

Complaint against The Clerk of Botus Fleming Parish Council

10 February 2019

Statutory Background

- The role of Clerk is to ensure that the Council as a whole conducts its business properly and to provide independent, objective and professional advice and support. This role is stated clearly in the Clerk's Job description. The Clerk is also subject to the Standing Orders of the PC. For the council to function properly it is essential that the advice and information provided by the Clerk is accurate.
- The PC must conform to the basic principles of public life - the Nolan Principles - and these form the basis of the PC Code of Conduct and Standing Orders.
- The business of the PC must be conducted in Meetings where the public has access and the dates and agendas must be made available to the public in advance. No motion can be resolved unless it appears on the agenda.
- 16 B xiv of the Standing Orders state that the Clerk must: "refer a planning application received by the council to the [Chairman or in his absence the Vice-Chairman of the Council] OR [Chairman or in his absence Vice-Chairman (if any) of the () Committee] within two working days of receipt to facilitate an extraordinary meeting if the nature of a planning application requires consideration before the next ordinary meeting of [the council] OR [() committee];"
- It is possible for a PC to resolve to delegate certain responsibilities to the Clerk. The PC has not delegated any responsibilities to the Clerk.

Substance of complaint

The complaints relate to two actions taken by the Clerk and both concern the handling of planning applications where the PC was a statutory consultee.

- A. In the matters of PA18/09919 and PA18/09456, notification of the applications arrived with a deadline for submission of comments falling before the next scheduled PC meeting. The Clerk dealt with the matter by canvassing the views of individual councillors and, based on their responses, submitted comments to the planning department to the effect that the PC had no objections and supported the applications. When challenged, the Clerk asserted that he had discretionary power to take this action and his decision was supported by advice from the Society of Local Council Clerks as the applications were non-contentious changes to previously approved applications. Although the Chair has subsequently acknowledged that the correct process was not followed, the Clerk continued to assert in the January PC meeting that he acted appropriately. In these matters the Clerk:
- Acted beyond his powers
 - Failed to conduct himself in a way that reflects the principles of public life
 - Failed to adhere to 16B xiv of there Standing Orders
 - Placed councillors in a position where they could be accused of predetermining their views on planning matters
 - Acted in a way that damages the reputation of the PC.

The fact that these applications were considered to be non-contentious is irrelevant. It is not for the Clerk to decide when the statutory obligations of the PC can be set aside. Discretion about whether or not it is necessary to hold an extraordinary meeting, to determine the PC's response, rests with the Chair.