



Standards Committee - Parish Hearing Sub- Committee

Agenda and Reports

For consideration on

Tuesday, 1st July 2008

In the Council Chamber, Town Hall, Chorley

At 9.30 am



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20 June 2008

Dear Councillor/Colleague,

**STANDARDS COMMITTEE - PARISH HEARING SUB-COMMITTEE -
TUESDAY, 1ST JULY 2008**

You are invited to attend a meeting of the Standards Committee - Parish Hearing Sub-Committee to be held in the Council Chamber, Town Hall, Chorley on Tuesday, 1st July 2008 commencing at 9.30 am.

AGENDA

1. **Welcome and Introductions by the Chairman**
2. **Apologies for absence**
3. **Declarations of Any Interests**

Members are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda. If the interest arises **only** as result of your membership of another public body or one to which you have been appointed by the Council then you only need to declare it if you intend to speak.

If the personal interest is a prejudicial interest, you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

4. **Report into Alleged Breaches of the Code of Conduct (Pages 1 - 14)**

To consider and determine the report of an investigation under Section 59 of the Local Government Act 2000 by Carol Russell, Head of Democratic Services, Chorley Council into an allegation concerning Parish Councillor Rod Fraser (Astley Village Parish Council).

The pre-hearing process summary and the report of the Investigating Officer are enclosed.

- a) **Findings of Fact**

To make the findings of fact.

- b) **Breach of the Code**

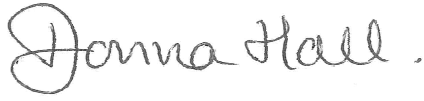
To determine whether there has been a breach of the Code of Conduct.

c) Decision of the Committee

To confirm the decision of the Local Hearing Sub-Committee.

Please note that the hearing will be held in public, but the press and public may be excluded at any point during the meeting in accordance with the provisions of Part 1 of Schedule 12A to the Local Government Act 1972.

Yours sincerely



Donna Hall
Chief Executive

Ruth Hawes
Assistant Democratic Services Officer
E-mail: ruth.hawes@chorley.gov.uk
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Distribution

1. Agenda and reports to all Members of the Standards Committee - Parish Hearing Sub-Committee (Mr Ellwood (Chair), Councillor Keith Iddon (Borough Councillor) and Mrs Joan Geddes (Parish Council representative) for attendance.
2. Agenda and reports to Christopher Moister (Legal Services Manager) and Ruth Hawes (Democratic Services) for attendance.
3. Agenda and reports to Rod Fraser (Astley Village Parish Council) for attendance.
4. Agenda and reports to Carol Russell (Investigating Officer) for attendance.

This information can be made available to you in larger print or on audio tape, or translated into your own language. Please telephone 01257 515118 to access this service.

આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپ کی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

01257 515823

کیجئے:

Report into Alleged Breaches of the Code of Conduct

Relevant authority concerned:
Astley Village Parish Council

Name of members who the allegation has been made about:
Parish Councillor Rod Fraser

Name of person who made the allegation:
Clerk to Astley Village Parish Council on behalf of Astley Village Parish Councillors.

SBE reference number:
SBE 20371.07

Names of standards committee members:
Chairperson: Mr. Tony Ellwood (Independent Chair)
Member: Councillor Keith Iddon (Borough Councillor)
Member: Joan Geddes (Parish Council Representative)

Name of legal adviser to the standards committee:
Chris Moister (Legal Services Manager)

Name of investigator:
Carol Russell (Head of Democratic Services, Chorley Borough Council).
The Investigating Officer will be in attendance at the Hearing.

Name of clerk of the hearing:
Ruth Hawes (Assistant Democratic Services Officer)

Date the pre-hearing summary was produced:
18 June 2008

Date and venue for the hearing:
Tuesday, 1 July 2008, in the Council Chamber, Town Hall, Market Street, Chorley commencing at 9.30am.

The Allegations

The allegations are as follows:

Complaint 1

Councillor Fraser breached the Code of Conduct as a result of his behaviour during an incident at a meeting of the Parish Council on 7 November 2007 involving a police officer

Complaint 2

Councillor Fraser breached the Code of Conduct as a result of his behaviour during an incident at a meeting of the Parish Council on 5 September 2007

The Code of Conduct

Councillor Fraser is alleged to have failed to comply with Astley Village Parish Council's Council's code of conduct under the following paragraphs:

Paragraph 3, which states:

You must treat others with respect

Paragraph 6, which states:

You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage

Paragraph 5

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

Allegation One

The Findings of Fact that are agreed

The fact that the incident between Sergeant Walton and Councillor Fraser took place is not in dispute. Interviews with a total of four other councillors (Councillor Lawson was not present for this part of the meeting) confirm the details of the incident. Other exchanges during meetings of the Parish Council since Councillor Fraser was elected in May 2007 show that he is still new to the role and by his own admission is still learning. He clearly struggles with the amount of paperwork.

The Findings of Fact that not are agreed

Paragraph 6.1 from the report of the investigating officer:

"The Code of Conduct guidance states that, "individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers".

Councillor Fraser admits his behaviour was unacceptable and did apologise in writing to Sergeant Walton the following day. However his insistence in continuing a personal

attack against an officer; the threatening and aggressive nature of his behaviour; calling Sergeant Walton a liar on two occasions cumulatively show a clear lack of respect.

The investigating officer found that Councillor Fraser breached paragraph 3 of the Code of Conduct as a result of his behaviour towards Sergeant A Walton at a meeting of Astley Village Parish Council on 7 November 2007 by not treating him with respect.”

Response from Councillor Fraser:

Reasons for disagreeing with the findings of fact provided in that paragraph:

“There is no reason of “fact” that I was “threatening and aggressive”. Sgt Walton was on duty – why did he not arrest me? Because there was no threat!”

Suggestion as to how the paragraph should read:

“Sgt Walton was waiving his finger at me and made threatening comments towards me. See your own report for the truth of this. So I told him to stop threatening me. And I told him to leave the room if he carried on threatening me”.

Paragraph 6.3 from the report of the investigating officer:

Reasons for disagreeing with the findings of fact provided in that paragraph:

“If the Standards Board saw no reason to charge me with this then it should not be included”.

Suggestion as to how the paragraph should read:

“Not guilty”

Allegation Two

No comments were made by Councillor Fraser.

Representation

Councillor Fraser has indicated that he does not wish to have any representation at the hearing.

The Proposed Procedure for the Hearing

At the Hearing the Chairman will introduce all those present and outline the procedure for dealing with the Hearing.

The Committee will then consider the “Findings of Fact” and will consider whether or not there are any significant disagreements about the facts contained in the Investigators report.

If there is no disagreement about the facts, the committee can move on to the next stage of the hearing. If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee’s permission, the investigator may call any necessary supporting witnesses to give evidence. The committee may give the member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The member should then have the opportunity to make representations to support his or her version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence. At any time, the committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.

If the member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

If the member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:

1. continue with the hearing, relying on the information in the investigator's report;
2. allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
3. postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.

The committee will move to another room to consider the representations and evidence in private.

On their return, the Chair will announce the committee's findings of fact.

Did the member fail to follow the Code?

The committee then needs to consider whether or not, based on the facts it has found, the member has failed to follow the Code of Conduct.

The member should be invited to give relevant reasons why the committee should not decide that he or she has failed to follow the Code. The committee should then consider any verbal or written representations from the investigator. The committee may, at any time, question anyone involved on any point they raise in their representations. The member should be invited to make any final relevant points. The committee will then move to another room to consider the representations.

On their return, the Chair will announce the committee's decision as to whether or not the member has failed to follow the Code of Conduct.

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

If the committee decides that the member has not failed to follow the Code of Conduct, the committee can move on to consider whether it should make any recommendations to the authority.

If the member has failed to follow the Code

If the committee decides that the member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the member as to:

1. whether or not the committee should set a penalty; and
2. what form any penalty should take.

The committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

The committee will then move to another room to consider whether or not to impose a penalty on the member and, if so, what the penalty should be. On their return, the Chair will announce the committee's decision.

Recommendations to the authority

After considering any verbal or written representations from the investigator, the committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

The written decision

The committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing.

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Local Government Act 2000

Report into Alleged Breaches of the Code of Conduct

Case No: SBE 20371.07

Member: Parish Councillor Rod Fraser

Council: Astley Village Parish Council

Date Case Referred to Monitoring Officer: 10 December 2007

Date of report: 8 April 2008 (revised 13 May 2008)

1. The Allegations

- 1.1 On the 10 December 2007 an Ethical Standards Officer of the Standards Board for England referred for local investigation, allegations made against Councillor Fraser that he had breached the Code of Conduct of Astley Village Parish Council. The allegation had been made by the Clerk to Astley Village Parish Council on behalf of Astley Village Parish Councillors.
- 1.2 Astley Village Parish Council alleged that
- Councillor Fraser had breached the Code of Conduct as a result of his behaviour during an incident at a meeting of the Parish Council on 7 November 2007 involving a police officer (**Complaint 1**); and
 - That he also breached the Code of Conduct as a result of his behaviour during an incident at a meeting of the Parish Council on 5 September 2007 (**Complaint 2**).

2. The Code of Conduct

- 2.1 Members of Astley Village Parish Council are bound by a Code of Conduct which follows the Model Code for Parish Councils. For the purposes of this investigation the important provisions identified by the Standards Board in their referral are:

Paragraph 3, which states:

You must treat others with respect

Paragraph 6, which states:

You:

- a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage

The Parish Council also alleges in its original complaint, breach of **Paragraph 5** which states:

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

3. The referral for investigation

- 3.1 The original allegations of Astley Village Parish Council were in three parts, two of which were referred for local investigation as stated in paragraph 1.2 above, the third element of the original complaint does not require investigation. I have restricted my investigation to the two incidents referred to in paragraph 1.2 above and have not considered any other matter.
- 3.2 During the course of my investigation into this case I have interviewed the following people and am most grateful for the courtesy and assistance shown.

Debra Platt, Clerk to Astley Village Parish Council
Parish Councillor R Fraser
Parish Councillor A Cains (Vice Chair of the Parish Council)
Parish Councillor J Lawson (Chair of the Parish Council)
Parish Councillor M Perks
Parish Councillor L Lennox
Parish Councillor C Bates

Unfortunately I was unable to interview the police officer involved, Police Sergeant A Walton due to his long term sickness absence from work. Whilst it would have been useful,

I do not believe it is essential to the investigation as the facts appear to be clear and undisputed.

4. Astley Village Parish Council

- 4.1 Astley Village Parish Council has a total of 10 Parish Councillors. Most members are long serving and the Parish Council is an active one having recently achieved 'Quality Parish' status. Three of the Parish Councillors also serve as Borough Councillors. The Parish Council has a comprehensive website with a range of governance documents available to download, including the Code of Conduct.
- 4.2 Councillor R Fraser is a relatively new Parish Councillor having been elected to the Parish Council in May 2007.

5. Investigation into Complaint 1

- 5.1 Complaint 1 relates to the conduct of Councillor Fraser at a meeting of the Parish Council on 7 November 2007. At meetings of the Parish Council, a representative of the local police attends to report on any local incidents or problems. At this point in the meeting standing orders are suspended to allow the police officer to speak and to allow more open debate between the police and Parish Councillors. However, this still remains a formal part of the meeting. On 7 November Police Sergeant Walton from Chorley attended the meeting.
- 5.2 One aspect of Sergeant Walton's report was the work of a particular Community Beat Manager who had been put onto light duties as a result of her pregnancy, he also informed the Parish Council of the replacement officer.
- 5.3 At this point in the meeting Councillor Fraser asked Sergeant Walton if he had given the officer concerned (the former Community Beat Manager) a reprimand. Councillor A Cain (Vice-Chair) was chairing the meeting and tried to prevent this line of questioning as he considered it was personal. However Councillor Fraser was persistent and Sergeant Walton was willing to answer the question which was "no". Councillor Fraser continued along a similar line of questioning referring to a previous complaint he had made about the officer concerned; referring to a visit that Sergeant Walton had made to his home; and his view that the officer had been 'removed' from the village because of a reprimand. Councillor Fraser appeared to be seeking police acknowledgement that it was his actions that had resulted in the reprimanding of the officer concerned and her removal from village duties. Councillor Fraser denies this.
- 5.4 In response to Sergeant Walton repeating that the officer in question had not been reprimanded but had been put on light duties, Councillor Fraser called him a liar, and was, according to the Parish Council, aggressive and threatening in his behaviour. Sergeant Walton asked Councillor Fraser to please be careful what he said. Sergeant Walton finished his report and as he was on duty, got up to leave the meeting, offering to come back to discuss the matter with Councillor Fraser after the meeting had ended. Councillor Fraser refused this offer again referring to him as a liar. Sergeant Walton asked Councillor Fraser to "be careful". As Sergeant Walton left the meeting, Councillor Fraser following him out and members of the Parish Council who remained in the meeting heard a heated exchange taking place outside the building.
- 5.5 It was during Councillor Fraser's absence that the remaining Parish Councillors passed a resolution to complain to the Standards Board about Councillor Fraser's language and aggressive behaviour. One Parish Councillor claims to have voted against this course of action, however the Clerk has no record of this and does not recall it. Councillor Fraser

returned to the meeting after his exchange with Sergeant Walton and the meeting concluded.

- 5.6 Councillor Fraser has since admitted that his language and behaviour towards Sergeant Walton were unacceptable at the meeting and the following day (8 November 2000) he sent a letter to Sergeant Walton apologising for his behaviour which was copied to the Clerk to Astley Village Parish Council for circulation to the rest of the Council Members.

The content of the letter is as follows:

*“Dear Sgt Andy Walton,
On Wednesday 7th November 2007 you came as a representative of the Lancashire Constabulary to our Parish Council meeting (as you have done on previous occasions) to report on policing issues in our area.*

*To get to the point,
I was rude towards you on two issues
I called you a liar
This was quite unacceptable and I wish to apologise.*

*At no time did I, or do I consider the points raised to be of a personal matter, either towards you or myself (as suggested by another Councillor).
I was of the opinion that as an officer’s work had already been mentioned points could be raised either good or bad.*

*I as a Councillor representing all of the village find myself in a position where I liase with at least 80% of the villages problems, and unfortunately I am in a situation were the criminal element is at its highest in the 3 roads in question.
I am outspoken, I do say things, as they are, all I ask is that we can continue to liase on village issues and as always do the best we can for a safer future.*

*Kind regards
Councillor Rod Fraser”*

Councillor Fraser acknowledged during my interview with him that, whatever his views on a situation, calling a police officer else a liar in a public meeting is not acceptable. He told me that he sought to try and rectify matters by submitting a letter of apology. He wishes to remain on good terms with the local police. He also claims he was under the impression that when standing orders are suspended he speaks as a resident rather than a councillor.

- 5.7 Other facts which came out during interviews with the Parish Clerk and Councillor Fraser which are relevant to the allegation are:
- Councillor Fraser has received a copy of the Code of Conduct, this was supplied to him on 9 May 2007 according to Parish Council records.
 - The new Code of Conduct was discussed at the Parish Council meeting in May when Councillor Fraser was present – this was likely to be his first meeting.
 - Councillor Fraser claims he has read the Code of Conduct but that he doesn’t understand it.
 - Councillor Fraser has been offered training on the Code of Conduct, as were all Councillors on 19th September 2007 but he did not attend. Councillor Fraser claims he wasn’t available on the date but the Parish Clerk has provided a copy of an email to her where Councillor Fraser refuses the training and makes flippant comments.
 - Councillor Fraser has been a parent governor at Buckshaw Primary School since 2006 and is therefore likely to be familiar with formal meetings of a public body. Councillor Fraser feels the two roles are very different and he is currently undertaking a number of training courses for his parent governor role.

6. Finding on Complaint 1

The fact that the incident between Sergeant Walton and Councillor Fraser took place is not in dispute. Interviews with a total of four other councillors (Councillor Lawson was not present for this part of the meeting) confirm the details of the incident. Other exchanges during meetings of the Parish Council since Councillor Fraser was elected in May 2007 show that he is still new to the role and by his own admission is still learning. He clearly struggles with the amount of paperwork.

6.1 Allegation that Councillor Fraser has breached the Code of Conduct by not treating others with respect.

The Code of Conduct guidance states that, "individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers".

Councillor Fraser admits his behaviour was unacceptable and did apologise in writing to Sergeant Walton the following day. However his insistence in continuing a personal attack against an officer; the threatening and aggressive nature of his behaviour; calling Sergeant Walton a liar on two occasions cumulatively show a clear lack of respect.

I find that Councillor Fraser has breached paragraph 3 of the Code of Conduct as a result of his behaviour towards Sergeant A Walton at a meeting of Astley Village Parish Council on 7 November 2007 by not treating him with respect.

6.2 Allegation that Councillor Fraser has breached the Code of Conduct by using or attempting to use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage.

The guidance refers to "using public office for your or anybody else's personal gain or loss eg furthering your own private interests through your position as the member". I do not find that Councillor Fraser's behaviour was for personal gain.

I find that Councillor Fraser did not breach paragraph 6 of the Code of Conduct by using or attempting to use his position improperly to the advantage or disadvantage of himself or anyone else.

6.3 Allegation that Councillor Fraser breached the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

The Parish Council allege the above breach although this is not mentioned in the Standards Board notice of decision. However as investigating officer I have taken the view that this warrants consideration. The Standards Board guide for members refers to breaches under paragraph 5 as "dishonest and deceitful behaviour in your role as a member, may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour".

However the Standards Board's Case Review 2007 states that:

"In general terms, disrepute can be defined as a lack of good reputation and respectability.

In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either:

1. Reducing the public's confidence in that member being able to fulfil their role; or
2. Adversely affecting the reputation of members generally, in being able to fulfil their role.

Conduct by a member which could reasonably be regarded as reducing public confidence in the authority being able to fulfil its functions and duties will bring the authority into disrepute.

In my view Councillor Fraser's behaviour towards Sergeant Walton could be regarded as reducing public confidence in his ability to fulfil the role of Parish Councillor.

I find that Councillor Fraser has breached paragraph 5 of the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

7. Investigation of Complaint 2

- 7.1 The second complaint under investigation relates to an incident at a Parish Council meeting on 5 September 2007 where the Parish Council allege that a more heated and aggressive debate occurred regarding the subject of a youth club. At the start of the meeting Councillor Fraser put a pair of junior boxing gloves on the middle of the table but gave no explanation as to why. Councillor Fraser allegedly called Councillor Perks a liar during the course of debate, would not let Councillor Perks finish what he was saying and there were words of anger to disparage Councillor Perks. The issue related to the provision of a youth club in Astley Village. The youth club ended some years previously because of difficulties in complying with the relevant regulations. Councillor Fraser feels the village should have a youth club and has set up an informal group in a shed in his back garden.
- 7.2 During interview Councillor Fraser agrees that he did place a pair of boxing gloves on the table and he claims that they represented the fight that the Parish Council had lost for its residents.

Some of the other Parish Councillors however appear to have interpreted the gloves as some kind of threat of a fight, particularly in the light of some of the debate that evening. During the debate Councillor Fraser did point at times to the boxing gloves. There were raised voices and a heated exchange, however the interview process has not evidenced this incident as a particularly major one. Most members interviewed struggled to recall the details of the incident although they do recall the presence of the boxing gloves. There were no members of the public present, although the discussion was in a public part of the meeting. This appears to be one of a range of other incidents which may not in themselves be breaches of the Code but constitute inappropriate behaviour by Councillor Fraser at Parish Council meetings.

8. Finding on Complaint 2

- 8.1 **Allegation that Councillor Fraser breached the Code of Conduct by not treating others with respect.**

The guidance states that

"In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect."

Whilst Councillor Fraser's behaviour may have been difficult and his debate aggressive, there is not enough evidence to find a breach of the Code of Conduct.

I do not find that Councillor Fraser has breached paragraph 3 of the Code of Conduct as a result of his behaviour at that meeting by not treating others with respect.

9. Additional comments

During the course of my interviews it has become clear from a number of witnesses interviewed that there are some difficult relationships within the Parish Council. Astley Village Parish Council is without doubt an effective Parish Council. Councillor Fraser was elected in May 2007 and represents what is acknowledged by a number of councillors to be an area of the village not previously sufficiently represented. Councillor Fraser has an evident pride in being a parish councillor, something that was commented on by a number of the people interviewed, however his conduct on a number of occasions has made relationships difficult and effective meetings harder to conduct.

10. Next Steps

This concludes my report of this investigation, a draft was sent to both Councillor Fraser and the Clerk to Astley Village Parish Council and amended to take account of some of the comments received.

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