



# HALE PARISH COUNCIL

## OF THE HALTON BOROUGH IN THE COUNTY OF CHESHIRE



### MINUTES OF ORDINARY MEETING OF HALE PARISH COUNCIL HELD ON MONDAY 16 MARCH 2020 AT 7.30PM IN HALE VILLAGE HALL.

Present: Cllr Cleary, Cllr Spargo, Cllr Wright, Cllr Trevaskis, Cllr Williams, Cllr Kierman, Cllr Anderson and Cllr Healey

1. Apologies were received from Cllr Mitchell.
2. Minutes of meeting held on 27 February 2020 were approved.
3. No declarations of interest were received.
4. There was no police report to note.
5. An update was provided regarding the Village Hall. There has been a number of positive comments received regarding the cleanliness of the hall and the good work being done by the cleaner/caretaker. The Health and Safety report had been received and was being actioned. It was explained in light of the Covid-19 outbreak that closure was likely and that the Council were receiving regular updates from the Government, ACRE and Cheshire Association of Local Councils.
6. The meeting was adjourned for a period of public participation. A member of the public provided positive feedback on the acquisition of the new bench, and requested this be positioned asap. A member of the public expressed concern that the Coffee Shop had not yet closed in light of the Covid-19 outbreak. A member of the public expressed appreciation for the good work undertaken by the lengthsman on the borders around the village and requested that the Council consider additional works to be undertaken on Hale Park Estate.
7. The below payments were received and ratified.

07.02.2020 - Google - £37.26

07.02.2020 - Risk Support Services - £270.00

10.02.2020 - Refund B Mitchell Re Table Sale - £10.00

10.02.2020 - Parkinson Partners VAT - £1985.82

10.02.2020 - Royal British Legion Poppy Wreath - £50.00

8. The Council resolved to approve and adopt the Information Security Policy and the Document Retention and Disposal Policy.
9. **The Council resolved to exclude the public and press under the Public Bodies (Admission to Meetings Act) 1960 on the grounds of the confidential nature of the business to be transacted.**
10. The Council noted the decision of the panel who have appointed the Bookings Officer in accordance with minutes 10 of the meeting held on 27 February 2020. The Council considered the terms of the proposed 12-month contract to run from 1 April 2020 that had already been circulated on 9 March 2020. Point 22 was already covered in point 24. Point 28.2 needs amending accordingly. The Council unanimously resolved to approve the 12-month fixed term contract of 12 hours per week to begin on 1 April 2020 at an annual salary of £6,552. The Council unanimously agreed the job description, but agreed that in light of the possible imminent closure of the Village Hall there should be the inclusion of additional duties as required upon agreement.
11. The Council noted that the short-term employment contract of the Village Hall cleaner and caretaker expires on the 31 March 2020. The Council considered whether a further fixed term period would be appropriate, or a permanent contract. The Council unanimously resolved to offer the Village Hall cleaner and caretaker a permanent contract from 1 April 2020 on £9.30 per hour, for a minimum of fourteen hours per week. The Council unanimously resolved to include a caveat in the contract so that the Village Hall cleaner and caretaker could include additional hours worked on a weekly timesheet, with any overtime hours (above the guaranteed fourteen) being able to be accrued and taken as time in lieu. The Council unanimously agreed the job description as circulated on 13 March 2020, but agreed that in light of the possible imminent closure of the Village Hall there should be the addition of light maintenance works to be carried out as appropriate such as painting and decorating. Amendments to the contract to be made in line with the above resolutions.

12. The Council noted that the short-term employment contract of the lengthsman expires on 31 March 2020. The Council approved to renew the contract circulated on 13 March 2020 for a twelve month period commencing 1 April 2020, for an average of four hours per week, and at an hourly rate of £15.00 per hour. Subject to proof of all the necessary insurance documentation being in place.
13. The Council considered a recent GDPR breach. The Council considered whether when releasing recent complaint letters to the data subject whether the personal data of the third parties copied into the letters should be redacted or remain.

Members were advised that the Council had to make a decision that was considered "reasonable in the circumstances". As such, the Council followed the guidance as noted in the ICO's Code of Practice.

It was confirmed that this breach had occurred due to action taken by a member of Hale Parish Council and further training was being arranged for all members at a further cost to the Council.

It was explained to members that page 36 of the ICO's Subject Access Code of Practice affirms "The Data Protection Act 1998 (DPA) says you do not have to comply with a SAR if to do so would mean disclosing information about another individual who can be identified from that information, except where it is reasonable in all the circumstances to comply with the request without that individual's consent.

"So, although you may sometimes be able to disclose information relating to a third party, you need to decide whether it is appropriate to do so in each case. This decision will involve balancing the data subject's right of access against the other individual's rights in respect of their own personal data. If the other person consents to you disclosing the information about them, it would be unreasonable not to do so. However, if there is no such consent, you must decide whether to disclose the information anyway.

"You should make decisions about disclosing third-party information on a case-by-case basis. You must not apply a blanket policy of withholding it.

"For the avoidance of doubt, you cannot refuse to provide subject access to personal data about an individual simply because you obtained that data from a third party. The rules about third-party information, described in this chapter, apply only to personal data that includes information about the individual who is the subject of the request and information about someone else."

It was explained to members that page 37 of the ICO's Subject Access Code of Practice affirms "As your obligation is to provide information rather than documents, you may delete names or edit documents if the third-party information does not form part of the requested information".

It was explained to members that page 38 of the ICO's Subject Access Code of Practice affirms "in practice, it may sometimes be difficult to get third-party consent, eg the third party might refuse consent or might be difficult to find. If so, you must consider whether it is 'reasonable in all the circumstances' to disclose the information about the third party anyway.

"in some circumstances it will clearly be reasonable to disclose without trying to get consent, such as where the information concerned will be known to the requester anyway. Indeed it may not always be appropriate to try to get consent, for instance if to do so would inevitably involve a disclosure of personal data about the requester to the third party.

"confidentiality is one of the factors you must take into account when deciding whether to disclose information about a third party without their consent. A duty of confidence arises where information that is not generally available to the public (that is, genuinely 'confidential' information) has been disclosed to you with the expectation it will remain confidential. This expectation might result from the relationship between the parties.

"However, you should not always assume confidentiality. For example, a duty of confidence does not arise merely because a letter is marked 'confidential' (although this marking may indicate an expectation of confidence). It may be that the information in such a letter is widely available

elsewhere (and so does not have the 'necessary quality of confidence'), or there may be other factors, such as the public interest, which mean that an obligation of confidence does not arise.”

It was explained to members that page 39 of the ICO’s Subject Access Code of Practice affirms “the following points are likely to be relevant to a decision about whether it is reasonable to disclose information about a third party in response to a SAR.

“- Information generally known to the individual making the request. If the third-party information has previously been provided to the individual making the request, is already known by them, or is generally available to the public, it will be more likely to be reasonable for you to disclose that information. It follows that third-party information relating to a member of staff (acting in the course of their duties), who is well known to the individual making the request through their previous dealings, would be more likely to be disclosed than information relating to an otherwise anonymous private individual.

“- Circumstances relating to the individual making the request. The importance of the information to the requester is also a relevant factor. The need to preserve confidentiality for a third party must be weighed against the requester's right to access information about his or her life. Therefore, depending on the significance of the information to the requester, it may be appropriate to disclose it even where the third party has withheld consent.”

It was explained to members that page 40 of the ICO’s Subject Access Code of Practice affirms "If you have not got the consent of the third party and you are not satisfied that it would be reasonable in all circumstances to disclose the third-party information, then you should withhold it. However, you are still obliged to communicate as much of the information requested as you can without disclosing the third-party individual's identity. Depending on the circumstances, it may be possible to provide some information, having edited or 'redacted' it to remove information that would identify the third-party individual.

"You must be able to justify your decision to disclose or withhold information about a third party, so it is good practice to keep a record of what you decide, and why.”

It was noted that Hale Parish Council must document its decision-making process in line with the requirements of the accountability principle.

Considerations In Favour of Disclosure	Considerations Against Disclosure
<ul style="list-style-type: none"> <li>- The Council considered that the data subject has rights to their own personal data.</li> <li>- The Council considered it cannot refuse to provide subject access to personal data about an individual simply because it obtained that data from a third party.</li> <li>- The Council considered if the letter had the necessary quality of confidence after being shared with third parties.</li> <li>- The Council considered that the third-party information had previously been provided to the data subject making the request.</li> <li>- The Council considered that the complainant had revealed their identity to the data subject and made the data subject aware that a letter of complaint had been written about them.</li> <li>- The Council considered that the third-party information had been made available to members of the public and additional third parties.</li> <li>- The Council considered the information is now in the public domain and could be shared further with public and press.</li> <li>- The Council considered the importance of the information to the requester.</li> <li>- The Council considered whether it would be reasonable in all the circumstances to disclose the third party information about the complainant.</li> <li>- Hale Parish Council considered its duty of care to its employees.</li> <li>- The Council considered non-disclosure may cause significant distress and anxiety to the data subject.</li> <li>- If the Council refuse to disclose, the ICO have the power to compel an organisation to release the information, and the data subject would then know anyway. The Council considered it could cause the employee significantly more adverse effects if they have to take this matter to the ICO and then find out the information at a later stage.</li> <li>- The Council considered the number of occasions where confidential information has been shared by the complainant, and it cannot in good faith guarantee that this information won't be shared further, or be used against the data subject.</li> <li>- The Council noted an email sent by the complainant on the day of the alleged offence (3 December 2019) advising that it was "nice to see" the data subject and "we had a very interesting chat". These statements were inconsistent with allegations written in the first complaint letter dated 19 December 2019. The Council considered whether non-disclosure would set a precedent for letters containing inconsistent allegations that could then be used to damage the reputation of a data subject through the disclosure of the allegations to third parties.</li> <li>- The Council considered if it had failed by not having any clear policies in place that would restrict the data subject from visiting the residence of a Councillor.</li> </ul>	<ul style="list-style-type: none"> <li>- The Council considered that one of the third parties had refused to give their consent.</li> <li>- The Council considered that the third parties have rights.</li> </ul>

**The Council resolved to release the recent complaint letters and the personal data of the third party who is a member of Hale Parish Council. The Council resolved not to release the personal data of any additional third parties who were not the member of Hale Parish Council who breached GDPR and as such the details of any further third parties should be redacted.**