

Date: 10 January 2010
 Contact number: 01395 517480
 E-mail: DLyon@eastdevon.gov.uk
 Direct Fax: 01395 517507
 Our Reference: MO/DL/JS/Seaton
 Your Reference:



East Devon District Council
 Knowle
 Sidmouth
 Devon
 EX10 8HL
 DX 48705 Sidmouth
 Tel: 01395 516551
www.eastdevon.gov.uk

Mr D Mears
 Town Clerk, Seaton Town Council
 Town Hall
 Fore Street
SEATON
 EX12 2LD

Dear David,

Complaints and issues at Seaton Town Council

We have spoken several times over the past few months about the number of complaints I am receiving as Monitoring Officer from residents in Seaton. The complaints have come from different people and although the issues are varied, there seems to be some common ground in many of them. I have attached two of the emails with the permission of the complainant, as they give the most detailed evidence of the type of issues which are causing alarm and concern to people in Seaton.

I have carefully considered my role in these matters, as I would normally only get involved if there is evidence of a breach of the Code of Conduct by a Seaton councillor. However, given the number, and ongoing nature of the complaints, together with the Audit Commission's position which I will outline to you in more detail in my next paragraph, I have decided to write to you outlining each issue so that you can discuss these with your Council and decide how to deal with them.

Potentially unlawful decisions

Having considered the letter dated 20 November 2009 (pages 3 to 6 of this letter), the Audit Commission **do** consider that there is the potential that decisions are being made by the Town Council in private session unlawfully. They are clearly concerned about this and have considered whether there is enough evidence to warrant them conducting an investigation. They have concluded that the substantial additional cost to the public purse mitigates against this course of action currently, however, they are very keen to see the Town Council organise a training session covering key administrative points, namely:

- a. Criteria for private session resolutions
- b. Transparency of decisions
- c. Clarity and content of agendas and minutes
- d. Availability of council information - notices, agendas and minutes.

You are, of course, free to choose a training provider, but the Devon Association of Parish Councils is a reputable and respected source of support and information and you might wish to ask them to organise an appropriate session for you, your Chairman and key decision makers.

contd/.....

2.
10 January 2010
Letter to Town Clerk, Seaton Town Council

Administrative and procedural concerns

The other matters which have been raised with me include these allegations:

1. no response to emails particularly where the complainants consider you find them persistent or to be asking difficult questions
2. inconsistent posting of public notices – at least one occasion where the notice was not posted in line with legal requirements
3. poor procedures for document saving leading to misleading and confusing information in the public domain
4. a lack of respect for members of the public, including refusing to note their views in minutes
5. limited use of the website as a communication tool which hinders people wanting to find out about the intentions, meetings, minutes, decisions and actions of the Council
6. extensive delegated spending powers to the Town Clerk, unprecedented in the history of the Council

I know from our conversations that you have every intention of changing your processes to address the issues outlined in points 2 and 3, however I'm not sure if you have made any public statements about these things to reassure those residents who are concerned. You might also wish to consider the other numbered points and decide how best to respond to and/or reassure the public in these matters.

Would you be able to let me know how you intend to proceed and which meeting(s) of the Council will be considering this letter and its attachments?

Thank you for your time.

Yours sincerely

Denise Lyon
Deputy Chief Executive and Monitoring Officer

Copy: Councillor Sandra Semple
Mark Bartlett - Audit Commission
Heather Sanham
Ted Butt – Chairman of East Devon Standards Committee

Flint House
Fremington Road
Seaton EX12 2HX

20 November 2009

To East Devon District Council Standards Committee

Dear Sirs,

Seaton Town Council

I am writing to you because I am concerned that Seaton Town Council is increasingly not conducting its business in the public interest to ensure openness, accountability and leadership, and in some instances their process of decision-making is not lawful.

I have sought clarification through the Society of Local Council Clerks and NALC. I understand that it is unlawful for a decision to be made by a local council that has not been placed on an agenda, and that it is a requirement that business to be transacted at a council meeting – including any proposal to spend public money - must be specified in the summons to that meeting. It is important that the agenda includes sufficient information to enable the council to discuss items of business properly and to make sensible decisions about them.

1) In the recent case of Seaton Town Council agreeing to the expenditure of up to, and possibly more than, £800,000 of public money on the purchase of a property, this proposal does not appear to have been placed on an agenda nor did the agenda item under which the discussion took place give any indication as to the business to be discussed, therefore neither the public nor councillors could be expected to have any idea at all as to the content of the proposal to be discussed. The relevant agenda states:

15th June 2009 – In the view of the confidential nature of the business about to be transacted, it is likely that the press and public will be excluded during consideration of item 6 (agenda item 5 above refers). Item 5 states: Exclusion of the press and public - To agree any items to be dealt with after the public, including the press, have been excluded under Standing Order 35(b). It then states: (Commercial in confidence 2 items).

I understand that as meetings of local councils should be open to the public and press, their exclusion should only be proposed when business is to be discussed that would be prejudicial to the public interest; specifically:

- a) appointment,
- b) terms of service,
- c) conduct and dismissal of particular employees;
- d) terms of tenders and negotiations for contracts to be entered into;
- e) the early stages of any dispute and the preparation of cases in legal proceedings.

If this was the first time that the proposal to purchase a property had been mooted, on such an important issue it was presumably too early for deliberations to have included matters affecting personnel contracts or terms of tender which would be an acceptable reason for meeting behind closed doors. Therefore it would seem that the public and press were excluded from the discussions for no valid reason.

2) Seaton Town Council appears to be applying the facility to exclude the public and press from its meetings very frequently and what appears to be often inappropriately. This practice means that neither the criteria for meeting the principles of Best Value in terms of consulting the community are met; that such practice does not uphold the principles of openness and transparency of decisions affecting members of the community whom councillors are representing, and more importantly and

seriously, agendas either do not specify the business to be transacted at all which I understand is unlawful, or not sufficiently to allow either the councillors to discuss them properly or the public to be aware of what is being discussed.

3) Whilst Seaton Town Council does not have a *duty* of Best Value, as I understand it the government expects all town and parish councils to *embrace* the principles of Best Value and follow Best Value practices as far as possible. This requires setting objectives and priorities and ensuring that those objectives and priorities reflect the views of local people. It is expected that they consult with local people, key partners, local businesses and voluntary organisations. However, in a number of matters that directly affect local people, partners, businesses and voluntary organisations, Seaton Town Council does not consult; indeed in the matter of Willoughby House, the chairman of the council, Mrs Semple, was quoted in the press as saying that “there would be no public consultation and the council’s decision was final”.

4) In recent months Seaton Town Council has excluded the public from a number of its meetings when discussions have taken place on matters of interest and concern to the public, significantly:

- a) 15th June 2009 – already covered above. Although the proposals never appeared on an agenda, the minutes of the meeting are as follows:

Item 23 (1) - to consider purchasing Willoughby House for the sum of £275,000 including adjacent land.

After much discussions taking place

RESOLVED – *To authorise the Town clerk to make arrangements to purchase Willoughby House for £275,000 and that the Town Clerk be authorised in consultation with Cllrs Mrs P Collins & Mrs C Wise to instruct professional organisations to take this project forward.*

The proposal to spend public money on purchasing a property and on instructing professional organisations does not appear to have been placed on an agenda.

- b) 20 July 2009 – the agenda simply states “Willoughby House”. Once again, the agenda states that the public and press are to be excluded from the meeting and once again are not provided with any indication as to the discussions to take place. However, the minutes state that the public were not excluded but anyone reading the agenda would have expected to have been excluded from that item and might well not have attended the meeting on that basis. The minutes merely state that the Clerk gave a verbal update on the Willoughby House situation. For the public who did not attend the meeting, they were none the wiser.
- c) 17 August 2009 – This is marked as being a “revised agenda”. Again the public are excluded for an item that reads:

“ To discuss possible funding from Devon County Council for part of land at Elizabeth Road for Nursery”

It seems unlikely that possible funding from DCC to purchase land for the provision of a nursery falls into the category of being prejudicial to the public interest; in fact it is likely to be very much *in* the public interest, particularly if it affects any of the facilities currently owned and run by other organisations on that land. The minute of that meeting appears to confirm that there was no valid reason to exclude the public and the press.

- d) 19 October 2009 – the public and press are removed from the meeting for the following item:

“Tourist Information Centre – Members to receive a report from the Town Clerk on options for the relocation of the TIC, after EDDC has taken the decision to terminate the Town

Councils Lease on the current premises. Please note the TIC Manager will be present for this item.

Any proposal to relocate the TIC affects significant sections of the local community such as businesses, tourist providers, accommodation providers as well as members of the public who use the facility. The level of concern was evident by the presence of representatives from a number of groups in the town making representations during public question time.

The Clerk's recommended option to relocate the TIC into the Town Hall, was not a matter that appeared to be prejudicial to the public interest. In fact on such an important issue, that proposal, or indeed any other, would be considered by those affected to be very much *in* the public interest, requiring full consultation.

- e) Despite the concern expressed by those community groups most affected by any proposed move of the TIC to the Town Hall, the Town Council continued to meet in private. They then deferred the matter until its meeting on 16th November at which they continued to exclude the public and press from their discussions. The proposal on their agenda was the same as that for their meeting of 19 October. The agenda did not appear on their website nor have the minutes. Despite this being a matter of immediate and serious concern to a large section of the community, lack of consultation and lack of disclosure of decision continues. It is unlikely that discussions centred on staff issues and therefore unlikely that there was a requirement for the public and press to be excluded.

5) Following the outcry from the public at the lack of consultation over the council's proposal to purchase Willoughby House and the resulting withdrawal of that proposal, a motion was put to the Council at their meeting of 21 September:

"Now that Willoughby House is not available, it is proposed that this Council sponsor a study into the feasibility of taking ownership of the Town Hall in order to enhance its suitability as a centre point for a range of social and community activity. The enhancements would include expanded Council facilities. The study will include full financial assessment of the cost of improvements, running and borrowing costs and impact on the Council precept, which could become a key factor in any decision making process".

The minute of that meeting reads:

RESOLVED – that a sub-committee be created consisting of the Town Mayor, Cllr P Burrows, Mrs P Collins, G Jones and Miss S O'Connell, to investigate the viability of acquiring ownership of the Town Hall. The sub-committee will have the delegated authority to commission a structural survey and a professional business plan.

However, despite this sub-committee being open to the public and press, no details of when it meets is provided on the Town Council's website, nor do the minutes. The agenda for their first meeting was displayed outside the Town Hall only a few hours before the meeting. It read:

1. *To authorise a building survey report*
2. *To commission a feasibility study including business plan scenario from an appropriate qualified source.*

These proposals involved expenditure and although in theory the proposal was contained in an agenda, with only a few hours' notice the public could not possibly have had an opportunity to attend the meeting or comment on the proposal.

A second meeting of the sub-committee took place with a day's notice of the agenda outside the Town Hall. Again, there is no mention of this meeting on the Council website, nor minutes.

I reiterate my first statement that I believe that it should be brought to the attention of the Standards Committee that Seaton Town Council is not conducting its business in the public interest to ensure openness, accountability and leadership, and that in some instances their process of decision-making may not be lawful.

Yours sincerely,

Mrs H Sanham

Email received 14 December 2009

Dear Denise,

Thanks for letting me know. I appreciated Jill's message last week too. *(note from Denise Lyon: these comments refer to updates we made to Mrs Sanham to explain why this complaint was still outstanding – the Audit Commission were still considering their position)*

The Town Council continues to operate in a secretive way, making decisions behind closed doors and refusing to consult on matters that affect the public. Complaints continue to be submitted about lack of information on their website regarding agendas and minutes of meetings. A meeting of the Amenities committee was called on a Thursday (3 December) instead of the normal Tuesday as stated on their website. No notice of the meeting was posted on the website - only on the board outside the Town Hall. It is unknown how many other meetings of this committee have been held that no-one knows about unless they chance to pass the Town Hall on a daily basis to check. The last date advertised on their website is July this year. A number of items were discussed after the press and public had been excluded; one concerned the future maintenance of the Seaton Labyrinth. It is debatable whether such a discussion could be deemed to be prejudicial to the public interest.

It is accepted that to post a notice of meetings on the town hall noticeboard meets the *minimum* legal requirement, but good practice advises councils to advertise their meetings as widely as possible to enable the public to attend if they wish.

There have been a number of personnel meetings during the last few months concerning the future of the TIC but according to their website, that committee hasn't met since 7th August. The Council has, however, made significant decisions about the TIC which affect the town's businesses, tourist providers, tourists and public, and without reference to any of those stakeholders, I understand that the staff received redundancy notices 2 days ago. Minutes of meetings where these major decisions have been reached have not been published. It is unclear when the full council agreed such decisions as there is no mention of approval of recommendations of the Personnel committee in their October agenda and as far as the November agenda is concerned, it appears to be blank.

A public protest at the decision to close the current TIC premises without consultation was held last Friday. Although the clerk and the chairman were in the clerk's office, they refused to meet the protesters, claiming that the office was not open that morning. The clerk and chairman published a press release which was full of inaccuracies. I have submitted a response to the papers on behalf of the Seaton Visitor Centre Trust which has a direct interest in the TIC, because the statements that are made by the clerk and chairman of the council to the public are not just misleading but untrue.

Councillors have apparently been instructed by the clerk and chairman not to respond to letters from the public, particularly in respect of the town council's decision to close the current TIC premises. The excuse given is that the decision was taken without the public and press present and is therefore confidential. However, the clerk and chairman have issued two press releases and have therefore brought the matter and the decision into the public domain. The chairman of the council appears to be assuming executive powers which she is not entitled to have, and the public are being refused the right to speak to the people they voted to represent them.

I do hope there is some way of investigating all this which is causing so much disquiet in the town.

Kind regards, Heather