



**Minutes of the meeting of Handforth Parish Council
Employment Committee held on Tuesday 25th August 2020 at
7.00pm
Held Virtually by MS Teams**

Present:

Members of the Employment Committee:

Cllr Barry Burkhill - Chairman of the Employment Committee

Cllr Aled Brewerton

Cllr Cynthia Samson

Cllr Jean Thompson

Cllr Brian Tolver

Guest Councillors:

Cllr John Smith – Guest Cllr

Cllr Susan Moore - Guest Cllr

David Naylor Town Clerk Bollington Town Council facilitating the Teams Meeting

To receive apologies for absence:

Apologies were received from Ashley Comiskey Dawson - Handforth Parish Clerk

20/08/01 Public Bodies Admission to Meetings Act 1960. Exclusion of press and public due to the business of the meeting being of a confidential nature.

Cllr Cynthia Samson abstained from this vote and asked for the minutes to record: *that she believed this meeting to be illegal because a member of the public was attending. She had only received the information on Thursday at 7pm and at no time as a member of this Employment Committee had she been involved in any meetings and felt ignored.* The meeting **RESOLVED** to exclude the public.

20/08/02 To note Declarations of interest and requests for dispensation to discuss or discuss and vote on a matter in which a Member or co-opted Member has a Disclosable Pecuniary or non-pecuniary interest (DPI).

Cllr Jean Thompson then declared a personal and prejudicial interest in the meeting and advised that she would take no further part and would leave the meeting.

20/08/03 To consider recommending to the full Council instructions to the Clerk for implementing Section 85 of the Local Government Act 1972

Cllr Burkhill asked Cllr Brewerton to provide a summary of all the information sent out to councillors prior to this meeting which in his view showed that the Parish Clerk had acted improperly and unlawfully in concluding the Cllr Thompson was no longer a councillor due to her not attending meetings over a period of six months. The appropriate legislation was Sec 85 1 of the Local Government Act 1972 which stated

that if a councillor misses or fails to attend meetings of the council over a six month period they will cease to be a member of the Council. Cllr Brewerton referred to documentation which showed that a councillor could not be held to have failed to attend a meeting if there had been no meetings to attend within such a period. He referred to case law, namely the Falkirk Case and the Neeson Case, a synopsis of a barrister's opinion, and an email from Esther McVey MP with advice from DCLG now the Ministry of Housing, Communities and Local Government (MHCLG) all supported this stance.

Cllr Cynthia Samson asked that it again be recorded in the minutes at this point *that as a member of the Group she had not been involved in the consultation with Esther McVey or the instructions to the barrister and had been kept out of all this.*

Cllr Brewerton was challenged on the synopsis of the barrister's opinion and why the actual opinion could not be shared. It was explained that it had not been obtained by the Parish Council but by a member of the Council in their own individual right and not on behalf of the Council and was subject to legal professional privilege. As a result, it couldn't legally be shared with the Council, hence the synopsis. It was suggested by Cllr Smith that the Parish Council should fund its own opinion which could then be available in full to all Council members.

Cllr Brewerton accepted that Chalc and Nalc and the Society of Local Council Clerks did not agree with this interpretation but felt that the sources quoted above provided a much stronger legal argument for not excluding the councillor. He also advised that the Clerk had calculated the six month period wrongly and if the period was calculated in terms of months rather than available meeting dates, which he was sure was not the correct method, then the actual date would have been in July and not June as implemented. He also noted that Chalc gave legal advice when not authorised to do so pursuant to the Legal Services Act 2007.

A prolonged debate continued.

The matter was put to the vote and it was **RESOLVED** to recommend to Council that:

- 1) That in the light of evidence obtained concerning the actions of the Clerk in informing Cllr. Jean Thompson that she no longer holds her position as a member of Handforth Parish Council, without obtaining proper legal advice, the Clerk be instructed to
 - a) Withdraw all notices to that effect from noticeboards in and around the village and from the HPC website.
 - b) To announce in the same places as in (a) that the notices were posted in error.
 - c) To notify Cheshire East Council Democratic Services that a casual vacancy does not exist on Handforth Parish Council.
 - d) To furnish a written apology for his actions to Cllr. Jean Thompson.

20/08/04 To agree reports to full Council in relation to the above and to make recommendations to Council concerning the clerk.

A debate then took place about the Clerk's role in this matter and whether the Clerk had acted in a proper manner. He sought advice from Chalc but it was felt by some members that there had been a lack of appropriate communication with members before the action was taken. As such there had been no opportunity to consider the matter. There was a suggestion that he had advised of the councillor's attendance record to the Chairman in February, but this was disputed.

Cllr Moore felt that the Council should consult its insurers and ACAS before action was taken which could result in an employment tribunal.

A discussion took place about appointing a totally independent party to investigate this matter and the Chairman assured the meeting that this would be case.

A prolonged debate continued.

The matter was then put to the vote and it was **RESOLVED** to recommend to Council that:

That the Employment Committee be given full authority on behalf of Handforth Parish Council, to conduct an investigation into matters relating to Handforth Parish Council's Clerk.

The meeting then ended - total duration 1 hour and 20 minutes.

Chair.....

Date.....