a member of this Parish Council'.

- May I also further bring to your attention a letter from **Councillor Jeffrey Goodsell** dated 18/09/08 (I will not copy in anyone as Councillor Goodsell has already done this) – to which he states..

'Peter capper and I have received a letter from Cllr Binfield which (I think) he has requested it not to be disclosed to the rest of you. He appears to be saying that such disclosure would be a breach of the Code of Conduct. Although this is a moot point, I have agreed to respect his wishes on this'.

It is my opinion that there cannot be any complaint from any of the three Whitfield councillors mentioned above. The Standards Committee have decided that it is not in the interest of the general public to take this matter further – they at some point have been party to a conspiracy led by Peter Capper as chairman in his failings to observe the request of another councillor. Within that failure the situation has been exasperated to its current position of today.

Ironically and strangely they/we all entered into a situation whereon there is no restriction to freedom of speech and good sound debate.

I can only refer you to item 12 of my letter dated 14 September 2008 referring to the meeting held on Tuesday 09 September 2008 (chaired by Councillor Peter Capper) made by **Councillor Salim Rashid** whereon he referred to **'this matter being discussed now is not in the interest of the people of Whitfield'.**

Whitfield Parish Council

From: "Jeff Goodsell" <jeff.goodsell@ntlworld.com>
To: "Whitfield Parish Clerk" <whitfieldpc@btconnect.com>; "Sal Rashid" <sal@rashids.freemove.co.uk>; "Peter Capper" <pcapper83@talktalk.net>; "Michelle Cooper" <Michelle@thefabricfairy.co.uk>; "Keith Gowland" <sarahgowland01@aol.com>; "Keith Barraclough" <keith562@msn.com>; "David Ditcher" <d.ditcher@btinternet.com>; "Carrol Moore" <member@moore200043.fsnet.co.uk>; "Brian Binfield" <RSSbwb2000@aol.com>; "Steve Osmond" <steve.osmond@btopenworld.com>
Sent: 29 December 2008 10:28
Attach: Cllr Binfield letter - 17th Dec - My Reply.pdf
Subject: Response to Cllr Binfield's letter dated 17 December 2008.

To: Whitfield Parish Council Chairman, Parish Clerk and all Parish Councillors.
From: Councillor Jeff Goodsell.
Subject: Response to Cllr Binfield's letter dated 17 December 2008.
Date: 29 December 2008.

Oh Dear! Just as I thought the Barrier saga and all the associated accusations could be put behind us, so that we could all get on with concentrating on serving the community that we represent, Cllr Binfield reignite everything with yet another random rant and further accusations and unwarranted criticisms of his fellow councillors.

I fail to understand the reasons for the letter, and it again seems to be muddled, irrelevant and/or factually incorrect. At one point Cllr Binfield appears to be accusing the Standards Committee of being party to a conspiracy led by our Chairman. I hope this is not his intention: Although I may disagree with some of DDC policies and actions, I have always found DDC Councillors and their Officers to be proper and professional at all times.

To set the record straight, the Standards Committee did not simply decide "that it is not in the interest of the general public to take this matter further" as Cllr Binfield states.

The Standards Committee found that:

- i) Sufficient information was available to enable the Initial Assessment Sub-committee to determine whether a potential breach of the Code has occurred.
- ii) The complaint was serious enough, if proven, to justify the range of sanctions available to the Local Standards Committee.
- iii) The complaint hasn't substance and there isn't clear public benefit in incurring expenditure and the use of resources to investigate.
- iv) The complaint does not merit further actions.

Cllr Binfield fails to include the fact that "The complaint hasn't substance" in his letter. This is an unforgivable omission and distortion on the part of Cllr Binfield. Whether this action on his part is a deliberate distortion or is his inability to understand simple information, I do not know. However, the fact remains,

THE COMPLAINT HE MADE DID NOT HAVE SUBSTANCE !

I will not comment further on the content of his letter as I consider Cllr Binfield's position to be beyond reasoned argument and not worthy of debate. I also cannot see his position altering on this.

Cllr Binfield should be aware that his actions leave a lot to be desired and he would do well to examine his own conduct and actions in relation to the Model Code of Conduct.

While I sympathise with Cllr Binfield's disappointment that the barrier scheme was not blindly accepted by the Parish Council after so much time and effort was put into it, I do think that if the Roads and Footpaths Committee had researched the matter thoroughly, identified the relevant legislation, followed proper protocol

and procedure, appreciated the restrictions on Parish expenditure and understood the function and delegation of the various committees, the committee could have avoided wasting this time and effort and the issue would not have escalated to the unsatisfactory situation we are in today. The Parish Council meetings are dominated by this issue. The Roads and Footpaths Committee has been left in a state where Councillors are reluctant to serve on it, those who do often fail to attend or simply resign, meetings and rescheduled meetings are cancelled and the committee is currently not functioning effectively.

To conclude, I have the upmost faith and respect for Peter Capper. He serves the Community and this Parish Council well, he is a trustworthy and honourable man and, with the exception of Cllr Binfield, I know of no one who thinks otherwise.

Whitfield Parish Council

From: "d.ditcher" <d.ditcher@btinternet.com>
To: "pcapper" <pcapper83@talktalk.net>
Cc: "Jeff Goodsell" <jeff.goodsell@ntlworld.com>; "sal rashid" <sal@rashids.freemove.co.uk>; "parish council" <whitfieldpc@btconnect.com>; "Keith Barraclough" <keith562@msn.com>; "Keith Gowland" <sarahgowland01@aol.com>; <RSSbwb2000@aol.com>
Sent: 29 December 2008 11:03
Subject: Memo from Cllr Binfield.

Having just returned from hols I was delighted to be welcomed home with the memo from the above which I found to be highly amusing. This was obviously a joke from someone with a persecution complex. However, having also read Jeffs reply I find there is little for me to add other than reminding Cllr Binfield of his bullying of Cllr Brooks which is well documented in Parish Council Minutes. A person of less mild disposition would certainly have taken this matter further.

Michelle, would you please see that Cllr Brooks gets a copy of this email. Thank you.

Regards.
David.

MEMO

To: Councillor(s) Jeffrey Goodsell, and David Ditcher.

From: Councillor - Brian W Binfield

Date: 14 January 2009

**Re: Email - from Councillor David Ditcher to Peter Capper dated 29 December 2008 at 11.03am.
Email from Jeffrey Goodsell dated 29 December 2008 at 10.28am**

Copy: Councillors/Parish Clerk (Michelle Cooper) – Peter Capper, Keith Barraclough, Laurence Brooks, Keith Gowland, Carrol Moore, Jill Newport, Steven Osmond, Salim Rashid.

I will address both the responses to my memo dated 17 December 2008 from Councillors David Ditcher and Jeffrey Goodsell individually.

To Councillor David Ditcher –

1. I am advised that your comments within your email to Peter Capper dated 29 December 2008 at 11.03am regarding my alleged 'persecution complex' and 'bullying of Councillor Brooks' is perceived as being libellous. There is no justification or lawful excuse to injure my professional and/or personal reputation as a Whitfield Parish Councillor. Your written email to Peter Capper regarding my alleged bullying of Councillor Brooks is defamatory.
2. I might add that accurately recording (also as minuted by the Parish Clerk) that Councillor Brooks has time and time again said one thing and only moments later denied what he has previously been said – is not bullying, but recording facts in a business like manner.
3. I might further add that you were not present at the committee meeting that you allege that bullying took place (it was accurately minuted by the parish clerk) and therefore your verbal comments can only be treated as 'hear say evidence' – unlike your fax whereon a libellous accusation has been written down and copied to others.
4. Please be advised that this potential action of libel is not deemed as an act of vengeance or indeed an action for substantial damages but to vindicate my reputation.
5. To succeed in law I'm required to prove the following 3 elements of the tort of libel – that the statement has been made to a third party(s) that the statement must refer to me – and the statement must be defamatory. Your letter enhances all of those elements and in my opinion you have no defence.
6. As you are the defamer in this matter I have decided to treat you with contempt and consider the wider issues – your actions are that of a disreputable and desperate person who injures the reputation of others by

being malicious and delusional and your unqualified written comments are not seen to be in the interests of the residents of Whitfield Parish.

7. Therefore in this instance I am prepared to accept your apology in writing. **If an apology in writing is not forthcoming within seven days of the date of this letter and your accusations are not withdrawn, I will instruct my solicitors to make a claim against you for damages to include costs and interests without further reference to you.**
8. If you are in any doubt of the seriousness of your accusations I strongly advise you to take immediate legal advice.
9. You have also been selective in your response and selective in the councillors to whom you copied in your email – leaving out Councillors Jill Newport, Carrol Moore and Steven Osmond for reasons better known to yourself.
10. Your selective response omits the very basic reasons of the memo dated 17 December 2008 and that is that you were party to a conspiracy with Councillor Peter Capper in that you have put in writing (albeit an email) admitting receiving a copy of a private and confidential document from him. I ask myself also can you also be trusted and the answer is no!

Now to Councillor Jeffrey Goodsell

1. Obviously suffering from some form of pre-mature senile dementia as Councillor David Ditcher who openly agrees with Councillor Jeffrey Goodsell - and has completely forgot or has not read the minutes of the meeting last year whereon all barrier issues have been brought through to a conclusion approximately 1 year ago!

In this instance Councillor Goodsell has not been as forgetful as Councillor Ditcher – Councillor Goodsell has only forgotten to copy in I councillor as opposed to Councillor Ditcher who has forgotten 3!

2. Both councillors Ditcher & Goodsell have deliberately evaded the main subject matter of my previous memo and tried to cover the conspiracy lead by Peter Capper (now to be known in my view as the **WHITFIELD THREE**) as apposed to similar names of other groups such as the Guildford Three or the Birmingham Six. (but not attached too them of course).

I say deliberately! – I think it's a common alleged perception that 2 of the Whitfield Three speak on behalf of the 3rd. Nothing has been heard from the 3rd member (in this instance Peter Capper). Does he make the bullets for others to fire – and as chairman delegate authority and give them a free reign to say as they like – Who knows – only possibly Nos 1 & 2 of the Whitfield 3 – certainly know one else!

There is an impolite term that doesn't quite come to mind at the moment (I believe it is commonly associated with muck spreading) but it means to intimidate, deceive or try and persuade or mask and cover with foolish talk – and that is what both the above councillors are using when trying to justify the errors of their ways.

3. Another veil threat by Councillor Jeffrey Goodsell regarding my action. I see my action as bringing an error (by others) to the fore or has he forgotten in this country (and that is what our predecessors fought for in WW1 & WW2) as far as I am aware that - **there is no restriction to freedom of speech and good sound debate.**
4. Councillor Jeffrey Goodsell says that he sympathises with my disappointment (his para 8). I would call it patronising – the Roads & Footpaths committee did research the matter very thoroughly (which is well documented). He seems to have forgotten that one committee member has unfortunately passed away; another has moved outside the jurisdiction of wpc and subsequently resigned. Whilst another resigned through health reasons. I choose not to say any more on this matter (but will do if required) and leave it as identified within my last memo – i.e. that resignations by past wpc committee members over the past two years indicate that leadership of wpc has been a problem.

Note: If this past comment doesn't sit comfortable with Councillor Jeffrey Goodsell – I'm quite prepared to sign a witness statement to that effect.

Dare I say at last night's Whitfield Parish Council meeting (13/01/09) Peter Capper indicated that he had received a letter of resignation from Nick Thetomaszewski from both the main parish council and the roads and footpaths committee – giving no reason for the resignation?

Summary:

1. I'm sure that Peter Capper is as described within the last paragraph of Councillor Jeffrey Goodsell's letter/email (dated 29/12/2008) and both Councillors Ditcher and Goodsell – who obviously speak on his behalf and are enthralled by him – (As we have still not heard from Councillor Peter Capper) and are influenced by and are very close to him! (for possible reasons best known to themselves).
2. Albeit I have received a copy of an email handed to me at the Whitfield Parish Council meeting dated 13 January 2009 at approximately 20.30hrs by Peter Capper (cc – Jeff Goodsell & Parish Clerk) suggesting that advice he has received from the KALC is that I am likely to find myself in breach of the Code of Conduct if I persist in this matter – can only be seemed to be a veiled threat.
3. But notwithstanding that Peter Capper - in this matter has shown himself to be un-trustworthy with matters regarding confidentially. My letter dated 14 September 2008 points out to him his un-professionalism at a meeting. His reply to my letter was selective – and there are still no signs of forward planning regarding wpc in any/all documentation that has been generally available.

4. I again have to refer to item 12 of my letter dated 14 September 2008 referring to the meeting held on Tuesday 09 September 2008 (chaired by Councillor Peter Capper) made by **Councillor Salim Rashid** whereon he referred to **'this matter being discussed now is not in the interest of the people of Whitfield'**.

MEMO

To: Michelle Cooper – Parish Clerk.

From: Councillor - Brian W Binfield

Date: 14 January 2009

Re: 1. Email - from Councillor David Ditcher to Peter Capper dated 29 December 2008 at 11.03am.
2. Email from Jeffrey Goodsell dated 29 December 2008 at 10.28am

Copy: Councillors – Peter Capper, Keith Barraclough, Laurence Brooks, Keith Gowland, Carrol Moore, Jill Newport, Steven Osmond, Salim Rashid.

Please find attached my response to Councillors David Ditcher and Jeffrey Goodsell. I note from their original correspondence that you have been copied in.

As Parish Clerk you are in no doubt that the email dated 29 December 2008 to Peter Capper from David Ditcher is defamatory and libellous. Therefore I call upon you as Parish Clerk to bring this to his attention and remind him that he has brought Whitfield Parish Council and his office as councillor into disrepute.

This of course is not in the interest of the residents of Whitfield and could possibly compromise all serving councillors if David Ditchers libellous and mutinous statement was known to the public sector.

Please acknowledge receipt of this document and please copy me in on all future correspondence to David Ditcher, Peter Capper and Jeffrey Goodsell.

Whitfield Parish Council

From: "Jeff Goodsell" <jeff.goodsell@ntlworld.com>
To: "Brian Binfield" <RSSbwb2000@aol.com>
Cc: "Whitfield Parish Clerk" <whitfieldpc@btconnect.com>; "Steve Osmond" <steve.osmond@btopenworld.com>; "Sa Rashid" <sal@rashids.freemove.co.uk>; "Peter Capper" <pcapper83@talktalk.net>; "Michelle Cooper" <Michelle@thefabricfairy.co.uk>; "Keith Gowland" <sarahgowland01@aol.com>; "Keith Barraclough" <keith562@msn.com>; "David Ditcher" <d.ditcher@btinternet.com>; "Carrol Moore" <member@moore200043.fsnet.co.uk>
Sent: 16 January 2009 21:09
Subject: Memos dated 14 January 2009

Dear Cllr Binfield

I have received in the post, an unsigned pair of bizarre memos purporting to be from yourself which I fear may be from a practical joker.

One Memo is to our Parish Clerk about emails from myself and Cllr Ditcher, the second is a 4 page memo to all Councillors, also about these emails. Both are written in your style, but they do seem rather preposterous and unbelievable.

Could you, therefore, confirm whether these memos are from you?

Jeff Goodsell

MEMO

To: Councillor Jeffrey Goodsell.

From: Councillor - Brian W Binfield

Date: 19 January 2009

**Re: Email - from Councillor David Ditcher to Peter Capper dated 29 December 2008 at 11.03am.
Emails from Jeffrey Goodsell dated 29 December 2008. 16, 17, 19 January 2009**

Copy: Parish Clerk (Michelle Cooper) – Councillors Peter Capper, Keith Barraclough, Laurence Brooks, Keith Gowland, Carrol Moore, Jill Newport, Steven Osmond, Salim Rashid, David Ditcher.

(Michelle could you send a hard copy to Councillor Brooks of this document – whilst I copy all others in by email).

Yet another barrage of email's from Councillor Jeffrey Goodsell (3 in three days – demanding a response). The last one at 11 minutes past midnight today **(How sad is that)**. Yet it took some 12 days to originally respond to my former memo dated 17 December 2008.

I don't think Councillor Jeffrey Goodsell is as naive as his email portrays him to be – using the words – practical joker, bizarre, unbelievable and preposterous!

This appears to be yet another pathetic attempt to undermine and 'be-little' what can only be described as a serious factual statement in the form of a memo that I sent to both Councillor's Goodsell and Ditcher on the 14 January 2009 – to which I had sought professional advice.

Margaret Thatcher once described the militant Arthur Scargill in 1985 as the '**enemy within**' for his argumentative and ridiculing nature who was instrumental in trying to bring down the government of the day. The National press then stated that the strike (1984/85) was eventually deemed illegal.

For one moment I'm not saying that Councillor Goodsell resembles the militant Arthur Scargill in any way shape or form – but Arthur Scargill was infamous for his militancy. He was also fiery and emotional to people that was sympathetic to his cause.

It is my opinion that Councillor Goodsell is using similar tactics to gain sympathy whilst trying to cause distraction to this colloquy!

Whitfield Parish Council

From: "Jeff Goodsell" <jeff.goodsell@ntlworld.com>
To: <RSSbwb2000@aol.com>; <whitfieldpc@btconnect.com>
Cc: <steve.osmond@btopenworld.com>; <sal@rashids.freeseve.co.uk>; <pcapper83@talktalk.net>;
 <Michelle@thefabricfairy.co.uk>; <sarahgowland01@aol.com>; <keith562@msn.com>;
 <d.ditcher@btinternet.com>; <member@moore200043.fsnet.co.uk>
Sent: 19 January 2009 17:28
Subject: Re: Previous Memos

Dear Cllr Binfield.

Thank you for your memo – a simple "Yes I sent the memos" would have been sufficient. You do not actually say this in your latest memo, but I will assume that they are from you. I will reply to them in due course.

I re-sent the emails, as you recently appear to be having trouble receiving emails (ref : your comment at Tuesday's Parish Meeting).

For your information: Christmas falls between 17 and 29 December. Now that would have been sad if I had spent my Christmas giving any thought to sending a reply to you.

I do not set out to undermine your memos; I reply to them. I let your memos speak for themselves. I would point out that opinion on whether your memos are either serious or factual is subjective, and will surely be judged by those that read them.

I suppose I should be offended by the insults contained in paras 4 and 5 of your memo, but Arthur Scargill happens to be someone who I respect and admire. I met him on a number of occasions and found him nothing like the evil demon that he was painted by the national press. I take it as a compliment to be compared to him.

For your further information: The 1984/85 strike was a fight for jobs, not to bring the government down.

Jeff Goodsell

----- Original Message -----

From: RSSbwb2000@aol.com
To: whitfieldpc@btconnect.com
Cc: jeff.goodsell@ntlworld.com ; steve.osmond@btopenworld.com ; sal@rashids.freeseve.co.uk ; pcapper83@talktalk.net ;
 Michelle@thefabricfairy.co.uk ; sarahgowland01@aol.com ; keith562@msn.com ; d.ditcher@btinternet.com ;
 member@moore200043.fsnet.co.uk
Sent: Monday, January 19, 2009 2:56 PM
Subject: Previous Memos

Please see attached.

Whitfield Parish Council

From: "Jeff Goodsell" <jeff.goodsell@ntlworld.com>
To: "Whitfield Parish Clerk" <whitfieldpc@btconnect.com>; "Steve Osmond" <steve.osmond@btopenworld.com>; "Sa Rashid" <sal@rashids.freemove.co.uk>; "Peter Capper" <pcapper83@talktalk.net>; "Michelle Cooper" <Michelle@thefabricfairy.co.uk>; "Keith Gowland" <sarahgowland01@aol.com>; "Keith Barraclough" <keith562@msn.com>; "David Ditcher" <d.ditcher@btinternet.com>; "Carrol Moore" <member@moore200043.fsnet.co.uk>; "Brian Binfield" <RSSbwb2000@aol.com>
Sent: 25 January 2009 18:02
Attach: Cllr Binfield letter - 14th Jan - My Reply.pdf
Subject: Reply to cllr binfield memos dated 14 January

My reply to cllr binfield memos dated 14 January: The same reply is contained in the PD file attached to this email for you to save or print out

To: Whitfield Parish Council Chairman, Parish Clerk and all Parish Councillors.
From: Councillor Jeff Goodsell.
Subject: Response to Cllr Binfield's memos dated 14 January 2008.
Date: 25 January 2008.

I have now had confirmation that the memos dated 14 January were from Cllr Binfield and I have the following comments to make on them:

I consider Cllr Binfield's memos are designed to be inflammatory and insulting. As usual Cllr Binfield's correspondence is a random mix of muddled and disorderly assertions and allegations which are mainly irrelevant and / or factually incorrect.

I object most strongly to Cllr Binfield's request, in his Memo to the Parish Clerk, to copy him in on all future correspondence from the Parish Clerk to myself. He should not automatically be copied in on any such correspondence if it is confidential or if it does not concern him. I am astounded to think that he considers that he has the right to make such a request.

With reference to the second memo to all Parish Councillors, I would like clarification whether it is I, Cllr Ditcher, or both of us he refers to as "suffering from some form of pre-mature senile dementia". I wonder how Cllr Binfield feels he can make such a comment about fellow councillor(s) when he objects to comments made about him. This seems somewhat hypercritical.

I would assure you all that I do read all the minutes of Council and Committee meetings most carefully. I would remind Cllr Binfield that my email correctly refers to "the Barrier saga and all the associated accusations". As Cllr Binfield says, the Barrier project ended when the Parish Council voted not to proceed with it, but the backlash continues - as evidenced by his continuing succession of memos and emails.

I would also like to correct Cllr Binfield. My email (29 December) was addressed to and delivered to all Parish Councillors without exception. If he referred to the list of serving councillors at that time he will find this statement to be factual.

My email responded fully to the main subject of Cllr Binfield's memo, i.e. his justification of his actions in reporting 3 fellow Councillors to the Standards Board and the resultant decision. I suggest he re-reads his own memo.

Cllr Binfield chooses to refer to my reply as muck spreading, if he wants an example of foolish talk

intimidation and coercion he should look to his own letters and memos. If he stopped sending inflammatory memos to me, I would not reply to them.

I object most strongly to the infantile and unnecessary jingoistic comparison Cllr Binfield made about me and the alleged terrorist conspirators he mentions. I would however remind him that they were also unjustly accused and later had their convictions quashed, although I do not think this is the comparison he was trying to make.

I would like to assure you all that there is no conspiracy at Whitfield Parish Council, just three Councillors who disagree with Cllr Binfield and choose to say so openly. It is arrogant of Cllr Binfield to presume that because a number of people disagree with his views, they must be conspiring against him. I am more than capable of independently disagreeing with his views and of responding to him without getting help, direction or instruction from anyone else.

I would appreciate clarification on the "veil threat" Cllr Binfield alleges – I see none in my email to him, but would repeat that Cllr Binfield should be aware that his actions do leave a lot to be desired and he would do well to examine his own conduct and actions in relation to the Model Code of Conduct.

Cllr Binfield may feel patronised, but I would remind him that the Roads and Footpaths Committee never identified the correct legislation that applied to the Recreation Ground, did not follow Parish Council Procedures, did not put the proposal to the correct Committee (the Recreation Committee) and subsequently came up with an unnecessary scheme which was not fit for the intended purpose anyway.

I am puzzled by the reasons he gives for Councillors' resignations. After listing the actual reasons for their resignations, he goes on to say that leadership and lack of forward planning are the reasons. Which is it?

Finally, I am not "enthralled" by our Chairman, although I do have the upmost faith in and respect for Peter Capper. He serves the Community and this Parish Council well; he is a trustworthy and honourable man. I would suggest that rather than alluding to other Councillors having similar opinion to his own about our Chairman, Cllr Binfield should propose a vote of confidence (or no confidence) in the Chairman to see how much support he and his views actually have within Whitfield Parish Council.

Councillor Jeff Goodsell. -

Whitfield Parish

Whitfield Parish Council

From: "P Capper" <pcapper83@talktalk.net>
To: <Clr.Binfield.RSSbwb2000@aol.com>
Cc: "Whitfield Parish Clerk" <whitfieldpc@btconnect.com>; "Jeff Goodsell" <jeff.goodsell@ntlworld.com>
Sent: 30 December 2008 17:35
Subject: Cllrbinfieldsletter17thDecember2008.

Cllr Binfield,

I acknowledge receipt of your memo dated 17th December 2008, which was sent to all members of the council.

I have taken advice from KALC and I have to inform you that you have received the official findings from the Standards Committee that there was no further action to be taken.

If you persist in bringing this matter up, you are likely to find yourself in breach of the Code of Conduct and I expect to hear no more on this subject. This is the advice I have had from the KALC.

Yours Faithfully,

Peter H Capper.
Chairman Whitfield Parish Council.

MEMO

FAO: David Ditcher Only.

From: Brian W Binfield

Date: 06 March 2009

Re: Memo dated 14 January 2009

Copy: Nil

1. Further to my memo dated 14 January 2009 - your lack of response or shall I say your inability to answer and your total ignorance of this matter is indeed duly noted.
2. As previously stated to you - I am advised that your comments within your email to Peter Capper dated 29 December 2008 at 11.03am regarding my alleged 'persecution complex' and 'bullying of Councillor Brooks' is perceived as being libellous. There is no justification or lawful excuse to injure my professional and/or personal reputation as a Whitfield Parish Councillor. Your written email to Peter Capper regarding my alleged bullying of Councillor Brooks is defamatory.
3. You have obviously a lack of duty, character and backbone in this matter that only can possibly be, or probably relate to, but not necessarily - a spineless amoeba and a parasite of other organisms that has no moral fibre or supporting structure.
4. Your lack of fortitude in offering an apology to end this matter as previously requested can only relate to ignorance at its lowest level.
5. Your intentions whilst being dishonourable are defamatory - it is the impression which those words gave to all the other readers that matters - therefore I believe that you have lowered my professional status in the estimation of right thinking members of Whitfield Parish Council and the parish in particular suggesting that there was an instance of bullying against Mr Brooks.
6. As previously stated - in this instance I am prepared to accept your apology in writing. Although the lack of response from you is expected - with a '**head in the sand attitude**' until it goes away, is typical of your stereotype characteristics.
7. I'm told that some people say that pet owners eventually look like their pets, and I'm sure that if people act like a Dick they will eventually be one also!

MEMO

FAO: David Ditcher Only.

From: Brian W Binfield

Date: 09 April 2009

Re: Memo dated 14 January 2009

Copy: Nil

1. Further to my memo(s) dated 14 January and 05 March 2009 and in the absence of any response from you whatsoever.
2. No doubt – it is in my opinion that - your pathetic attempt to try and gain sympathy and support for your libellous action by yourself at the local parish council meeting held on Tuesday 10 March 2009 whilst displaying my latest memo - was met with apathy, indifference and possibly a lack of concern.
3. Perhaps and possibly I'm thinking that you can respond and make an apology as I have previously asked for.
4. But giving it further thought and in my opinion - it reality indicates that you are incapable and unable to. In my further opinion you mental, rational and psychological condition precludes you from making that decision.
5. You have made a libellous statement – acted on hear-say and un-supported verbal evidence from others – and are unable to support your accusation.
6. You are again requested to withdraw your un-supported accusation.
7. Noel Coward (actor & playwright) and outspoken homosexual (at least he wasn't Coward by name Coward by nature) allegedly said – 'There are only two types of people in this world' 'Those who can do it and those who can't' and at the end of all this we will see what type of man you are!
8. For someone who lacked a conventional life style and had possible disadvantages with his way of life, he was remarkably successful. Yes, he lacked courage as an objector – during the 2nd world war. We all knew what type of man he was – and that begs the question what type of man are you.

MEMO

FAO: David Ditcher Only.

From: Brian W Binfield

Date: 08 June 2009

Re: Memo dated 14 January 2009

Copy: Nil

1. **YOU HAVE FAILED** and taken this current situation to a new and pathetic level.
2. Let me remind you of your opening comment as soon I entered the meeting room for the monthly Whitfield Parish Council meeting at approximately 7.30pm on Tuesday 12 May 2009. You were sitting next to the deputy parish clerk and councillor Keith Barraclough. A member of the public was also present. Your comment's were:-

DD - *'have you brought your poison pen with you?'*

To which I replied – Have you a problem with me!

DD – **'You should know you wrote the letter'**

and

DD – **'Does your missus know you wrote those letters?'**

3. **The term 'poison pen'** is synonymous to a person who has written an anonymous letters. Please be advised that I wrote all those memos to you, but obviously you are still incapable and unable to understand that.
4. I'm sure that the people sitting adjacent to you heard your futile comments, as I did some 6 – 8 metres away.
5. **YOU HAVE FAILED** in your pathetic attempt with the standards committee to try and humiliate me (as identified within their document dated 08 May 2009, page 2 item 8) and it has made you look the person that you really are.

YOU HAVE FAILED and have wasted public money, time and resources – certainly on the issue of alleged bullying of Councillor Brooks, whereon you were previously told that you were not present at the committee meeting that you allege that bullying took place (it was accurately minuted by the parish clerk) and therefore your verbal comments can only be treated as 'hear say evidence' – unlike your fax whereon a libellous accusation has been written down and copied to others.

It would appear that you used this as a dismal attempt to mask the real issues which you are evading, and they are of course contained within my previous memos to you.

6. Let me now put it to you – **'Does your missus know you are the recipient of those letters/memos?'**
7. Further more does she realize that her husband faces a potential action for libel?

Is she also aware that once a defamatory statement is made it cannot be retracted? The possibility of losing her home to pay for costs is a reality.

8. *I'm reminded of former labour MP George Galloway who won £150,000 libel damages in the London High Court who smiled as Mr. Justice Eady gave his ruling and said he was obliged to compensate for the purposes of restoring his reputation. An appeal was refused by the defendants and costs were awarded at £1.2m.*

No more – no less has been said in this matter by you. You have made a defamatory remark – topped up by your comments made at the wpc meeting on Tuesday 12 May 2009 heard by other councilors and the public.

I have previously asked for an apology from you but that has not been forthcoming.

In conclusion on Mr. George Galloway – he is quoted as saying - "I have had to risk total and utter ruin in order to bring this case. If I had lost it, I would be bankrupt, my house would be taken away from me, and my job would be lost.

"I have had to risk absolutely everything in order to obtain the vindication which this judgment brings me. So, I do not feel happy. I feel angry that I was forced to do that."

9. I'm told that a number of lower-ranking officers and ratings – over the years in the Royal Navy threatened protest resignations following a lift on the banning of gay personnel – It's also reported that navy personnel were so reluctant to expose themselves in the presence of their homosexual colleagues that they requested the provision of homosexual-only showers and lavatories. Allegedly, it is practiced by former navy personnel who retire and/or resign from service life – as you have!

153. POINT OF ORDER

The Committee considered a request for the following Point of Order:-

Parish Council meetings are the proper forum for discussion of Council business and Council business should be dealt with at these meetings.

Councillors should take part in discussions at these meetings, if they so wish, and not sit in relative silence, recording events, to subsequently write letters attacking fellow Councillors and Committees, making allegations of improper conduct.

If a Councillor wishes to write to others on matters directly relating to Parish Council business, they should not require that the letter be withheld from other Councillors.

RESOLVED: That the Point of Order be accepted in full by the Parish Council adopted accordingly.

Whitfield Parish Council

From: "Whitfield Parish Council" <whitfieldpc@btconnect.com>
To: "Jeff Goodsell" <jeff.goodsell@ntlworld.com>; "Keith Barraclough" <keith562@msn.com>; "Brian Binfield" <RSSbwb2000@aol.com>; "d.ditcher" <d.ditcher@btinternet.com>; "Carrol Moore" <member@moore200043.fsnet.co.uk>; <steve.osborne@btopenworld.com>; <sarahgowland01@aol.com>; "Salim Rashid" <sal@rashids.freemove.co.uk>
Cc: "pcapper" <pcapper83@talktalk.net>
Sent: 05 February 2009 14:37
Subject: Fw: Whitfield PC - Advice on Councillor behaviour

Paper copies to Cllr Brooks & Cllr Mrs Newport

Councillors

I met with officers at KALC on Tuesday regarding some of the problems being encountered by the Parish Council in recent months. The Chairman has asked that the advice given by KALC be distributed to all members of Whitfield Parish Council. He has asked that any comments be made to him by 10 February in order that the matter can be resolved at the Parish Council meeting.

Regards

Michelle Cooper
 Whitfield Parish Clerk
 ----- Original Message -----

From: Crispin Davies
To: whitfieldpc@btconnect.com
Sent: Tuesday, February 03, 2009 4:11 PM
Subject: Whitfield PC - Advice on Councillor behaviour

Dear Michelle

I refer to our meeting earlier today with Rodney Williamson (County Secretary) following sight of numerous background papers that formed the basis of KALC's "common sense" advice to you. I am writing to confirm that advice that I have checked with Rodney as an integral part of our meeting. The advice, as always, is to the Council as a whole and, as such, KALC has no objection to its advice being circulated to all Councillors.

KALC is of the opinion that, as a number of your Councillors have already said, the quicker this issue is "put to bed" the better - even if a number of your Councillors have different views about the outcome. For a small number of Councillors to continue the issue is likely to result in the PC appearing on the front page of the local press in unfavourable terms, for the public to lose faith and confidence in the PC and for the Council to spend too much time, and financial resources, on the issue to the detriment of its good work on behalf of the community of Whitfield.

To end the issue there is no magic formula as human nature is involved. But it seems sensible to KALC for the Chairman to have a quiet word with all the relevant Councillors to explain that it is in the Council's best interests for the issue to be put to bed irrespective of individual feelings. He may wish to consider using the content of the second paragraph of this e-mail as part of his reasoning.

The Chairman may also wish to explain to individual Councillors that, in KALC's view, the content of the paperwork that we have seen could give rise to:

- Councillors being reported to the Standards Committee of Dover DC for inappropriate comments about other councillors. There may, or may not, be a case to be answered but KALC thinks that there is sufficient evidence for a case to be made.
- Individual councillors may feel that they wish to take private legal action for defamation by another councillor.
- Further exchanges between the councillors involved can only lead to an increased chance of action outlined above.

KALC hopes that, when councillors see the potential consequences of their actions to date, they may reconsider their positions and allow the issue to end. However this is up to the individual councillors concerned. Continuance of this issue is likely to bring the reputation of the whole council into disrepute.

Crispin

Crispin Davies
Acting Local Councils Adviser
Kent Association of Local Councils

Email: adviser@kentalc.gov.uk
Telephone: 01303 248252
Fax: 01303 258011
www.kentalc.gov.uk

264. EXCLUSION OF THE PUBLIC

RESOLVED: That in view of the confidential nature of the business about to be transacted, the public be excluded for the next item.

265. KALC ADVICE

The Parish Council considered the advice received from Kent Association of Local Councils on 2nd February 2009 in respect to recent issues.

A vote of confidence in the Chairman was proposed.

RESOLVED: (a) That the advice from Kent Association of Local Councils of 2nd February 2009 be adopted as a reasonable requirement in relation to the Code of Conduct;

(b) That the Parish Council had confidence in the Chairman.

The meeting closed at 9.15pm.

COUNCILLOR P CAPPER
CHAIRMAN

131. **CODE OF CONDUCT**

The Parish Council noted Councillor J Goodsell's report following the conciliation meeting with David Randall, the Standards Committee Monitoring Officer.

Councillor K Gowland asked that it be recorded in the minutes that he was not afforded the right of reply.

The Parish Council considered a proposed amendment to the Parish Council's Standing Orders.

The members discussed actions that could be taken to bring to a conclusion recent issues regarding the conduct of certain Councillors.

RESOLVED: That the following paragraphs be added to the Parish Council's Standing Orders:-

17. **Conduct**

All Members must observe the Code of Conduct adopted by the Parish Council and any resolutions passed by the Parish Council regarding the conduct of members.

- a) Members shall always conduct themselves in a way that upholds the good reputation of the Parish Council. No Member shall willfully obstruct business, or behave irregularly, offensively, improperly or in such a manner as to scandalize the Council or bring it into contempt, ridicule, or disrepute.
- b) No Member shall at a meeting persistently disregard the ruling of the Chairman.
- c) If, in the opinion of the Chairman, a Member has broken the provisions of paragraph (a) or (b) of this Order, the Chairman shall express that opinion to the Council and thereafter any Member may move that the Member named be no longer heard or that the Member named do leave the meeting, and the motion, if seconded, shall be put forthwith and without discussion.
- d) If either of the motions mentioned in paragraph (c) are disobeyed, the Chairman may adjourn the meeting or take such further steps as may reasonably be necessary to enforce them. The Meeting may be abandoned and a new date fixed for the Meeting and the named Member be excluded from attending
- e) If, in the view of any Member present, the Chairman at a meeting contravenes paragraph (a), the Member shall inform the Council or Committee accordingly. Subsequently, any Member present may propose that the Chairman should be asked to stand down from that position for the remainder of the Meeting. If the motion is seconded, it will be put to the vote immediately and without debate. The Chair will then be taken by the Vice-Chairman if present. If not, then a Chairman shall be elected for the remainder of the Meeting by the Members present.

- f) In the event of a General Disturbance, the Chairman may adjourn the Meeting for as long as he considers expedient.

The meeting closed at 9.10pm.

COUNCILLOR P CAPPER
CHAIRMAN

Whitfield Parish Council

From: "d.ditcher" <d.ditcher@btinternet.com>
To: "pcapper" <pcapper83@talktalk.net>
Cc: "Jeff Goodsell" <jeff.goodsell@ntlworld.com>; "parish council" <whitfieldpc@btconnect.com>
Sent: 23 August 2009 10:03
Subject: Binfield.

Having received another insulting letter on Friday from Binfield I reported the matter to the police. The police made an appointment with me to be interviewed at 0800 today. Following that interview with PC Harris, Binfield was then interviewed immediately at 0845 in the presence of his wife. The result of that interview was that Binfield was warned as to his future conduct and that such correspondence from him was to stop or they would take the matter further.

Just for the record.
David Ditcher.

for October had been cancelled.

The Parish Council considered attendance at the Dover CPRE Committee AGM, to be held at Eastry Village Hall on 3rd October 2009.

RESOLVED: a) That the reports from representatives be noted;
b) That Councillor L Brookes and Councillor J Goodsell should attend the Dover CPRE Committee AGM as an approved duty.

168. ANNUAL TOWN & PARISH LIAISON MEETING 2009

The Parish Council considered Dover District Council's letter of 17th August 2009 requesting topics for presentations at the Annual Town and Parish Liaison meeting due to be held on 11th November 2009. Suggestions for topics were put forward.

RESOLVED: That Dover District Council be advised of the Parish Council's suggestion of 'Traffic Issues' and 'Footpaths' as topics for the Annual Town and Parish Liaison meeting.

169. DOVER HOSPITAL

The Parish Council considered the Chairman of the New Hospital for Dover Campaign's email of 10th August 2009 requesting support for the campaign.

RESOLVED: That a letter be sent to the Chairman of the New Hospital for Dover Campaign, advising him of the Parish Council's continued support.

170. CONDUCT

In accordance with Standing Order No, 17, the Chairman brought to the attention of the Parish Council a further incidence of Councillor D Ditcher receiving a letter from Councillor B Binfield, this time addressed to Mr and Mrs Ditcher. Councillor Ditcher advised that the matter had been referred to the police and action had been taken. Councillor K Gowland advised that he had spoken with Councillor B Binfield about the possibility of a reconciliatory meeting. He reported that Councillor Binfield had indicated that he would not attend a meeting if that was chaired the Parish Council Chairman.

RESOLVED: That the Parish Council should report this and previous incidents to the Standards Committee for investigation.

171. ANY OTHER BUSINESS

The Parish Clerk read out a letter from Langdon Parish Council expressing thanks for the messages of sympathy and support following the death of the Council's Chairman, Councillor Mrs P Macintyre.

The meeting closed at 9.45pm.

COUNCILLOR P CAPPER
CHAIRMAN

MEMO

To: Michelle Cooper – Parish Clerk.

From: Councillor - Brian W Binfield

Date: 07 February 2009

Re: Request for Further and Better Particulars of:-

1. Email - from yourself dated 05/02/2009 at 14:37 with attachment from KALC dated 03/02/2009

**Copy: Councillors – Peter Capper, Keith Barraclough, Laurence Brooks, Keith Gowland, Carrol Moore, Jill Newport, Steven Osmond, Salim Rashid. David Ditcher.
(Michelle – please provide a hard copy for Cllr Brooks – thank you).**

1. Thank you for your email.
2. I assume that my 'Statutory Rights' will not be affected within the discussions of Agenda items 14 & 15. Please confirm.
3. Please confirm that minutes will be taken at this meeting to cover agenda items 14 & 15.
4. I find the request by Cllr Capper that any comment's that are to be made – are made by the 10 February 2009 to be somewhat short notice and restrictive (5 days). I would require at least that amount of time to consider replies to my questions alone.

I further assume that Crispin Davies comments to Peter Capper are 'off the record' when he indicates that:

'the chairman has a quiet word with all relevant councillors' – please confirm!

5. Therefore I am advised – that because of the legal implications and the ramifications those and any/all questions regarding my memo dated 14 January 2009 items 1 – 10 will not be answered.
6. I find it difficult to understand that Peter Capper will be un-biased in this matter. He is implicated within these issues and as such he must be bias.

Therefore I suggest an independent chairman to deal with this matter.

7. Failure (or the non-event) of No.4 above will only **not resolve** matters but will be a farcical 'fait accompli' and not solve any/all the underlying issues.

8. I have read your email and the opinion of KALC dated 03 February 2009. In order for me to consider the contents of your email and their opinion, and subsequently consider the request of Cllr Peter Capper. I respectively request '**further and better particulars**' and '**precise clarification**' on the following questions taken from those documents.

9. **Ref: Your email dated 05/02/2009**

Please quantify clearly and precisely the meaning of

1. ***'Some of the problems being encountered by the Parish Council in recent months'***

10. As you were at the meeting with Crispin Davies **Ref: email dated 03/02/2009.**

a) Please quantify the following comments made within his email clearly and precisely – what are:

Numerous background papers

b) What is the:

Common Sense advice to you

c) Who are and how many councillors have said

The quicker this issue is 'put to bed' the better

d) Please confirm that Crispin Davies is only speculating regarding

PC appearing on the front page of the local press in unfavourable terms – for the public to loose faith and confidence in the PC etc etc

11. Please confirm within your response of all the above questions – the names of all the other councillors and any/all comments that are made for information purposes.

12. Please acknowledge receipt of this memo.

**WHITFIELD PARISH
COUNCIL**

Memo

To: Cllr B Binfield

From: Michelle Cooper

CC: Cllr P Capper, Cllr K Barraclough, Cllr L Brooks, Cllr D Ditcher, Cllr J Goodsell, Cllr K Gowland, Cllr Mrs C Moore, Cllr Mrs J Newport, Cllr S Osmond & Cllr S Rashid

Date: 10/02/2009

Re: Advice given by the Kent Association of Local Councils on 3 February 2009

I acknowledge receipt of your email of 9 February 2009 and attached memo dated 7 February 2009.

In answer to point 2, whilst I cannot predict the content of the discussions at tomorrow's Parish Council meeting I can see no reason why your statutory rights should be affected by any aspect of your role as a Parish Councillor.

The meeting will be fully minuted as any other meeting. Please note the role of minutes is to record the resolutions made by the Council, with a little background details for clarity where needed, not to record the proceedings 'Hansard' style.

Whilst I cannot speak for Mr Davies regarding point 4., I understood him to mean 'an informal conversation'. I do not see that anything further should be read into his choice of words.

Your suggestion that an independent chairman be elected for the relevant part of the meeting is a matter for the Council to resolve. I suggest you make this proposal at the meeting.

In response to your question in point 9 of your memo, I believe the problems being encountered are plain to see. There would seem to be an air of mistrust and suspicion between some members, which began with the Barriers issue but has now gone beyond this. It is my opinion that this is adversely affecting the Council. Valuable time is being taken up at meetings covering old ground and time and money is now being spent in dealing with the steady flow of correspondence etc. It is my personal opinion that until the Council can work as one once more, it is not doing its best for the people of Whitfield. This Parish Council has always had a good reputation as being non-political and proactive in providing for the community it serves in a way that actively improves quality of life, be it by providing play equipment or lobbying for improved bus services. I would hope that this can continue.

10 (a) KALC has copies of all correspondence relating to and subsequent to the decision of the Dover District Standards Committee received in December 2008. This documentation has been dealt with 'in confidence' as one would expect of a professional body of this nature.

10 (b) The 'common sense' advice given is that laid out in Mr Davies' email.

10 (c) I believe Mr Davies is referring to the comment made by Councillor Rashid which you quote in your memos of 14 September 2008 and 14 January 2009.

10 (d) Mr Davies is highlighting a potential risk if the current situation were to continue. I know of no one with any plan to bring this to the attention of the local media.

Whilst some of the comments contained in this memo are my personal opinion and are, therefore subjective, my professional advice would be for the Council to formally accept the findings of the Standards Committee and those individual Councillors involved put the matter behind them, in order that the Council can move forward in a positive manner and we can avoid it being brought into disrepute.

Regards

Michelle Cooper

PARISH CLERK

Michelle Cooper
PARISH CLERK

MRS JUNE DITCHER
17 ANSON CRESCENT
WHITFIELD
KENT CT 16 3LN

26/2/10



Dear Mrs Kisiel,

As requested by Colleen Kisiel I write to confirm that on Friday 21st August 2009 I opened a brown envelope addressed in bold type to 'Mr + Mrs David Ditcher'. The envelope is dated 20th August and is still in my husbands possession.

I was shocked to read the contents of the letter and could not stop shaking. My husband said that enough was enough and he would contact the police.

On Sunday 23rd August P.C Harris came and spoke with my husband and I. As we had involved the police I was very worried that CUR Binfield would call round and become violent and I told P.C. Harris of my concerns.

The letter has had such an affect on me that I now feel very wary on opening our post or answering the door

Faithfully
June Ditcher

Telephone conversation with PC Harris
27 April 2010

PC Harris confirmed he attended the complaint made by Cllr Ditcher, who showed him several letters. These contained references which were of an homosexual nature, but were not directly threatening.

The call appeared to him to be about two people who did not get on with each other.

He advised both parties that they should desist from any direct contact with each other. He advised that concerns of a libellous / defamatory nature should be addressed through solicitors. One party had already involved solicitors.

At that time, there was nothing PC Harris considered to be of a criminal nature, but he stated that the police do treat homosexual crime seriously.

Colleen Kisiel
Governance Investigator
27 April 2010.

Q&A

Paragraph 2

Q11: Do private discussions about authority business come under “official capacity”?

The Standards Board for England is likely to view any private discussion of authority business, either with members or with the authority’s officers, as carrying out the business of the member’s office.

Only where there is very clear evidence that the conversation was not concerned with performing authority business will it fall outside paragraph 2(1) of the Code of Conduct.

Q12: Could the Code of Conduct apply when the member is abroad?

Yes. It is quite possible that the member could be acting as a representative of the authority on an official visit abroad.

Q13: When does the Code of Conduct cease to apply?

The Code no longer applies when members leave office, either by resignation, disqualification or the expiry of their term of office.

A member suspended from holding office in their authority by a case tribunal under Section 79(4)(a) of the *Local Government Act 2000*, or by a standards committee in accordance with regulations issued under

Section 66 of the *Local Government Act 2000*, will be unable to take part in the formal business of the authority during the period of suspension.

However, the Standards Board for England’s view is that a suspended member can continue with ward business, such as receiving representations from ward residents. Therefore, a suspended member can still act, in these limited circumstances, in an “official capacity”.

The landmark ruling in the case of Ken Livingstone v the Adjudication Panel for England [2006] EWHC 2533 (Admin) gave clearer guidance about where activities could be regarded as being carried out in an “official capacity”, and so subject to the Code. The implications of the Livingstone decision are discussed in the Q&A section for paragraph 5 on page 53.

Q14: Could a conflict ever arise for members between their duty to comply with the Code and their lawful obligations to a body on which they serve as representatives of the authority?

In the view of the Standards Board for England this rarely occurs.

Members who represent their authority on other bodies – except for relevant authorities – are expected to comply with the general obligations contained in Part 1 of the Code.

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You're Ref:

Our Ref:

26 May 2010

Ms Colleen Kisiel
Governance Investigator
Dover District Council
White Cliffs Business Park
DOVER
Kent
CT16 3PJ

Dear Ms Kisiel,

Re: SC023

In response to your letter dated 20 May 2010.

Preamble

I believe that this is an act of some extraordinary aggression and lies by the complainant(s).

If a current serving Police Officer is to be believed – the summary/recording of the telephone conversation with PC Harris by Colleen Kisiel should also be believed (see appendix 35). It clearly identifies the following comments: -

- i. ...but were not directly threatening.
- ii. ...the call appeared to him to be about two people who did not get on with each other.
- iii. but more importantly it identifies that DD has lied or fabricated the truth to wpc. Whereon PC Harris has never mentioned that BB has been warned as to his future conduct with regards to contact with DD.(see interview with DD 25/02/10.
- iv. DD has previously indicated to wpc that BB has been warned off - again lies and fabrication by DD. This has never happened!
- v. DD has signed Appendix 2 on the 04 March 2010 as an accurate representation of the interview he had with CK. In my opinion his signature indicates that he has lied and fabrication the truth.

(see DD Appendix 2) – I also require the following:

- i. para 17 - require other witness statements from councillors and PCSO) as to precisely what happened on that day!
- ii. Para 20 – how can DD confirm that as far as he is concerned – his comment of – ‘no one knows’ is a presumption - what about the Police Officer!
- iii. Para 16 - define stood over – My contemporaneous notes indicated at least 6-8 meters away
- iv. **Note** – all comments were made before chairman opened the wpc meeting!

- v. May I also bring to your attention email from DD dated September 19 2008 (copy attached for ease of reference) identifying the underlying threat of...'

(this will of course be in the form of a hard copy – delivered to your office today).

'He should also carefully consider whether or not he wishes to remain a member of this Parish Council'

DD also indicated that I should be given every encouragement to take my complaints to the Standards Board...

It seems I can't win!!

Initial Response

I'm a little surprised that within the disclosed documents that I have received from you at our last meeting there is no statement/report from the chairman of Whitfield Parish Council Peter Capper. This appears to be yet another opportunity missed to bring this matter through to a successful conclusion by Peter Capper and WPC.

May I again bring to your attention my letter dated 30 March 2010 Ref: - CK/bwb/03/10 whereon it stated...

- a) **Para 32** – *please add.....Cllr Capper would only attend a meeting to bring this matter through to a conclusion only if he could be chairman of that meeting.*

To reiterate that comment my third party representative attended a full Whitfield Parish Council meeting whereon Peter Capper was approached and was told that I have offered to meet with them to narrow all issues. His response (I am told) was – if he could not chair the meeting – it wouldn't take place.

A line of communication was opened by myself but not pursued by the Whitfield Parish Council Chairman. It's also my considered opinion that he doesn't want true settlement of this matter.

In any event I reserve the right to re-visit this/my response if there is a statement and/or correspondence submitted by Peter Capper after the date of this letter.

Hearsay Evidence

A majority of the documentation submitted by wpc is deemed to be **'Hearsay Evidence'**. (see **burden of proof below**) . As a rule hearsay evidence is not admissible. It is evidence of not what various witnesses know themselves but what they have heard from others: -

This includes your own personal comments at: -

4.2.4/4.3.5/4.4.2/4.5.7/5.1.1.5/5.1.3.3/5.1.3.4/5.2.5.1/

WPC No's - 4.3.1/

Appendix No's 2/6/14/20/21/23/24/25/34. (request to be taken out)

Appendix No.2 - 95% hearsay

Appendix 12 - Cut and pasted – not acceptable

Appendix 11 – Without Prejudice – not to be used.

Appendix 10 - linked to above

Appendix 8 – An applied assertion

Therefore the items shown above should be removed from this bundle.

Letters to David Ditcher

Ms Kisiel indicated to me that **'In her opinion'** the letters are deemed to be wpc business.

I'm informed by Ms Kisiel – that she took advice as to the validity of letters/memo to David Ditcher in this matter. I'm further informed by Ms Kisiel that references to previous letters that contained items such as – 'further to a previous wpc meeting' that indeed they are deemed council business! Please be advised that council business has never been discussed within those letters – but various incidents have been referred to.

Beyond reasonable doubt in this matter is not called for – neither is a high standard of proof - the standard of proof required is by the **'preponderance of the evidence'**. Or proof by clear and convincing evidence. Both are lower burdens of proof than beyond a reasonable doubt. Clear and convincing evidence is evidence that establishes the truth of this disputed fact by a high probability. The memos sent to David Ditcher – were clearly marked **David Ditcher (only)** – and any/all letters marked as such should not be used in this matter. The burden or quantum of proof **has been** established and a preponderance of the evidence simply means that I have shown more evidence in its favour than the other, even by the smallest degree.

Geoff Goodsell's statement

In my opinion all of the comments within Mr Goodsell's statement are deemed 'implied assertions' and unless there is strict proof to substantiate his assertions it follows that implied assertions and all documentation from Geoff Goodsell's should be dismissed the same as the hearsay rule.

Information Requirement(s)

At our last meeting I requested the following evidence to be provided forthwith, to support the comments regarding personal distress caused to councillors and their families, I require the following information immediately..

1. Specific medical evidence regarding the personal distress caused to councillors and their families – identifying:-
 - a. Signed/written and dated (dated prior the complaint document being submitted to DDC) approval from the councillors and their families that wpc has approval to indicate within the complaint document that the complainants (wpc) are acting on their behalf in this matter.
 - b. Evidence substantiating the severity of their distress – identifying with particular clarity the precise times and dates of the distress – if at all.
 - c. A complete medical report of all the councillors and their families identifying their personal health condition **prior** the complaint document being written (at least 12 months).
 - d. With particular clarity please provide evidence substantiating the nature and type of the distressed caused.
 - e. A complete medical report of all the councillors and their families identifying their personal health condition **after** the complaint document being written.
 - f. A report identifying any/all previous medical negligence claims including cerebral palsy, birth injury claims, surgical errors, GP errors, cosmetic surgery, anaesthetic awareness, cosmetic surgery gone wrong, misdiagnosis, public and private Inquires and inquests, and their sexual persuasions.

Note: - In my opinion - WPC claim for distress in this matter can only be successful if they can prove they have sustained some damage! Damage and distress is frustrating as they are pre-requisites in this matter – and not something that you can add-on after! Basically there is no evidence to substantiate distress – and if that is proved to be the case (which I think it will be) I respectively request that this part of their claim is struck out.

2. I also asked for copies of a risk assessment – please provide.

3. Geoff Goodsell indicated within his statement my lack of attendance at meetings – please provide dates and times.

Complainants Contribution

The complainants have contributed to this matter extensively and are 100% responsible.

1. Both David Ditcher and Peter Capper have refused to discuss damage limitation.
2. Peter Capper has chosen not to take the advice of the KALC
3. Peter Capper has refused to vacate the chair of a/any meeting to narrow all issues that are involved and has failed to abide by his responsibilities.
4. To date = Peter Capper has chosen not to contribute to these documents.

Summary

I understand that your letter dated 20 May 2010 is in draft form only and hopefully our meeting at 9:30am on the 11 June will narrow issues even further. My comments above do require further clarification which I find difficult to do within this email – but I'm sure they will become clearer at our next meeting.

Best Regards

Brian Binfield

BWB

From: BWB [bwb@rssonline.co.uk]
Sent: 02 June 2010 18:36
To: bwb@rssonline.co.uk
Subject: FW: Cllr Binfield.

Yours sincerely

Brian W Binfield - FCIOB Dip HI Building Consultant
 Regional Surveying Services Ltd - Chartered Builders
 and Surveyors

Web: Visit our site at <http://www.rssonline.co.uk> for further details of our services.
 Email: bwb@rssonline.co.uk
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From: d.ditcher [mailto:d.ditcher@btinternet.com]
Sent: 19 September 2008 19:34
To: RSSbwb2000@aol.com
Subject: Fw: Cllr Binfield.

----- Original Message -----

From: d.ditcher
To: [parish council](#)
Cc: [Jeff Goodsell](#) ; [pcapper](#) ; [keith Barraclough](#)
Sent: Friday, September 19, 2008 12:02 PM
Subject: Cllr Binfield.

Michelle. I am in receipt of Cllr Goodsell's e mail but am unable to access the attachment. However, I would support his proposal for an extraordinary meeting, preferably held in camera, but members should ensure that all questions and answers be directed through the Chair and members do not allow themselves to be dragged in to a slanging match.

Cllr Binfield's letter, of which I have a copy, should be made available to all Councillors as it concerns us all. It attacks our Chairman and Vice Chairman. It attacks the Recreation Committee of which I am a member and take great exception to his remarks. He threatens to report the Recreation Committee to the Standards Board.

This letter does not reflect well on Cllr Binfield and he should be given every encouragement to take his complaints to the Standards Board as he threatens. He should also carefully consider whether or not he wishes to remain a member of this Parish Council.

I have no objection to this e mail being forwarded to other interested parties.

Yours.

Comments on letter from Cllr Binfield dated 26 May 2010Appendix 35, notes of conversation with PC Harris

At the time of the telephone conversation, PC Harris was in court, and did not have access to his notes of the incident. He was therefore unable to confirm exactly what he might have said at the time to Cllr Binfield or Cllr Ditcher.

Cllr Binfield was not present when PC Harris made his second call on Mr Ditcher to report back on the conversation he had with Cllr Binfield, and so he is not in a position to accuse Mr Ditcher of lying in his statement.

Appendix 2 – Summary of interview with David Ditcher

The difference between Cllr Binfield and Mr Ditchers account of the incident referred to is whether or not the conversation took place with Cllr Binfield standing over Mr Ditcher, or at some distance from him. Both confirm that the conversation as outlined in the Memo dated 8 June did occur. In Appendix 3, the summary of his meeting with the Governance Investigator, Cllr Binfield stated the distance to be 10 ft / 3 meters. In this letter, and that at Appendix 25, (para4), the distance is noted at 6-8 meters.

Cllr Binfield's quote from David Ditcher's email dated 19 September 2008 was in connection to allegations against the Chair of the Parish Council, which resulted in Cllr Binfields complaint against Cllr Capper to the Standards Committee, SC010. I have included it as part of Cllr Binfields response, but I did not consider it relevant to this case.

Statement from Cllr Capper

Cllr Capper has confirmed verbally that Cllr Binfield has previously declined to attend any reconciliatory meeting which he Chairs. Consequently, he has not attempted to arrange a meeting with Cllr Binfield & Cllr Ditcher. He has also stated that he was upset that his integrity as chairman was brought into question but a vote of confidence fully backed him.

The only firm evidence produced to show any attempt at a reconciliatory meeting is per the Parish Council resolution on 8 Sept 09 which also refers the matter to the Standards committee for resolution.(Appendix 31).

Hearsay evidence

Paras 4.2.4, 4.3.5 and 4.4.2 are all evidences by appendices.
One opinionated word has been deleted from para 4.3.5.

Paras 5.1.1.5, 5.1.3.3, 5.1.3.4, 5.2.5.1 are part of my conclusions and remain unchanged.

4.3.1, remains unchanged – it re-iterates the reason for the complaint.

Cllr Binfields objection to the use of Appendix 11 noted. All the appendices will remain in the Final Report as I consider them to be appropriate to evidence the case, and they were disclosed as part of the complaint

Appendix 12 is as it was received with the complaint documentation.

Cllr Binfields comments on the level of evidence are noted.

Cllr Goodsells statement

Cllr Goodsells statement remains unaltered.

Information requirements

I have considered Cllr Binfields request for additional information to be included in the report. With respect to the medical evidence, I consider that the degree of evidence requested is unnecessary and disproportionate. Evidence from Mrs Ditcher confirming her distress has been obtained, yet Cllr Binfield has requested this is removed from the evidence bundle. The purpose of the investigation is to discover whether or not the Code of Conduct has been breached, within the guidance framework provided by the Standards Board, and not to gather evidence to the level required in compensation claims.

The risk assessment referred to is in respect of the installation of access barriers around the playing fields, and was requested to show Cllr Binfields professional competence. I do not consider this to be relevant to this investigation.

The report includes a note of two meetings Cllr Binfield did not attend – see paras 4.4.1 & 4.4.3. This is relevant to the investigation as both times, the Parish Council was attempting to take steps to rectify poor behaviour. Cllr Binfield's overall attendance record is not relevant to the investigation.

Complainants Contribution

These comments record Cllr Binfield's opinion on the role played by others.

Colleen Kisiel
Governance Investigator