



# STROUD DISTRICT COUNCIL

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## STANDARDS SUB-COMMITTEE

Tuesday, 27 September 2022

10:30am - 2.40 pm

Council Chamber

### Minutes

#### Membership

**Councillor Nigel Studdert-Kennedy (Chair)**

Councillor Keith Pearson

Independent Person

**Councillor Martin Percy (Vice-Chair)**

Councillor Muriel Bullock (Parish/Town  
Council Representative)

#### Officers in Attendance

Corporate Director (Monitoring Officer)  
Investigation Officer

Senior Democratic Services and  
Elections Officer

#### Others in Attendance

Mr & Mrs Hughes (Complainants)

#### SSC.006 APOLOGIES

There were none.

#### SSC.007 DECLARATIONS OF INTEREST

There were none.

#### SSC.008 MINUTES

**RESOLVED** That the Minutes of the meeting held on 31 May 2022 were approved.

#### SSC.009 COMPLAINT AGAINST A PARISH COUNCILLOR

The Investigation Officer, provided a brief summary to support the background of the hearing. She advised that the plot of land next to which the former school had sat had been purchased in 2012 by Mr and Mrs West and sold again in 2015 to Mr and Mrs Hughes. She stated that her understanding was that when the plot was sold in 2012 the Church did not retain the strip of land which ran adjacent to the boundary of the church yard that provided them access to the north gate of the church yard and to a plot of land behind the old school site. There was a pedestrian right of way over the piece of land but a vehicular right had not been registered, this led to a land registry tribunal hearing which

had been referenced in the document pack. She confirmed that when speaking about the Parochial Church Council (PCC) she may refer to it as 'The Church'.

She advised that members of the Standards Sub-Committee were being asked to look at Councillor Bierer's actions and whether by taking part in decisions of the parish council he breached the code of conduct due to a conflict of interest.

The Code of Conduct for Fretherne and Saul Parish Council which would have been in place at the time was included in the document pack, the Investigation Officer confirmed that the Code of Conduct did refer to the seven Nolan Principles and referred to two levels of interest that should be registered with the Monitoring Officer. She believed that the interests that were laid out in Appendix B, in particular the second interest listed, may be relevant to the case.

The Investigation Officer confirmed that in relation to her findings within the report they had sought external advice from James Goudie KC who was well versed on code of conduct matters. His advice was that the PCC was a charitable body and by acting on their behalf Councillor Bierer had an 'other interest' which should have been declared. Councillor Bierer in statements had contended that his actions didn't constitute an other interest and had referred to not having any personal interest. The Investigation Officer agreed that he did not have a personal interest however highlighted that this was different to an 'other interest'.

The Investigation Officer highlighted parts of the timetable and the minutes from the Parish Council Meeting. She drew attention to the following:

- Minutes from August 2015 which stated "Following legal advice, Council to apply for legal access up to gate at back of church for disabled and vehicular access and access to ensure maintenance of pound. Potential Cost of £2200 plus. Council voted to carry this out." She advised that the minutes were unclear as to whether this was the Parish Council or the Parochial Church Council but as the minutes were that of the Parish Council the inference she drew was that it was the Parish Council.
- In Councillor Bierer's latest submission he had clarified that the Parish Council agreed to provide funding but that it was the Parochial Church Council who would apply for access.
- The minutes from October 2015 which referred to increasing funding for the project and tasked Councillor Bierer with the coordinating and gathering of evidence and liaising with the solicitor on behalf of the Council and Parochial Church Council. She advised that the Parish Council were funding the legal action but it was the Parochial Church Council who were the applicant in the case. Therefore the solicitors would have been advising the church.
- There was no further references in the minutes from October 2015 until September 2018.
- There were references in following minutes regarding payments to the solicitors.
- The minutes of January 2021 confirmed that the Parish Council had unanimously decided to continue to support the appeal and Councillor Bierer was noted as in attendance at the meeting.

The Investigation Officer also provided information regarding the previous Investigation Officers report as this had been mentioned by Councillor Bierer in his statement. She stated that the report made no mention of Councillor Bierer's actions regarding registering the access for the church and therefore the investigation only related to the planning

application. The report was written in 2015 and therefore anything following this would not have been included or investigated.

The Investigation Officer identified the January Parish Council meeting as a moment when Councillor Bierer had a conflict of interest, she believed that he would have been presenting to the Parish Council on behalf of the Church. It was minuted that Councillor Bierer attended the meeting when the decision to continue was made. If Members did not consider Councillor Bierer to have an other interest they were asked to consider whether he had breached the Code of Conduct based on the Nolan Principles.

Members commented regarding the confusion on aspects of the case and investigation including whether the Church could be considered a charitable organisation and the conflicting responses received from Councillor Bierer.

In response to a question from Councillor Pearson it was confirmed that the minutes did not include information regarding Councillor Bierer's actions following on from being tasked with getting legal advice.

The Monitoring Officer advised that linkage between Councillor Bierer and the Parochial Church Council and who had instructed him to act was difficult to demonstrate, the Investigation Officer provided more detail using the minutes of the parish council meetings and a timeline of events and actions taken. The Investigation Officer further advised that Councillor Bierer was instrumental in taking advice from solicitors and feeding back to the Church and helped to drive the legal case forward. She confirmed that Councillor Bierer had not agreed to be interviewed by phone or in person and she was unable to put all her questions to him. Members considered the minutes of the meeting in 2015 and Councillor Bierer's email responses from pages 51 onwards in depth to ascertain further information about who instructed Councillor Bierer to assist the Church.

The meeting was adjourned for 15 minutes to allow the Sub-Committee Members time to read through Cllr Bierer's statement which had been issued to them at the meeting.

Councillor Percy suggested that Councillor Bierer had made it clear in his statement that he had been instructed by the Parish Council.

In response to the Independent Person the Investigation Officer confirmed that in the code of conduct it mentioned other bodies separate from the council and therefore she disagreed with the statement in Cllr Bierer's submission regarding not having an interest.

In response to Councillor Percy the Investigation Officer agreed that there was conflicting information regarding whether Councillor Bierer had been involved with negotiating with the appointed solicitors over costs.

Councillor Percy asked if they needed to consider government guidance regarding the code of conduct or only the code of conduct that was in place at the time. The Investigation Officer confirmed that they needed to refer to the code of conduct that was in place. Councillor Bullock reminded Members that the code of conduct was based on the Nolan Principals which could also be considered.

The meeting adjourned for 1 hour 37 minutes for members of the Sub-Committee to consider the information in private and reach a decision.

The Independent Person presented his views and the Chair confirmed the reasons and decision of the panel which was that Councillor Bierer had breached the Parish Council's then Code of Conduct. The full detail of the decision made and the reasons have been included within the decision note.

The Sub-Committee asked the Investigation Officer for their views on appropriate sanctions which they retired to consider.

On recommencing the meeting the Independent Person gave their view on sanctions followed by the Chair confirming the Sub-Committee's decision which has been included in the decision note.

**RESOLVED**      **That**

- a. Councillor Bierer had breached the Parish Council's then Code of Conduct; and**
- b. Councillor Bierer should be asked to take all necessary steps to ensure he is fully conversant with whatever Code is in force at the time and that the Parish Clerk should be asked to organise any necessary training.**

The meeting closed at 2.40 pm