

# Little Downham Parish Council Complaint Committee

MINUTES of a meeting of held in the Village Hall, Main Street, Little Downham,  
on Thursday, 11 February 2016 commencing at 9.30 am

**Appointed Parish Council members:** Mrs MAC Seidler, in the chair, and Mrs CE Hall and Mrs JL Waters.

**Appointed Independent members:** Mr I Allen and Mr G Jellicoe Clerk: Mrs J Wardle

**Other attendees:** None

**Opening Remarks:** The Clerk introduced all members. The Chairman welcomed everyone to the meeting.

**01/16 TO RECEIVE AND ACCEPT APOLOGIES FOR ABSENCE** - None

**02/16 EXCLUSION OF PUBLIC AND PRESS**

9.31am It is hereby resolved in accordance with Section 1 (2) of the Public Bodies (Admission to Meetings) Act 1960 that as publicity would be prejudicial to the public interest by reason of the confidential nature of the business about to be transacted at Agenda Item 03/16, it is advisable in the public interest that the public and press be temporarily excluded from this meeting and they are herewith instructed to withdraw.

**03/16 TO REVIEW COMPLAINTS RECEIVED**

All members of the Committee were issued with the agenda pack on 29/01/16. Enclosed were copies of the complaint letters, the responses to the complaints, the complainants' replies, the Parish Council's New Cemetery Information Pack that was issued to Little Downham Parish Council members in July 2015 and the Parish Council's adopted Complaints Handling Procedure (Sept 2012) that has been the basis on which all the complaints have been handled.

The Clerk declared an interest in all the complaints at the start of the meeting and left at various times for the committee to discuss the complaints in detail. She returned to record the Committee's comments and decisions.

**1. Complaint - BL & GH Taylor against the Lt Downham Cemetery Working Group claiming it acted outside its remit.**

**INTRODUCTION**

Mr & Mrs Taylor's letter:

- 1.1 In a letter dated 18<sup>th</sup> November 2015, Mr & Mrs Taylor claimed that the Cemetery Sub-Committee had acted outside its remit by asking the Parish Clerk to write a letter to them on 21<sup>st</sup> October 2015 asking if they would be willing to sell some land to the Parish Council.
- 1.2 Mr & Mrs Taylor stated that in the letter they received from the Clerk it said that the Parish Council will appoint a Valuation Officer and cover all the costs. They stated that this is totally undemocratic, when it has been decided by a small sub-committee and not by the full committee. They have no knowledge of this being put to the full Committee.
- 1.3 In their letter of complaint, Mr & Mrs Taylor stated that the matter had been discussed on several occasions over the years, and that the Sub-Committee was bringing the Parish Council into disrepute by not putting all the options to the full Committee and letting them make the final decision.
- 1.4 All members of the Cemetery Working Group were given a copy of Mr & Mrs Taylor's complaint in a sealed envelope at the 19<sup>th</sup> November Parish Council meeting and asked to provide a Working Group response to the Parish Clerk within five working days, namely 25<sup>th</sup> November 2015.

Cemetery Working Group response:

- 1.5 The Cemetery Working Group's response to Mr & Mrs Taylor's complaint was dated 25<sup>th</sup> November 2015. It referred Mr & Mrs Taylor to the time [July 2015] that all parish Councillors, including them, were given an information pack concerning a new cemetery site and everyone was asked to prepare a short written report outlining their preferences. In the information pack there were two options concerning their land:
  - 1) Request to purchase three acres of land with vehicular access to and from Cowbridge Hall Road
  - 2) Compulsory purchase of three acres of land and form a new access from Cowbridge Hall Road.It was noted by the Cemetery Working Group that neither Mr nor Mrs Taylor had provided a written responses to the request from the Chairman for their preferences, ideas or options. At the Parish Council meeting in September 2015, the majority of councillors wanted to develop a cemetery site near its present location.
- 1.6 The Cemetery Working Group informed that a meeting was held on 15<sup>th</sup> October 2015. When looking back at Parish Council records and with regard to councillors preferences, they found no records of Mr & Mrs Taylor being formally asked if they were willing to sell land adjoining the current cemetery. The Group therefore instructed the Parish Clerk to write to ask if they were willing to sell to the Parish Council. It was also agreed to contact two other landowners, to obtain clear information of what they may be willing to offer the Parish Council.
- 1.7 The Cemetery Working Group stated that it considers its remit is to listen to councillors' preferences, explore options and gain definite information to present clear viable options to the Parish Council, which can then be debated and consensus decision made.
- 1.8 It confirmed that if in the future any land is purchased by the Parish Council, then all discussions, negotiations and decisions will be transparent and recorded so that members of the Parish can see what and why decisions were made. That way the audit trail and records protect the Parish Council and them, by having a policy of openness and transparent in all its matters. It again asked Mr & Mrs Taylor to give a written reply to the Working Group's enquiry of land.

Mr & Mrs Taylor's reply to the Working Group's response:

- 1.9 Mr & Mrs Taylor's reply to the Cemetery Working Group's response, dated 29<sup>th</sup> November 2015, informed that her mother died on the day of the September meeting and she was in no fit state to attend the meeting or think about it. Mr & Mrs Taylor made reference to the Parish Council's previous rejection of their land and that when asked by Cllr Adams-Payne at a full Council if they would sell, they said no. They considered the Cemetery Sub-committee's remit is to find the cheapest, suitable, available land for purpose and their land would be the most expensive site because the roadway would cost £100,000 and it has been designated as suitable for industrial use. This would make it more valuable than agricultural land. They consider there is other agricultural land for sale within the Parish.

## **COMPLAINT COMMITTEE'S DELIBERATIONS AND VIEW**

- 1.10 Having read through the New Cemetery Information Pack and correspondence relating to the complaint, the Complaint Committee expressed confusion to Mr & Mrs Taylor's references of the 'Cemetery Sub-Committee' when others had referred to it as the 'Cemetery Working Group'. It was felt that this needed to be clarified because they would each have different rulings and administrative duties.
- 1.11 It was clarified on reference to the Little Downham Parish Council minutes item: 70/10 22/07/10, that the Cemetery Working Group was duly set up consisting of Cllrs DA Adams-Payne, MM Oldfield, RS Martin and KO Winters. Cllr BL Taylor had volunteered to be on the working group but was advised not to be, as he had an interest in adjoining land. In addition, it was noted that references to 'full committee' was to be taken as the 'Full Council'.

- 1.12 The Complaint Committee determined that the Cemetery Working Group had no delegated powers deferred on it from the Parish Council. Members were appointed annually at the Parish Council AGM in May and the duly appointed current members were Cllrs DA Adams-Payne, LEA Joel, MM Oldfield and KO Winters.
- 1.13 It noted that in general terms of reference, the purpose of a working group is to explore options and present them to the Full Council for a decision to be made. A working group is not subject to the strict rules that apply to formal Council, Committee or Sub Committee meetings and they do not need to hold meetings in public. It is not legally required to produce minutes of its meetings, but to provide periodic reports and recommendations to the Full Council.
- 1.14 It accepted that the Parish Council is obligated to search for burial land, but not to provide land if not available. The Working Group was required to identify potential burial land, follow any line of enquiry to ascertain if a landowner is open to negotiations, assess the advantages and disadvantages of proposed land and to provide periodic reports to the Council to enable it to consider matters further.
- 1.15 The Complaint Committee questioned if the Parish Council had rejected Mr & Mrs Taylor's original conditional offer [giving the Parish Council three acres of land in exchange of housing gain on the remaining four acres], should the Working Group have written to request to purchase? It was deemed that the Working Group had taken its line of enquiry from the Options of Land list dated July 2015 that was on page 2 of the New Cemetery Information Pack and in relation to the Councillors' preferences provided at the September meeting whereby the majority of councillors wanted to develop a cemetery site near its present location.
- 1.16 The Complaint Committee noted that the Cemetery Working Group was enquiring about various areas of land, not just Mr & Mrs Taylor's land, when the letter dated 21<sup>st</sup> October 2015 was sent.
- 1.17 The Complaint Committee reviewed the wording of the Cemetery Working Group's letter typed by the Clerk dated 21<sup>st</sup> October 2015. It was agreed that the letter clearly stated it was from the Cemetery Working Group at the start of the letter and not from the Full Council. It was thought that a change of the word *will* to *would* might have made a difference to the interpretation of the appointment of a Valuation Officer etc., but it was considered clear that the Cemetery Working Group had not appointed a Valuation Officer on behalf of the Parish Council, nor had it made any decisions.

#### **COMPLAINT COMMITTEE'S DECISION**

##### **1.18 THE COMPLAINT WAS DISMISSED.**

- 1.19 It was proposed by Mr I Allen, seconded by Mr G Jellicoe and agreed unanimously that the Little Downham Cemetery Working Group was not considered to be working outside its remit when it asked the Parish Clerk to write to ask Mr & Mrs Taylor if they would be willing to sell some of their land.**

#### **COMPLAINT COMMITTEE'S REASONS**

- 1.20 The Complaint Committee confirmed that it had read through all the letters and comments relating to the complaint by Mr & Mrs Taylor.
- 1.21 It was considered that the Working Group had not sought to pursue Mr & Mrs Taylor's land through harassment but to conclude the position of their land in relation to there being no formal recorded response regarding the purchase of their land adjacent to the existing cemetery.

**2. Complaint - KO Winters against Cllr DA Adams-Payne and Cllr MM Oldfield claiming they bullied him at a Parish Council meeting.**

**INTRODUCTION**

Cllr Winters' letter:

- 2.1 In a letter dated 21<sup>st</sup> November 2015, that was hand delivered to the Parish Clerk's address on 1<sup>st</sup> December, Cllr Winters wrote that he felt he was bullied at the last Parish Council meeting [19<sup>th</sup> November 2015].
- 2.2 Cllr Winters stated that he was required to go to a cemetery sub meeting on a serious matter of complaint procedure. He said he was not involved in the matter and did not feel any responsibility to go to the meeting. He considered the meeting was not about providing land for the cemetery but was about the complaint [Mr & Mrs Taylor's] and he did not want his name to be involved in it. He said he gave reasons why he could not attend and that he was not going to attend under any circumstances, so they [other members of the Cemetery Working Group] could save time in arranging their meeting.
- 2.3 Cllr Winters wrote that he was approached by Cllr Oldfield who assured him he should go, in which he replied that he had five stents in his heart and a pacemaker and did not want to discuss it further. He wrote that Cllr Adams-Payne said he should resign if he had not got time to go to the meeting.
- 2.4 In his letter, Cllr Winters wrote that he felt the Clerk should have stopped the questioning for the reasons why he could not go to that extraordinary cemetery meeting within 4 days.
- 2.5 Cllr Debbie Adams-Payne and Cllr Marilyn Oldfield were each given a copy of Cllr Winters' letter in sealed envelopes at the Parish Council meeting on 3<sup>rd</sup> December and were asked to offer a written response within five working days, namely 10<sup>th</sup> December 2015.

Cllr Oldfield's response:

- 2.6 Cllr M Oldfield's response was received by the Parish Clerk on 10<sup>th</sup> December 2015. She pointed out that Cllr Winters had been a member of the working group since at least 2012 and was still a member having been re-appointed at the Parish Council AGM in May 2015. She wrote that she had sent Cllr Winters a text and personally spoken to him about the Working Group meeting planned on 15<sup>th</sup> October and he confirmed that he would attend. He did not attend, gave no apologies and at the Parish Council meeting on 22<sup>nd</sup> October, offered no apology or explanation for not attending the Working Group meeting on the 15<sup>th</sup> [October].
- 2.7 Cllr Oldfield stated that the letter of complaint from Cllrs B & G Taylor were given to three members of the working group present [Cllr Joel was absent due to illness] at the 19<sup>th</sup> November meeting. She asked Cllrs Adams-Payne and Winters if they could stay at the end of the meeting for a few minutes to arrange a meeting date or to swiftly discuss a response. Cllr Winters said he did not have time for another meeting. The [Parish Council] meeting happened to finish five minutes earlier than planned, she again asked Cllr Winters if he would give five minutes to discuss the complaint. It was then that Cllr Winters said he had five stents in his heart. She informed him she was aware of that, which was why she was asking him to stay for a few minutes, so as not to have to attend another meeting. He refused to stay. She said she would inform him of when the meeting would be held, but he did not reply and left the village hall.
- 2.8 Cllr Oldfield wrote that at no time was he bullied, it was a normal conversation and a polite request to save him further travel. She informed that the Cemetery Working Group met on 25<sup>th</sup> November. She again texted a message and left a message on Cllr Winters's home telephone. He did not respond or attend. She considered his behaviour to be uncooperative and obstructive in the aims of the working group to gain information and move forward with the project.

Cllr Winters' reply to Cllr Oldfield's response:

- 2.9 Cllr Winters replied to Cllr Oldfield's response. He stated that he had received the message to attend the 15<sup>th</sup> October meeting, and was going to, but had an Angina attack and was breathless. He said he was too unwell to give apologies and the meeting would have already started. He feels that parish councillors should not be questioned on their attendance, as they are volunteers. He said Councillors expressing their opinion on other councillors' attendance are only seeking gratification for themselves and this is a form of bullying.
- 2.10 Cllr Winters made references to the last five or ten minutes of the 3<sup>rd</sup> December meeting, saying he was questioned by various councillors on why he could not attend the Cemetery Working Group meeting that had to take place within the next five working days, which was extremely short notice. He said he tried to keep a sense of humour with reference to asking the 'Home Secretary' and explained that he also had his granddaughter staying for a week and had outings planned. He went on in the letter to explain that he made it perfectly clear that he would not be attending the extraordinary meeting of the Working Group because he did not consider the [Taylor's] complaint to be about him. He wanted to be fair to the other three members of the working group whom he considered the complaint to be about because he did not attend the 15<sup>th</sup> October meeting, did not vote at and had nothing to do with the decision, which he did not discuss.
- 2.11 Cllr Winters wrote in his letter that he felt he was more than fair and reasonable. He was surprised that after the 19<sup>th</sup> November meeting that Cllr Oldfield had approached him again insisting he should attend an extraordinary cemetery working group meeting, and stated that it was then that Cllr Adams-Payne shouted across the room that if he hadn't got time to go to the meeting then he should resign.
- 2.12 Cllr Winters considered that some comments and discussions at a parish meeting, where a councillor is criticised for not attending a meeting, is a form of bullying. In all the years that he has attended a parish meeting, as either a parishioner or councillor, he has never known a councillor to be questioned as to why they cannot attend a meeting. He thinks that if a councillor says that they cannot attend it has to be accepted because they are all volunteers. He does not consider it to be uncooperative and obstructive, as Cllr Oldfield stated in her letter.
- 2.13 Cllr Winters wrote, "I feel that she need to be re-valuated [sic] and that since being made Chairwoman has become dictatorial. I feel she must try and control this". He then wrote, "The Chairman or woman is there to see fair play and that should be supported by the Parish Clerk. This asinine and infantile questioning should have been stopped by the Chairperson or the Clerk. If a councillor says, he or she cannot go to a meeting that should be accepted. Cllr Oldfield was not the councillor asking me to resign. I do appreciate the effort she puts into the parish council and I hope she will take my comments into consideration and I consider this to be the end of the matter of bullying."

Cllr Adams-Payne:

- 2.14 Cllr Adams-Payne did not offer a response to Cllr Winters' complaint.
- 2.15 Cllr Winters wrote a second letter stating that he was still waiting for a letter from Cllr Adams-Payne and as the deadline had gone the complaint should go to the next level. He stated that she asked him to resign and was the main antagonist at the parish meeting.

#### **COMPLAINT COMMITTEE'S DELIBERATIONS AND VIEW**

- 2.16 The Complaint Committee noted that Cllr Winters claimed in his letter dated 21<sup>st</sup> November 2015 that he was bullied in the Parish Council meeting of 19<sup>th</sup> November. Yet, it was apparent from his letter dated 12<sup>th</sup> December 2015 [Para. 2.11] that the comments he said were made by Cllrs Oldfield and Adams-Payne were actually said after the 19<sup>th</sup> November meeting had been closed.

- 2.17 Complaint Committee members, Cllrs Seidler and Waters, who were present at the Council meeting on 19th November, confirmed that the comments said by Cllrs Oldfield and Adams-Payne were not made during the meeting. Cllr Waters informed that she was still in the room after the meeting had closed and had overheard the conversation.
- 2.18 The Complaint Committee concurred that Cllr Winters had no intention of attending any Cemetery Working Group meeting to consider a response to Mr & Mrs Taylor's complaint because, in his opinion, he did not consider the complaint related to him.
- 2.19 The Complaint Committee deemed that Cllr Winters had been economic with the truth when referring to the content of Mr & Mrs Taylor's letter. It was fact that Mr & Mrs Taylor's complaint quoted only to the Cemetery Working Group, of which Cllr Winters was a member [Para. 1.10 & 1.11]. It did not mention any individuals or specific meeting.
- 2.20 The Complaint Committee felt that Cllr Winters should have attended the Cemetery Working Group's Extraordinary meeting with other members to discuss the response to Mr & Mrs Taylor's complaint. It was not justifiable to claim that he was not involved in the actions of the Cemetery Working Group just because he was not present at a meeting when the matter was discussed. As a member of the Council, a committee or working group, a councillor has a responsibility to respect decisions made by the majority of those present and voting.
- 2.21 In relation to Cllr Winters' comment that the Parish Clerk should have stopped the questioning, the Complaint Committee considered this to be an unacceptable assumption by Cllr Winters. The Parish Clerk is an employee of the Parish Council and has no authority over the Parish Council Chairman who controls Parish Council meetings.
- 2.22 The Complaint Committee felt that Cllr Adams-Payne should have offered a response to Cllr Winters complaint of bullying and it was unfortunate that she did not.

#### **COMPLAINT COMMITTEE'S DECISION**

##### **2.23 THE COMPLAINT WAS DISMISSED.**

- 2.24 It was proposed by Mrs JL Waters, seconded by Mrs CE Hall and agreed unanimously that the Complaint Committee found no evidence of bullying (definition: to hurt, intimidate, persecute) in the Parish Council meeting of 19<sup>th</sup> November 2015.**

#### **COMPLAINT COMMITTEE'S REASONS**

- 2.25 The Complaint Committee confirmed that it had read through all the letters and comments relating to the complaint made by Cllr KO Winters that he was bullied at the 19<sup>th</sup> November Parish Council meeting by Cllr DA Adams-Payne and Cllr MM Oldfield because he refused to attend a Cemetery Working Group Extraordinary Meeting to consider a response to a complaint by Mr & Mrs Taylor.
- 2.26 The Complaint Committee considered there was no substance to the accusation of bullying when Cllr Winters was being asked to attend a meeting to discuss a formal complaint. Cllr Oldfield's request to Cllr Winters during the meeting was considered reasonable in trying to arrange a Cemetery Working Group Extraordinary Meeting. The comments said to him by Cllrs Oldfield and Adams-Payne, as confirmed in Cllr Oldfield's response dated 9<sup>th</sup> December 2015 and in Cllr Winters's letter dated 12<sup>th</sup> December 2015, were made after the meeting had closed. The Complaint Committee felt that all members should behave reasonably to each other and bear in mind that comments made outside of a meeting can be heard by members of the public.
- 2.27 The Complaint Committee considered Cllr Winters to be in breach of his conduct because he refused to attend a working group meeting of which he was a member and had a responsibility and duty to attend.
- 2.28** The Complaint Committee accepted that it is an individual's decision whether to reply or not, but felt that Cllr Adams-Payne should have offered a response to the complaint against her.

**3. Complaint - DA Adams-Payne against Cllr KO Winters for non-declaration of interest at 3<sup>rd</sup> December 2015 meeting.**

**INTRODUCTION**

Cllr Adams-Payne's letter:

- 3.1 In a letter dated 3<sup>rd</sup> December 2015, that was received by the Clerk on 8<sup>th</sup> December, Cllr Adams-Payne made a formal complaint against Cllr Winters who refused to declare a prejudicial interest in Agenda Item 123/15.1, namely Cemetery Working Group – Formal Complaint, at the Parish Council meeting on 3<sup>rd</sup> December 2015. The item referred to a complaint made by Mr & Mrs B L Taylor against the Cemetery Working Group.
- 3.2 She explained in her letter that Cllr Winters was one of four Parish Council Representatives who formed the little Downham Parish Council Cemetery Working Group. He was re-appointed at the Council's AGM in May 2015, when he accepted to continue his role as part of the Working Group for the year.
- 3.3 Cllr Adams-Payne stated that in her opinion Cllr Winters had a duty to declare a prejudicial interest and in not doing so was in breach of the Clause 13 of the Little Downham Parish Council Code of Conduct.
- 3.4 Cllr Winters was sent a copy of Cllr Adams-Payne's letter on 9<sup>th</sup> December and was asked to offer a written response within five working days, namely 16<sup>th</sup> December 2015.

Cllr Winters' response:

- 3.5 Cllr Winters' response dated 10<sup>th</sup> December 2015 was received by the Parish Clerk by post on 14<sup>th</sup> December 2015. He responded by making reference to a planning application at the 19<sup>th</sup> November 2015 meeting by CN Seeds. He believed that Cllr Adams-Payne should have declared a prejudicial interest because some of her family had been employed by CN Seeds and he had been informed that she had painted the owner's house.
- 3.6 Cllr Winters stated that he was a member of the Sub Cemetery Committee and a Parish Councillor and has a duty to the parish and the Parish Council. He made reference to not being at the meeting [15<sup>th</sup> October Cemetery Working Group meeting] and that he did not vote or discuss anything. He disagreed that he had to declare a prejudicial interest because he had no knowledge of anything that had happened at that meeting.
- 3.7 Cllr Winters wrote that he recently made a complaint to the Clerk of Cllrs Adams-Payne and Marilyn Oldfield for bullying him to attend an extraordinary Cemetery sub-committee meeting at short notice. He could see no reason to attend because it was about a complaint by BL & GH Taylor and he had no previous involvement in sending the Taylors the letter [21<sup>st</sup> October letter].
- 3.8 Cllr Winters made reference to Cllr Roger Martin being on a previous Cemetery sub-committee and believed he was also Chairman of the Church Cemetery Committee so should have declared a prejudicial interest. He questioned why Cllr Adams-Payne did not complain about Cllr Martin.
- 3.9 Cllr Winters stated that only an evil and distorted mind could wish this continuous bullying to introduce him into this argument between the cemetery sub-committee and the Taylors. He expected the Parish Clerk to have advised Cllr Adams-Payne when receiving her letter of 3<sup>rd</sup> December 2015 that her complaint was groundless because he was not there [at 15<sup>th</sup> October meeting]. He claimed it was Cllr Adams-Payne's victimisation towards him was trying to stir up a hate-distorted campaign between him and other parish councillors and he wanted it to stop.
- 3.10 Cllr Winters accused Cllr Adams-Payne and the Parish Clerk of giving false witness against him a few years ago at a tribunal that went to high court in London before it was resolved. He stated that the Code of Conduct had to be re-examined so it should never happen to anyone else nationally again.

- 3.11 Cllr Winters continued by stating that he believed the Clerk, Jackie Wardle, Cllr Adams-Payne and Cllr Oldfield are bias and should declare an interest in handling any letters of complaint because of previous standards board cases and high court case.
- 3.12 He considered it evil and petty and should stop for the reasons above. The Parish Council should get on with functioning as a parish council and put the parish first and stop the clash of personalities and work for the good of the parish.

Cllr Adams-Payne's reply:

- 3.13 Cllr Adams-Payne stated that she was not happy with Cllr Winters reply and felt that accusations were being bandied around that are not in line with the actual complaint. She requested that it is dealt with in accordance with the complaints procedure.

#### **COMPLAINT COMMITTEE'S DELIBERATIONS AND VIEW**

- 3.14 The Complaint Committee noted all comments and statements in Cllr Adams-Payne and Cllr Winters' letters. It established that Cllr Winters' references to the Cemetery Sub-Committee were to the Cemetery Working Group.
- 3.15 The Committee considered the position of Cllr Winters as a member of the Cemetery Working Group. It acknowledged that he was not present at the Working Group meeting on 15<sup>th</sup> October when the group decided to write to Mr & Mrs Taylor to ask if they would sell some of their land adjacent to the existing cemetery.
- 3.16 The Committee noted that each member of the Cemetery Working Group was given a copy of Mr & Mrs Taylor's complaint in a sealed envelope at the 19<sup>th</sup> November, except Cllr Joel who was absent and her copy was delivered to her home immediately after the meeting.
- 3.17 The Committee concurred that Cllr Winters was a member of the Working Group and had a duty and responsibility to declare a prejudicial interest in relation to the complaint made by Mr & Mrs Taylor about the Cemetery Working Group [Para.1.1; 1.11; 1.12].
- 3.18 The Committee reviewed Cllr Winters' response letter dated 10<sup>th</sup> December and the variety of accusations that he made against other councillors and the Parish Clerk. It considered that the accusations were not relevant to his non-declaration of interest at the Parish Council meeting on 3<sup>rd</sup> December.
- 3.19 The Committee decided it was not in a position to review the accusations because they were not relevant to Cllr Adams-Payne's complaint about Cllr Winters and it did not have background information to establish the facts.
- 3.20 In relation to Cllr Adams-Payne's email dated 14<sup>th</sup> December, the Complaint Committee was uncertain as to her instructions of whether she was referring to her original complaint against Cllr Winters' non-declaration of interest to be dealt with or instructing Cllr Winters' accusations to be dealt with as a further complaint in accordance with the complaints procedure. The Clerk was asked to write to Cllr Adams-Payne to ask her to clarify her last sentence in regards to whether she wanted the accusations to be dealt with as a formal complaint. If so, the matter would be dealt with as a separate complaint and in accordance with the Parish Council Complaints Handling Procedure.

#### **COMPLAINT COMMITTEE'S DECISION**

- 3.21 **THE COMPLAINT WAS UPHELD.**
- 3.22 **It was proposed by Mr G Jellicoe, seconded by Mr I Allen and agreed unanimously that the Complaint Committee found Cllr KO Winters to be in breach of Clause 13 of the Little Downham Code of Conduct at the Parish Council meeting on 3<sup>rd</sup> December 2015 when he refused to declare a prejudicial interest as a member of the Cemetery Working Group in item 123/15.1 that related to the Cemetery Working Group and Mr & Mrs Taylor's formal complaint.**

- 3.23 **It was proposed by Mr G Jellicoe, seconded by Mr I Allen and agreed unanimously to strongly recommend that Cllr KO Winters should undertake Code of Conduct training and, to facilitate that, it was recommended that in-house Code of Conduct training for the whole council be arranged within the next nine months.**

#### **COMPLAINT COMMITTEE'S REASONS**

- 3.24 The Complaint Committee confirmed that it had read through all the letters and comments relating to the complaint by Cllr Adams-Payne against Cllr KO Winters for non-declaration of a prejudicial interest at the Parish Council meeting on 3<sup>rd</sup> December 2015.
- 3.25 The Complaint Committee concurred that Cllr Winters was a member of the Cemetery Working Group and he did not accept his responsibility and duty to declare a prejudicial interest when the Taylor complaint about the Cemetery Working Group was to be discussed at the Parish Council meeting. He tried to justify his actions by claiming that the Taylor complaint was about the Working Group's meeting on 15<sup>th</sup> October and only the members who were present at that meeting; however, that was not the case because those matters were not mentioned in Mr & Mrs Taylor's letter.
- 3.26 The Complaint Committee recommended that Cllr Winters undertake Code of Conduct training because he failed to realise and understand his duty as a councillor to declare an interest in a matter that related to him. It recommended that such training, including the understanding of prejudicial & pecuniary interests, should be arranged by Little Downham Parish Council in the form of in-house training for the whole council within the next nine months. The Parish Council is requested to monitor the recommendations on behalf of the Complaints Committee.

#### **4. Complaint - KO Winters against Mrs J Wardle (Parish Clerk) claiming she was bringing the Parish Council into disrepute and creating a bullying scenario.**

The Clerk left the room for the Committee to discuss the complaint in detail and returned to note its decision.

#### **INTRODUCTION**

Cllr KO Winter's letter:

- 4.1 In a letter dated 6<sup>th</sup> December 2015, that was originally sent to Maggie Camp, East Cambs District Council Monitoring Officer on 13<sup>th</sup> December 2015, Cllr Winters wrote that he had a complaint regarding the Little Downham Parish Clerk, Mrs Jackie Wardle, for bringing the Parish Council into disrepute and creating a bullying scenario.
- 4.2 Cllr Winters claimed that at the Parish Council meeting on 3<sup>rd</sup> December, a piece of paper was pushed towards him and he was told to sign it by the Clerk and the Chairman to declare a prejudicial interest in items 123/15 Council Matters [Cemetery Working Group – Formal Complaint].
- 4.3 Cllr Winters felt that the Clerk should have headed the item as Cemetery Working Group present at 15<sup>th</sup> October meeting, as he said it related to the Taylors complaint.
- 4.4 Cllr Winters stated that the Clerk was the only person who knew all the facts of the complaint and should have explained to the full council that the councillors who were present at the 15<sup>th</sup> October meeting were the only ones who needed to answer the complaint, namely Cllrs Adams-Payne, Oldfield and Joel.
- 4.5 Cllr Winters claimed that none of the other parish councillors, including himself, knew at the time who was at the meeting [15<sup>th</sup> October] and who or what the complaint was about.
- 4.6 Cllr Winters claimed that the Clerk was misleading the Parish Council by saying he was a member of the Cemetery Working Group, which he admits he was, but she didn't go on to explain that he wasn't at the 15<sup>th</sup> October meeting, which the Taylors are complaining about. She insisted that he be given a letter in front of the Full Council with instructions to respond within five working days.

- 4.7 Cllr Winters said he found it very stressful, time consuming and expensive for the Parish Council. He continued to say that he had no input in the letter to Mr & Mrs Taylor and had no involvement at the 15<sup>th</sup> October meeting that it caused a lot of discussion and bullying.
- 4.8 Cllr Winters stated that the Clerk could have stopped the bullying by informing that he was not present at the 15<sup>th</sup> October meeting and he did not have to respond to the Taylor's letter of complaint.
- 4.9 Cllr Winters explained that at the 3<sup>rd</sup> December meeting when the last item 123/15 was to be discussed, the Clerk said that the Council had not got a quorum and closed the meeting. His complaint was that the Council was quorate because there were four councillors present who had not declared prejudicial interests, which included him. He said the Chairman and the Clerk said he could not be in the quorum and closed the meeting.
- 4.10 He said he had a duty to be a councillor at the meeting and there was no need for him to declare a prejudicial interest, as he had no knowledge whatsoever regarding what happened at the 15<sup>th</sup> October meeting, which he thinks should have been fully discussed at the Parish Council meeting on 3<sup>rd</sup> December.
- 4.11 He claimed that the Chairman and the Clerk suspended him from being a parish councillor for their own reasons, which is solely undemocratic and an infringement on the parishioners' human rights. He felt that the Clerk should have advised the Chairman of the democratic procedure and the human rights of the parishioners that elected him.
- 4.12 In his letter, Cllr Winters stated that he and several other parish councillors wanted to know whether he should have been able to attend the quorum or not.
- 4.13 Cllr Winters stated that he felt the Clerk should have instructed the three councillors on the working group to take their decision to the Full Council and not send a letter to Mr & Mrs Taylor in the Full Council's name, which it knew nothing about. He added, "It's this simple action that has caused all the problems, the lack of professionalism and trust. And the fact that the Clerk cannot accept responsibility for this matter, which is splitting the parish council and causing some bullying".
- 4.14 He enclosed with his letter a copy of Cllr Oldfield's response and underlined the words: 15<sup>th</sup> October, Cllr Winters did not attend, another meeting, uncooperative, obstructive.
- 4.15 Maggie Camp emailed the letter to the Parish Clerk on 18<sup>th</sup> December with instructions that it should be forwarded to the Parish Council Chairman to investigate. The Clerk immediately forwarded the email to the Chairman on 18<sup>th</sup> December.

Chairman, Cllr Oldfield's response:

- 4.16 Cllr Oldfield received the email on 21<sup>st</sup> December and penned a response to Cllr Winters on 23<sup>rd</sup> December.
- 4.17 Cllr Oldfield explained that the Parish Council received a complaint from Mr & Mrs Taylor concerning the Parish Council Cemetery Working Group. It was quite correct that he was given information at the same time as other members of the Cemetery Working Group because the complaint did not specify any particular meeting.
- 4.18 Cllr Oldfield stated that at the 3<sup>rd</sup> December Parish Council Meeting, the item relating to a complaint concerning the Cemetery Working Group was on the agenda. It is standard procedure for members of that group to declare a prejudicial interest and this was why he was asked if he wanted to declare an interest and to complete the form. Cllr Winters declined to complete the form.
- 4.19 Cllr Oldfield explained that the Complaints Committee will decide if there has been any misconduct concerning the complaint from Mr and Mrs Taylor and committee must be independent and impartial. It would not be possible for him, as a member of the Cemetery Working Group (irrespective of whether he attended the meeting on 15<sup>th</sup> October), to either take part in the appointment of the complaint committee. Therefore, at the Parish Council Meeting on 3<sup>rd</sup> December [with three remaining councillors eligible] the Council did not have a quorum to appoint a complaints committee.

- 4.20 Cllr Oldfield informed that the full facts of the complaint by Mr and Mrs Taylor were fully known by her and other members of the Cemetery Working Group because they replied to the complaint.
- 4.21 Cllr Oldfield explained that Mrs Wardle is an employee of Little Downham Parish Council and as such does not have the responsibility of controlling meetings, which is her responsibility as Chairman. She agreed with Cllr Winters completely that this matter is “very stressful, time consuming and expensive for the parish council”.
- 4.22 Cllr Oldfield informed that the purpose of the working group is to find information and present it to the Parish Council so all members can make decisions. If the Working Group does not know if landowners are willing to sell land, then it cannot bring that information forward. She stated that other landowners were also asked [about their land] and she was sure that Cllr Winters would be in agreement with most Councillors that compulsory purchase is not an option that the council wants to take.
- 4.23 Cllr Oldfield concluded by saying that the issue of providing additional burial land is a large, expensive and long-term project. She said, “We need to work together, and in the future if we have completed this, there must be a written account of the choices we made and why. You have been a Councillor for a long period of time and must appreciate that if any decisions or choices do concern councillors, then it is vital that everything is transparent.”

Cllr Winters’ reply:

- 4.24 Cllr Winters replied in a letter dated 4<sup>th</sup> January 2016 that Cllr Oldfield’s paragraph one was totally misleading because Modern Law refers to true intentions and she knew that the letter of complaint from Mr & Mrs Taylor referred to the meeting held at her house and on the people who attended the meeting [15<sup>th</sup> October].
- 4.25 He claimed the people at that meeting usurped the power and name of the Parish Council, which could only be done by the Parish Clerk when she sent a letter disguising those people as a Full Parish Council. The Parish Clerk should have advised Cllr Oldfield on the legality of sending such a letter and refused to have done so.
- 4.26 Cllr Winters stated that by signing the letter on behalf of the Parish Council, knowingly without its knowledge, he personally considered it to be fraud. At the very least ‘jobsworth’, which is creating a lot of unpleasant work for the Parish Council and destroying the working relationship within the parish council, bringing the parish council into disrepute?
- 4.27 Cllr Winters stated, “the Clerk’s dealings over the past ten years should be investigated, before we call a vote of confidence in the Parish Clerk” [*sic*].
- 4.28 Cllr Winters stated that he had not received all information because he does not know of the other landowners that were written to. He has constantly complained about the undemocratic procedures, and that the minutes of the committee meetings are vague and opinionated, and the total lack of minutes for all Cemetery meetings proves this.
- 4.29 Cllr Winters referred to Cllr Oldfield’s paragraph 2, regarding standard procedure for member of the group to declare a prejudicial interest. He again stated Modern Law, that he was not a member of the group on 15<sup>th</sup> October 2015 because he was not present. He said she should not have asked him to declare a prejudicial interest. He had no more knowledge of what happened at that meeting than any other member of the parish council. He did not receive an agenda before the 15<sup>th</sup> October meeting and was absent from the Parish Council meeting [24 September] when the big topic was about the cemetery.
- 4.30 Cllr Winters stated that he disagreed with the points put forward on the agenda, as he felt it was tunnel vision, undemocratic and time wasting. Due to his ill health, he was not happy to go to a prolonged and argumentative meeting. As there were ten other members, he was quite happy to accept their democratic decision.
- 4.31 Cllr Winters wrote that he protested most adamantly that he is not in the group who have to declare an interest because they had a letter of complaint. He asked why Cllr Oldfield and the Clerk were dehumanising him and feels that they are not treating him with respect.

- 4.32 Cllr Winters stated that for the reasons above, he felt that the council did have a quorum on 15<sup>th</sup> [3<sup>rd</sup>] December meeting and as a parish councillor he has the mental capacity to be impartial and independent and is well respected as a parish councillor within the parish. It must be undemocratic for Cllr Oldfield and the Clerk to deny him the right to perform his duty at the Parish Council meeting.
- 4.33 Cllr Winters stated that it cannot be democratic to ask for privileged information without consulting the Full Parish Council and could be contrived as a witch-hunt by usurping the name of the full Parish Council.
- 4.34 Cllr Winters referred to Cllr Oldfield's paragraph six where she talks of the future. He said it was the present that he was concerned about for the democratic procedure and transparency of the parish council. If this is lost, he hopes it can be regained as soon as possible.
- 4.35 Cllr Winters concluded by saying that he felt his good name had been compromised by Cllr Oldfield and the Clerk for the reasons above and his letter was to be treated as a letter of complaint.
- 4.36 Cllr Winters ended his letter with a Post Script asking, "Am I allowed to have concerns?" He made reference to:
- Parish Council funding for the cemetery not all being in a cemetery account years later;
  - To the Clerk claiming extended hours that were given to her temporarily 7 or 8 years ago when there were many planning applications;
  - He considers the Clerk's wages to be a drain on the Parish accounts and asked if he is being unfair to the Clerk but believes it is part of his duty and responsibility to ask these questions;
  - He questioned why the Chairman carries out the staff annual appraisals because of the close working relationship between the Chairman and the Clerk and for the sake of transparency it should be done by a panel of councillors who do not have day to day contact or close working relationship;
  - He continued by asking if the Clerk was instructed in writing to write the [Taylor] letter, were they part of the minutes, were they misconstrued by the Clerk. He stated she was obviously not working in her remit when she sent the letter and he feels that she would have been within her remit to refuse the instructions if in fact they were given;
  - He asked if he should have confidence in the Clerk that she can do her job;
  - He said it is important for him to know as a member of the parish council.

#### **COMPLAINT COMMITTEE'S DELIBERATIONS AND VIEW**

- 4.37 The Complaint Committee noted all comments and statements in Cllr Winters and Cllr Oldfield's letters.
- 4.38 The Committee referred to Cllr Winters' initial statement of the Clerk bringing the Council into disrepute and creating a bullying scenario. It found no evidence that the Clerk acted in a way that was inappropriate to her position or detrimental to the Parish Council.
- 4.39 The Committee reviewed the complaint letter by Mr & Mrs Taylor about the Cemetery Working Group and observed that it did not specify a complaint about any particular member or dates. The Committee considered that the Clerk was correct to serve all members of the Working Group with a copy of the complaint letter and to request a response within 5 working days in accordance with the adopted Little Downham Parish Council Complaints Handling Procedure.
- 4.40 The Committee was aware that it is standard practice for members of Little Downham Parish Council to complete and sign a Declaration of Interests form at meetings indicating their interest in specified agenda items. In light of this, it was considered acceptable that Cllr Winters be reminded of his position to declare a prejudicial interest in item 123/15 and to sign the Declaration of Interests form as a member of the Cemetery Working Group who had received a copy of the formal complaint.

- 4.41 In relation to Cllr Winters opinion that item 123/15 Cemetery Working Group – Formal Complaint was headed wrong on the agenda of the 3<sup>rd</sup> December meeting, the Committee noted that the item was to be discussed during a closed session due to the sensitive nature of the allegation, therefore no further information could be detailed on the public agenda. It was noted that all members of the Council were aware of the complaint and procedure because they had been informed at the 19<sup>th</sup> November meeting (Mins.108/15).
- 4.42 The Committee did not consider the Clerk to be the only person to know all the facts of the complaint because all persons relevant to the complaint knew. Information was issued on a need to know basis because some members of the Council who were not involved would be required to be impartial and eligible to be appointed to a Complaint Committee.
- 4.43 The Committee considered that Cllr Winters was economic with the truth relating to Mr & Mrs Taylor's complaint and was reading into it with matters that were not stated. His insistent reference to his non-attendance at the Cemetery Working Group meeting on 15<sup>th</sup> October was irrelevant to Mr & Mrs Taylor's actual letter of complaint.
- 4.44 The Committee acknowledged that Cllr Winters did not declare a prejudicial interest on 3<sup>rd</sup> December and was therefore a fourth member of the council when Item 123/15 was to be discussed, which at that point the Council was not inquorate. However, the Committee agreed that the Chairman was correct in declaring the Council inquorate at the time of considering the appointment of Parish Council members to form a Complaints Committee. It considered that Cllr Winters was not eligible to appoint members on a Complaints Committee to discuss Mr & Mrs Taylor's complaint about the Cemetery Working Group when he was a member of the Working Group.
- 4.45 The Committee did not consider the Chairman or the Clerk to have 'suspended' Cllr Winters from being a parish councillor. In answer to Cllr Winters' question of whether he should have been able to attend the quorum or not, the Committee's view is that Cllr Winters should have declared a prejudicial interest in item 123/15 and should not be part of the quorum to discuss the item.
- 4.46 The Complaint Committee saw no reason why the Clerk should not have sent a letter to Mr & Mrs Taylor, as an enquiry from the Cemetery Working Group. It considered that if Mr & Mrs Taylor had written a reply to say they did not want to sell their land, there would not have been a first formal complaint and three subsequent complaints.
- 4.47 The Committee did not consider the Cemetery Working Group to have usurped the power or the name of the Parish Council when it asked the Clerk to send a letter to Mr & Mrs Taylor. It viewed the letter dated 21<sup>st</sup> October 2015 to be an enquiry regarding a request to purchase three acres of land. It accepted that the letter could have been worded slightly different, but it was reasonable to have assumed that Mr & Mrs Taylor would reply stating whether they agreed or disagreed to sell a portion of their land. It was noted that the Clerk had signed the letter and stated her employee title because that was her position; it did not consider that she had signed it on behalf of the Parish Council.
- 4.48 In relation to Cllr Winters' reference of "the Clerk's dealings over the past ten years should be investigated before we call for a vote of confidence in the Parish Clerk" [*sic*], the Committee felt that this was not relevant to his initial complaint about the Clerk and was a matter that he should raise with the Parish Council through proper procedures.
- 4.49 The Complaints Committee felt that a lot of Cllr Winters issues in his letters were repetitive and considered irrelevant to his initial complaint.
- 4.50 The Committee read the questions that Cllr Winters wrote in the Post Script of his letter dated 4<sup>th</sup> January 2016. It considered them to be irrelevant to his initial complaint and not a matter for the Committee to answer because again it did not have any background information of the facts. It felt that if he had concerns he should raise them with the Parish Council through relevant procedures, noting in particular that matters relating to members of staff are of a confidential nature and not an issue to discuss in a public meeting.

**COMPLAINT COMMITTEE'S DECISION**

**4.51 THE COMPLAINT WAS DISMISSED.**

**4.52 It was proposed by Mr G Jellicoe, seconded by Mrs JL Waters and agreed unanimously that Complaint Committee found no evidence of the Clerk was bringing the Parish Council into disrepute and creating a bullying scenario.**

**COMPLAINT COMMITTEE'S REASONS**

**4.53 The Complaint Committee confirmed that it had read through all the letters and comments relating to the complaint by Cllr KO Winters against Mrs J Wardle (Parish Clerk) claiming she was bringing the Parish Council into disrepute and creating a bullying scenario.**

**4.54 The Complaint Committee considered the allegation to be unfounded because the Parish Clerk was following procedures in accordance with the Council's adopted Code of Conduct and Complaints Handling Procedure. Members of the Council have a duty to declare interests on agenda items that relate to them and to complete the Council's Declaration of Interest Form for meetings. The Clerk is required to provide information to members on a need to know basis and it was apparent that some councillors would be appointed on the Complaint Committee. It was not beneficial to provide more information than was needed.**

**COMPLAINT COMMITTEE'S CLOSING STATEMENT**

**It was unanimously agreed and formally noted that the above decisions were the result of rigorous and impartial deliberations, reading through the letters, comments and accusations relating to all the complaints.**

**The Committee's decision of in-house Code of Conduct Training was for all members of the Council to understand the Code and to abide by it as responsible councillors.**

**The Committee was unanimous in all its decisions and, in accordance with the Little Downham Parish Council Complaints Handling Procedure, hereby deem that its democratic decisions are final and all complainants and councillors should accept them and are expected to abide by the actions, since the complaints procedure has been approved and adopted by Little Downham Parish Council on 13<sup>th</sup> September 2012.**

**The complainants have the right to make a complaint to the District Council, but should note that any action by the Parish Council will be taken into account by the District council in its decision on whether to take any further action on the complaint.**

**It was agreed by the Committee that the Clerk will draft the meeting's minutes and all letters to the complainants and relevant persons being complained about. Copies will be sent via email to all Complaint Committee Members for unanimous approval. When approved, the Chairman of the Complaint Committee will sign all documents and the letters will be delivered accordingly. A copy of the Complaint Committee minutes will be made available for public inspection on the Parish Council's website: [littledownham.net](http://littledownham.net).**

12.58 pm The meeting was re-opened to the public and press. No persons entered the meeting.

There being no further business, the Chairman thanked all members for attending and the meeting was closed at 12.59 pm.

Signed ..... (Chairman) Date .....