

## Complaint Report

In January 2021 the SPC received a complaint that the SPC/Clerk had acted ultra vires in the nomination of an ACV during 2017. This complaint has now been fully investigated and concluded with the support of independent legal counsel. The SPC committed to providing details of how the complaint was dealt with and the outcome as soon as the complainant had been notified of the outcome. To confirm:

- We undertook the alleged ultra vires complaint in line with our complaints policy which is detailed on the website.
- The investigation panel consisted of Councillor Cooper (Chair), Councillor McCormick (Vice Chair) and Councillor Yallop who led the investigation. Councillor Yallop was chosen to lead the investigation as she was not on the Parish Council at the time of the transaction and was therefore the most independent councillor.
- The complainant declined to meet with the investigation panel to discuss their complaint.
- We self-referred to the Broadland District Council Monitoring Officer who has confirmed they will not be seeking to investigate the complaint made against the SPC/Clerk.
- We sought legal advice from (Birketts and Wellers Law Group) to provide independent advice and assistance in undertaking the work in relation to the complaint. Please note that following two meetings with Birketts (at no cost), upon agreement to commission them it then came to light that there was a conflict of interest and so could not continue to support the investigation. We therefore had to appoint further legal counsel (Wellers Law Group) and the decision to approve that appointment was made at the Extraordinary meeting of the SPC on 29<sup>th</sup> March 2021, following market testing.
- The outcome from this investigation was presented as part of the confidential meeting on 26<sup>th</sup> April 2021 and the decision outcome was ratified at that meeting. All Councillors approved the outcome with the exception of Councillor Nudd who abstained due to conflict of interests.

### Conclusion:

The independent Legal Counsel we commissioned to undertake this review has concluded that “whilst there was no formal resolution in the minutes of the meeting which related to the ACV nomination, the Parish Council had the power to nominate the Property and did not act ultra vires. Broadland District Council were entitled to rely on the representation that the application was made on behalf of the Parish Council and register the application”.

At the current time Broadland District Council have confirmed the ACV remains valid.

We have therefore concluded that the complaint has been fully investigated and we have closed the complaint.

In addition, to ensure full disclosure, we attach the resolutions (and current status) that were made at the confidential meeting of 8<sup>th</sup> February 2021, in relation to the complaint, as below. Please note that Councillor Nudd did not vote on the below resolutions due to a conflict of interest.

1. We ensure the monitoring officer at Broadland District Council (BDC) is briefed on the complete situation and we communicate that we would welcome any independent review as they see appropriate. **Actioned and BDC declined to undertake a review.**
2. We send across the documents Birketts requires in order to allow them to quote for the work to independently assess and conclude if the clerk/Parish Council acted Ultra Vires. Upon receipt of the quote we will take a vote as to whether to proceed with the

independent review. It should be noted that Birketts have advised the SPC during the meeting on 5<sup>th</sup> February 2021 that any ultra vires claim should be brought within 3 months of the associated transaction, so the claim is considerably (years) outside of that time frame. **(Actioned – but note the subsequent conflict of interest by Birketts and the need to seek alternative legal counsel for which a competitive tendering exercise was completed resulting in the appointment of Wellers Law Group who undertook the review).**

3. Whilst not directly linked to the complaint on ultra vires but acknowledging that the emails interlink comments around the ultra vires and our failure to comply with FOI it was also recommended we seek a quote from Birketts to assess:
  - a. If they believe there has been inappropriate use of social media by the complainants and others re comments that have been made about the SPC. We would need to send any information/examples we have to Birketts.
  - b. If we have breached our duty of care/legislation in relation to how we have responded to FOI (subject to confirming that our recently appointed Data Protection Officer is not undertaking that role).
  - c. Once we receive quotes for points (a and b) above, again a vote would need to be taken to confirm the SPC is happy to proceed. **(not actioned as the full PC voted against points a, b, c).**
4. All SPC councillors commit to implementing any recommendations arising from the BDC Monitoring Officer review AND the outcome from the independent legal review. **(Actioned at meeting of 26<sup>th</sup> April 2021)**
5. That all proposals and resolutions will be formally documented in order to ensure a robust audit trail of the decision making process and how the SPC has dealt with this complaint. **Business as Usual (BAU) – actioned.**
6. That the complaints policy is reviewed and updated to ensure it reflects current good practice. **Actioned and updated policy will be presented at the June 2021 SPC meeting for approval.**
7. That in order to remain open, honest and transparent, councillor Yallop, writes via email, to the complainant to say that following the internal review had resulted in a number of recommendations to the PC and at the meeting of 8<sup>th</sup> February it was agreed that we would self-refer to the Monitoring Officer and ask if they would like to do an independent review AND we have commissioned independent legal services to undertake the Ultra Vires review. As soon as those reviews have concluded we will inform them of the outcome. **Actioned – complaint declined to meet and the complainant has been written to.**
8. We treat further FOI requests in a professional manner and either say thank you we believe we have already provided the information and therefore will not be providing anything further OR if we have not provided and it is a new request treat is in line with other FOIs. **BAU - Actioned.**
9. Ensure all FOI requests are logged in a central register with a robust audit trail of the what we did and when in response to each one. **BAU Actioned.**
10. As the latest communication from the complainant states that they have referred us to the ICO and will be seeking their own legal counsel, it was also recommend that the SPC formally acknowledges, via minutes, that we would fully support any ICO investigation and any requests for information/meetings from said legal counsel. **Actioned.**

The complainant has been written to and informed of the conclusion.