

Investigation of Procedural Failures as Presented by Mr P. Harvey-Bennett

The parishioner has directly emailed the Chairman of the Parish Council stating that he believes that the process followed by the Parish Council to carry out verge ploughing was not in accordance with the published procedures.

This audit trail is derived from Parish Council minutes and Task & Finish Group reports, all of which are published on the Parish Council website.

1. The need to potentially verge plough (clear the sides of the metalled road surfaces of mud and debris) was first raised by a parishioner in the public open session of the meeting of 27 November 2017:

General state of the roads – noting that ‘Snow Warden’ was an agenda item, a parishioner pointed out that gritting in many areas would be pointless because of the state of some roads, which are covered in mud. Following discussion, which included the issue of the mud on the roads, the limited funds available to Highways was noted, as was the proposed £8,000 increased Precept by one Parish Council in order to maintain their roads. It was agreed the first step was to identify drains and gullies that required attention and were the responsibility of Highways. Cllr Wilkinson agreed to undertake this task.

2. At this meeting it was also agreed to establish a Strategy Task and Finish Group to look at such matters and possible ways forward:

Strategic approach to the delivery of the Council’s responsibilities – following agreement at the last meeting about the way forward to consider this issue, Cllrs Kitchen, Coupe and Wilkinson agreed to form a task group.

3. This issue was raised again in the public open session of the meeting of 18 December 2017:

General state of the roads – two parishioners commented on the road conditions which would hamper emergency vehicles. The bottom of Satterleigh Hill was highlighted as particularly poor with the suggestion that a ‘slow’ notice be erected. It was confirmed that white lining had been identified for this location and that its condition would be added to the list of issues for Highways to address.

4. At this meeting Councillor Wilkinson reported further activity on assessing the works required:

Snow Warden Scheme – the following was noted from Cllr Wilkinson’s report of the current situation:

- Cllr Wilkinson had walked the ‘snow route’ with Paul Wingrove and identified where work was required to verges, hedges etc.
- He had looked at the approach taken in other parishes, including the Braunton area and made contact with a contractor, currently undertaking similar work in North Molton, who had provided an estimate of £240 per mile for clearing drains and gullies etc.
- He had estimated that approximately 6 miles of clearance was currently required within the Council’s two parishes.

- *The owner of the land where Highways had dumped soil containing Himalayan Balsam did not wish to take any action provided Highways resolved the drainage problem.*
- *Cllr Wilkinson proposed that the Strategy Task Group look at creating a rolling programme aimed at addressing sections of the road each year until the roads were satisfactory and that priority should be given to the 3 miles of the snow route.*

Points raised following a general discussion on the above included:

- *The type of work envisaged was best undertaken in the Spring of each year.*
 - *It was accepted if no action was taken the situation would worsen.*
 - *It was noted that there was no duty placed upon a parish council to keep the roads clear, however there was a view expressed that the Council had a moral obligation to improve these.*
 - *The costs involved would exceed £1,000 so would require efforts to attract three estimates.*
 - *A plan, illustrating the need, outline of work, priority and options for staging the work and possibly working with another parish to minimise costs, was felt to be the way forward. Decision making would include consideration of funding options and the use of reserves.*
 - *Chapter 8 training course had been cancelled by Cllr Wilkinson following e-mail exchanges. The purpose of this training and its benefit for the work envisaged was generally discussed.*
- It was agreed that the Strategy Task Group should convene before the next Council meeting to address all the issues raised above in order to propose a way forward.*

5. In the meeting of 29 Jan 2018 Councillor Wilkinson again reported progress to the Council:

Snow Warden Scheme - turning to the clearing of verges and consequent problems if this is not undertaken during adverse weather conditions, Cllr Wilkinson explained past practice, costs of clearance, estimated mileage of the current snow route, responsibility for clearance and emphasised that this now lies with the Parish Council.

Accepting that a decision needed to be taken by the Council to undertake any work, he reported that some funds were available from the Community Enhancement Fund. He explained that time was of the essence for any application being made within the current financial year. He therefore proposed proceeding with an application whilst discussions took place within the Council about work priorities. He emphasised that the process would not commit the Council to any spending. Cllr Kitchen proposed, Cllr Coupe seconded and all agreed Cllr Wilkinson proceed to obtaining three quotes for the clearance of verges and that the Strategy Task Group would meet beforehand to confirm revisions to the snow route and priority for verge clearance.

6. Therefore, at this point the Council resolved that Councillor Wilkinson obtain 3 quotes in order that the potential costs could be identified and examination of the budget funding could progress. It was clear that this was not a procurement exercise, but part of an assessment process.

7. A Strategy Task and Finish Group meeting was held on 6 Feb 2018 and the report is clear is the outcome of the assessment process:

*The water run-off issues on local roads were discussed at length and the need for verge ploughing was obvious across the parish, not just on the snow route. Although the immediate concern on the snow route had diminished, the amount of standing water and poor run-off was leading to a marked deterioration in the road surfaces. It was agreed to recommend to the PC that a formal 4 year programme of verge ploughing should be established, under the management of the new HLO role and the **costing process** for this Financial Year should be continued to get the programme started. The roads to be*

ploughed in years 2 - 4 would be decided by the PC once recommendations had been made by the HLO.

It was identified that the PC Financial Regulations contained a slightly different procurement process to that of the Highways grant funding under the CEF. It was agreed that the PC should really follow the process required by the grant giving organisation in these situations and that this should be updated in the PC Financial Regulations.

8. In essence, in order to access the co-funding from the Highways Authority Community Enhancement Fund (CEF) it was necessary to use the services of their preferred contractor; who had already been selected by tender by Devon County Council and whose contract had a clear specification for the works to be completed under the 'Highways Cleaning' section of the DCC contract.

9. These recommendations were presented to the Council at the meeting of 26 February 2018 and an amendment to Financial Regulations was resolved to explicitly allow co-funded activity to be progressed using the co-funder procedures:

Financial Regulations - *Cllr Ball provided background for the need to amend the Council's Financial Regulations (FR). Cllr Ball proposed, Cllr Kitchen seconded and all resolved to amend FR paragraph 11.1 to add the following sub-clause:*

"vi. Where the contract is part of a co-funded project or grant process, the co-funding organisation's requirements shall apply."

10. Councillor Wilkinson also gave an update to the Council on the verge ploughing situation:

Verge Ploughing – *Cllr Wilkinson reported his findings on verge ploughing. These, plus discussions which followed included:*

- *The background related to DCC's responsibility in road maintenance was summarised, noting that parish councils in Devon were now responsible for much of this, including verge ploughing.*
- *The need to ensure parishioners were aware that the verge ploughing work would be managed by the Parish Council and that it would be funding approximately 50% of the costs.*
- *The need for a four-year maintenance management plan was required by the Council for the longer term.*
- *Part-funding for verge ploughing was currently possible through a grant from the Community Enhancement Fund, with applications required by 28th February 2018 for any resources within the current financial year.*
- *Three estimates per metre for verge ploughing had been acquired by Cllr Wilkinson; these were 20p, 30p and 79p per metre.*
- *Cllr Wilkinson had knowledge of the most competitive contractor's work and other related aspects, as a result of a useful liaison he had established with North Molton Parish Council.*
- *There was a potential 4 miles (12,874 metres) of verge within the parish which required ploughing, which would cost £2,574.80, excluding costs of the spoil disposal.*
- *Cllr Kitchen confirmed that there were sufficient funds within the Council's budget to meet costs of some verge ploughing during this financial year, due to a reduction in the anticipated outgoings of the Council because of successful grant applications.*
 - *Cllr Wilkinson proposed, Cllr Kitchen seconded and all authorised expenditure on verge ploughing to proceed with 'Forks2U' (@20p per metre) as soon as practical and for an application to be made to the Community Enhancement Fund for £2,000 towards the cost, with*

final details about the priority route to be decided. Cllr Wilkinson was also authorised to proceed with the application.

11. It is important to note that 'Forks2U' are actually one of the Highways Authority preferred contractors; and were required to be used under the CEF co-funding arrangements. At this point in time, as the use of this contractor was an outcome of the CEF application, this decision was to authorise potential expenditure – not to place a contract, as that was dependant on the outcome of the CEF application. It is also clear that the Council understood the limited risk around the disposal costs as it was perfectly clear that the amount of mud to be collected could only be estimated as the verge depths were inconsistent throughout the route to be ploughed.

12. At the meeting of 26 March 2018 Councillor Wilkinson reported that the CEF application had been successful, and thus, in accordance with the extant financial regulations, the preferred contractor of the co-funding organisation (DCC Highways Authority) could be engaged:

Verge Ploughing – Cllr Wilkinson provided an update including confirmation that the application to the Community Enhancement Fund had been successful. Cllr Wilkinson proposed, Cllr Kitchen seconded and all agreed that the preferred contractor be asked to commence work, that this would be carried out along the current snow route with any modifications to this route being considered for the following year. It was also confirmed that Cllr Wilkinson, with the assistance of Paul Wingrove as a volunteer, would closely monitor work undertaken by the contractor. Following discussion about the administrative process, Cllr Ball agreed to liaise with Cllr Kitchen in relation to the invoice.

Therefore, it is clear from the minutes, reports and resolutions during this process that the Parish Council complied with the financial regulations in force when the final decision to engage 'Forks2U' was made and that the Clerk **did not** retrospectively change said regulations. However, it is noted that there is a typographical error in the implementation of the amendment in that the 'v' in the describing paragraph has not been amended to 'vi'. However, it is clear from the minutes and the resolution the intent of this amendment was to contract co-funded projects under the co-funding organisations procedures and this typo will be corrected in due course.

In addition, the Parish Council obtained best value for money on this project; by obtaining co-funding and utilising the Highways Authority preferred contractor (which also was the lowest cost obtained during the feasibility assessment) in order to complete this safety critical work on the snow route and to prevent further road surface damage being caused by standing water.

It should also be noted that the Parish Council conducted a Parish Survey as part of the budgeting process in the Autumn of 2018 to re-confirm the parishioners views on the Parish Plan and in response to the question 'provide your view on the priority that the Parish Council should give to' :

Maintain safer critical routes into the village, particularly in winter. Improve the surface quality of roads. Prevent flooding and surface water on routes within parish. Drain clearance reporting and monitoring of DCC actions. Pothole reporting and monitoring. Carry out verge ploughing programme to reduce water flow onto highway.

The results were High Priority 125, Medium Priority 8, Low Priority 0 and Not a Priority 2 : this reconfirmed that the priorities of the Parish Council on this matter were supported by the Parish.