

Welcome everyone to this September Communities Committee.

Before we move on with the agenda, I would just like to say a few words about our clerk, John Fulbrook. Sadly, as members know, he has suffered another close family death last week, and this coming so soon after the sad loss of his father. He is now on compassionate leave, and I am sure that you will all join with me in offering our deepest condolences and sympathies to John and his family during this very sad and difficult time.

Because John is away, he has not been able to do his normal briefing with me, so some agenda items may lack information that he would normally provide. However, the deputy clerk is here to help where she can. In view of the circumstances, I would appreciate the committee's cooperation as a number of agenda items will have to be deferred to the next meeting.

Play Areas 8.2

In the absence of the Clerk there is no playground report from him, but I will update members and the public on the issue surrounding the closure of the play areas.

There have been some social media comments and comments made to members about the closures and the reason behind them. I also understand that the Wicksteed report was 'leaked' and appeared on Facebook. If this was the case then I recommend that Council looks at how this was leaked and how we can avoid this in future.

In brief the reason for the closures is as follows:

On August 12th Cllr Campbell wrote to the brokers saying that he and Cllr Goldsmith were: *"extremely concerned that the Council is on notice that a significant number of children's play equipment items have been professionally assessed as posing a risk of 'high severity injury' and of 'fatal injury'. Despite these assessments the Parish Clerk is refusing to take the items out of service pending repair or replacement"*. This was a serious allegation and because it was made by a sitting Cllr and under FCA regulations the brokers were obliged to pass this on to the insurance company as it was a "material fact", and they were under no obligation to confirm its veracity.

Firstly, in the clerk's opinion, Cllr Campbell had misinterpreted the report and that the items in question were of low moderate risk. Nowhere in the report is there any mention of any item being of risk of: *'high severity injury' and of 'fatal injury'* which if that were the case would have had a recommendation for removal or taking the item out of use until repaired. Secondly, the Council had been following the same maintenance programme for years with monthly inspections by HDC and an annual inspection by Wicksteed – both very experienced and doing the same inspections all over the district. It is noteworthy, that a similar report was prepared in 2019 and that no concern was raised by Cllr Campbell, then Chair of the Amenities Committee which had responsibility for the play areas, over that report. Thirdly, Wicksteed had not told the Council to take any of the moderate risk items out of use.

Cllr Campbell, in my opinion too has misinterpreted the Wicksteed report for what reason I can only guess. I discussed the report with Cllr. Ian Alexander who has an engineering background, and he commented as follows:

"Just because an annual inspection states that it is in need of a moderate level of maintenance should not be a reason to withdraw cover.

The only real issue is whether the risk associated with using a piece of equipment has changed / increased, from the annual report I read, nothing has.

Each piece of equipment should have a risk assessment and using the Wicksteed levels of severity they will be at least 3 or 4 and maybe 5. Once again using the Wicksteed levels of likelihood it has to be a 2 or 3 and maybe a 4.

So in my opinion a moderate score of 12 would be the typical risk assessment figure for play equipment, exactly the figure the broker considers unacceptable apparently, renewal of a slightly worn bearing before it really needs replacing will not change the risk associated with the equipment. The broker and /or insurance company don't seem to have understood this."

As a rule neither the brokers nor the insurers see these annual reports, but in this case because Cllr Campbell sent them a copy attached to his 'emotive' email, the insurers responded on the basis of his analysis and not what I and the Clerk believe to be the true interpretation of the Wicksteed report, one I would like to add, that is similar to those that are sent to all the Parish Council's that they do inspections for. When I spoke to them and HDC inspection team they were surprised at the broker's and insurer's reaction.

As a result of Cllr Campbell's email, on the 26th August the brokers advised the Council that all insurance cover had been withdrawn and that the current insurers were not going to renew. However, the Clerk in conjunction with the brokers were able to get the insurers to reverse their decision and on the 27th August we received the following from our brokers:

"Further to my earlier email this morning the insurers have now responded to confirm that with the play areas being closed until the works needed to address the moderate risk issues have been rectified the Specified Premises exclusion can be removed. Please find attached a new policy schedule without the exclusion.

This means that public liability cover will be afforded in the event a claim for injury arises at the play areas and the Parish Council is found legally liable despite them being closed with appropriate signage in place.

Turning to the renewal of the policy due on 1st September; I am pleased to advise the insurers have reversed their decision to withdraw the terms offered previously. The quotation we emailed on 26th July therefore remains valid and we look forward to receiving payment of the premium.

I trust this information meets with the Parish Council's approval and I look forward to receiving the further details regarding the works in the near future.....".

Following a long telephone conversation I had with the broker and one of its directors, I have arranged a meeting for next week to discuss our concerns and the way forward in the long term. Today I received an email from Wicksteeds as follows:

"Dear Sirs,

I write in connection with the recent playground inspections and subsequent reports provided by Wicksteed at the below listed sites;

- *South Ash Play Area*
- *Abbey Road Play Area*
- *Chandlers Way Play Area*
- *Fletchers Croft Play Area*
- *Memorial Playing Field Play Area*

I confirm that the reports make no findings that are categorised on the risk matrix as being at high risk on the likelihood scale AND high risk on the severity scale. Further I confirm that the reports make no findings that are categorised on the risk matrix as being at very high risk on the likelihood scale AND very high risk on the severity scale.

Should any finding be classified as high risk (scoring either 16 or 20) or very high risk (scoring 25), then the inspector would contact the Parish Council and request they immediately attend site to remove the equipment until repairs are made. If contact could not be made or the PC were unable to remove the equipment then the inspector would apply signage to the equipment stated it is out of use and where possible make the equipment unusable (for example by tying swing chains together so the swing could not be used. Messages would be left with the PC explaining the situation. This is a purely hypothetical situation as all findings were classified as very low, low or moderate risk only.

I trust this is clear however please do contact me if I can be of any further assistance."

As can be seen from the above there is no truth in the allegation that: "that a significant number of children's play equipment items have been professionally assessed as posing a risk of 'high severity injury' and of 'fatal injury' and more significantly that the Council, in particular the Clerk, were at fault in not maintaining the play equipment correctly. Frankly, I believe that the Clerk is owed an apology.

In addition, I am waiting for observations/meetings HDC who I have good reason to believe will agree with Wicksteed and will report back on this at the Council meeting on the 20th.

The brokers have been forwarded the email from Wicksteed.

Unfortunately, because of the way that Cllr Campbell's email was viewed, we are left with having to manage the aftermath of his intervention. So, with the deputy clerk we arranged for our maintenance contractor to carry out all the remedial work on the 18 items outlined as moderate in the Wicksteed report and this should be completed by the end of the week and the play areas, hopefully, will reopen for the weekend. The chair roundabout in Fletchers Croft

has been taped up, with a sign, and taken out of service until Creative Play can do the repair in early October but Fletchers Croft is open.

Because the cable-ties have been cut to gain access to the other play areas, I asked the deputy clerk to arrange for chains and padlocks to be installed to prevent this from happening again – which has been done - however, people cannot be prevented from climbing over the fences to gain access, but our insurance cover covers us for this event as we have taken all reasonable precautions. We have kept the brokers informed at all stages and are guided by their advice.

Cllr Campbell has made the comment that he believed that the Clerk/Council were ‘scapegoating’ him as being responsible for the closure of the play areas. He is of course, entitled to his opinion but the fact is that it was his intervention with unfounded allegations that set the whole process in motion. In the view of Wicksteed and HDC the Council has followed due process with its play area maintenance and repairs as per their recommendations. Wicksteed made it quite clear to me today that their report is clear in black & white, and they were surprised that it was open to any misinterpretation. They reiterated that if there was indeed any item of equipment that was as alleged:” *posing a risk of ‘high severity injury’ and of ‘fatal injury’*”, that it would have been picked up with a recommendation for its removal or, being taken out of use for repair.

Although not strictly on the agenda, I am taking the liberty of also including Cllr Campbell’s comments to the brokers on an apple tree: “*posing significant risk to anyone sitting on the bench beneath the identified point of failure*”. He then went on to say, “*the expert recommended that the tree have surgery by the end of 2019 and that consideration be given to moving the bench. Neither has happened and thus there remains an ongoing risk of serious or, fatal injury*”. I cannot find whether the reduction of a metre in height was ever carried out but what I did find is that there is no reference to the tree remaining: “*an ongoing risk of serious or fatal injury*” but that the recommendation was for the tree to be re-inspected in 3 years time eg: February 2022 unless there was a noticeable change.

In his email Cllr Campbell correctly identified that the tree was subject to a report by our tree warden, Andrew Gale, but what I cannot understand is that he was Chairman of the Amenities Committee from May 2019 until August 2020 and yet appears to have failed to follow up on the report and have the bench re-

sited and for whatever reason, decided to bring this to the attention of the brokers only now.

We now need to move forward, and I don't see any reason for us to spend any further time on something that is now being dealt with and is subject to tried and tested maintenance protocols and reporting.

So I am going to propose the following without debate:

That: "The Communities Committee adopts the report made by the chair, in response to the unfounded allegations made against the Council; that the report is appended to the minutes and is uploaded to the website; that the deputy clerk is delegated to send the report to our brokers, Wicksteed, HDC inspection team, the HDC Monitoring Officer, our solicitors, SALC, our internal and external auditors and any other person/company who has been in receipt of any emails on this subject; to delegate the Clerk or Deputy Clerk as the case may be, together with the Chair and Vice-Chair of the Communities Committee to prepare any further reports that they deem necessary on the issue and its implications and report this to Full Council on the 20th September if appropriate."

What we should be discussing is how we should upgrade the MPF and other play areas to the same quality as Fletchers Croft.

Meeting to discuss new equipment?