

Standards Hearing Sub-Committee

3 AUGUST 2016

PRESENT: Councillors Mordue, Mrs J Bloom, S Lambert, C Billingham (Independent Person) and N Heirons (Parish Representative).

1. ELECTION OF CHAIRMAN FOR THE MEETING

RESOLVED –

That Councillor Mordue be elected Chairman of the Sub-Committee for the meeting.

2. COMPLAINT AGAINST TWO SLAPTON PARISH COUNCILLORS

Firstly, the Sub-Committee determined that in the interests of transparency, the hearing should be held in open session.

The Sub-Committee received the reports of the independent investigator appointed by the Monitoring Officer to consider complaints made by Mr T and Mrs P Skillings and Mrs M Godsland concerning alleged breaches of Slapton Parish Council's Code of Conduct and the provisions of the Localism Act by Parish Councillors A Dugard and D Wright. Copies of the independent investigator's reports, excluding the appendices, which can be obtained on request to the Council's Monitoring Officer, redacted as appropriate, are attached to these Minutes.

Parish Councillors Dugard and Wright were present and had been sent a full copy of the independent investigator's reports. The complainants were not present at the meeting. In view of the fact that the interrelationship of the complaints against the two Councillors, they were dealt with together.

In the case of Parish Councillor Dugard the complaints related to his failure to provide a properly completed Register of Interests form within the statutory timescale, failure to declare interests at specified meetings of the Parish Council when his own planning applications were under consideration and bullying.

In the case of Parish Councillor Wright, the complaints related to his failure to properly disclose his business relationship with Parish Councillor Dugard on his Register of Interests form and failure to declare a personal and prejudicial interest at specified meetings of the Parish Council when Parish Councillor Dugard's planning applications were under consideration.

The Chairman of the Sub-Committee explained the procedure for the hearing. There were two additional documents put forward by Parish Councillor Dugard on a confidential basis. These were accepted, read and returned. (No copies were retained).

The investigating officer presented her reports and individual Sub-Committee Members and both Parish Councillors were given an opportunity to question her on the reports. The two Parish Councillors were then invited to present their case. The investigating officer and individual Sub-Committee Members had an opportunity to question Parish Councillors Dugard and Wright. The Investigating officer and Parish Councillors Dugard and Wright were then invited to sum up their case.

Having heard all the evidence, the Sub-Committee invited the Parish Councillors and the investigating officer to leave the meeting room whilst they considered their decisions, in consultation with the Independent Person and the Parish Representative. The Sub-Committee then invited the parties back into the room to deliver their decisions and explain the rationale. These are set out in the resolution to this Minute.

Having decided that there had been breaches of the Parish Council's Code of Conduct and the Localism Act, the Investigating officer and Parish Councillors Dugard and Wright were asked whether they wished to make representations in relation to the form of the action that might be taken. Again the parties were asked to leave the meeting room whilst the Sub-Committee considered this particular aspect. On their return to the meeting room, the Chairman announced the form of action considered appropriate in this case, (also referred to in the resolution to this Minute).

RESOLVED –

- (1) That the Sub-Committee censures Parish Councillors Dugard's and Wright's behaviour which lead to breaches of the Slapton Parish Council Code of Conduct and the Localism Act, 2011.
- (2) That in addition, the following decisions be made:-

In the Case of Parish Councillor Dugard

(a) In relation to the Register of Interests

This Sub-Committee notes that, having regard to the evidence presented, Councillor Dugard did not have a Register of Interest until 13 May, 2015, although he had become a Parish Councillor in 2012. There is evidence in the Parish Council's Minutes of 22 May, 2013, that all Parish Councillors had been reminded to complete their Register of Interest forms and Parish Councillor Dugard was present at that meeting. As such, Parish Councillor Dugard was in breach of part 3, paragraphs 12 (a) and (b) of Slapton Parish Council's adopted Code of Conduct.

The Sub-Committee notes also that Parish Councillor Dugard had been offered training on the Localism Act, which would have included training on Members' interests.

A pecuniary interest includes land and employment or trade and the evidence clearly shows that Councillor Dugard had such interests before May, 2015. The Sub-Committee finds therefore that Parish Councillor Dugard was in breach of section 30 (1) of the Localism Act, by virtue of his failure to list all of his interests.

In summary, the Sub-Committee finds that failure to have a complete Register of Interests that declares all disclosable pecuniary interests and financial interests is contrary to paragraphs 12 (a) and (b) of Slapton Parish Council's Code of Conduct and section 30 (1) of the Localism Act.

(b) In relation to declaration of interests at meetings

The Sub-Committee is satisfied that Parish Councillor Dugard was present at a meeting of Slapton Parish Council on 11 February, 2015, when his planning application for a 180 berth marina was discussed and did not declare an interest and leave the meeting. Indeed, Parish Councillor Dugard participated in the discussions.

As such, the Sub-Committee finds that the non declaration of a prejudicial interest was a breach of part 2, paragraphs 10 (a) and (b) of Slapton Parish Council's Code of Conduct.

The Sub-Committee finds also that Parish Councillor Dugard was in breach of part 5 of the Parish Council's Code of Conduct as he was conferring upon himself a potential advantage by his participation in the discussions on his own planning application.

The Sub-Committee is satisfied that based upon all the evidence presented Parish Councillor Dugard had a disclosable pecuniary interest in the matter that came before the Parish Council on 11 February, 2015, and accordingly finds that he was in breach of section 31 of the Localism Act.

(c) In relation to the alleged bullying

In the case of this particular complaint, the Sub-Committee is aware that the Parish Council's Code of Conduct is not engaged when an individual is acting in his/her personal capacity rather than in his/her capacity as a Parish Councillor.

The Sub-Committee is satisfied that there is no evidence that Parish Councillor Dugard was acting in his capacity as a Parish Councillor in the discussions that took place at the Parish Open Forums and at "The Carpenters' Arms" public house. Accordingly the Sub-Committee finds that there was no breach of the Parish Council's Code of Conduct.

In the Case of Parish Councillor Wright

It is the view of the Sub-Committee that Parish Councillor Wright should have been clear on his Register of Interest about his business arrangement with Parish Councillor Dugard in relation to Chiltern Cottage. The Parish Council Code of Conduct requires members to disclose financial interests and this includes beneficial interests in land and disclosable pecuniary interests on their Register of Interest forms. On the first Register dated 10 June, 2013, under "land" Parish Councillor Wright had merely inserted "home". On the Register dated 13 May, 2015, the entry under "land" read "Chiltern Cottage" together with the post code. There was no indication of what the beneficial interest was or of any connection with Parish Councillor Dugard.

The Sub-Committee finds that, on the evidence presented, Parish Councillor Wright does have a beneficial interest in Chiltern Cottage due to the fact that he occupied it and due to the arrangement documented in a letter from Parish Councillor Dugard's company, Interguide Group, submitted as part of the investigating officer's report.

The Sub-Committee finds that Parish Councillor Wright should have declared a personal and prejudicial interest and not taken part in meetings referred to in the investigating officer's report, due to his friendship and his business relationship with Parish Councillor Dugard when the latter's planning applications were under consideration. The Sub-Committee is of the view that a member of the public with knowledge of the relevant facts would reasonably regard the relationship as being so significant as to prejudice the member's judgement of the public interest.

It is considered that Parish Councillor Wright could be viewed as having used his position to confer an advantage for Parish Councillor Dugard contrary to part 1, paragraph 5 (a) of the Parish Council's Code of Conduct.

On balance the Sub-Committee does not consider that Parish Councillor Wright had a disclosable pecuniary interest under the Localism Act in any matters under consideration at the Parish Council meetings mentioned above due to the friendship and business arrangement with Parish Councillor Dugard. The relationship between the two members is not one that would constitute a disclosable pecuniary interest under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations as it does not fall into any of the categories.

The Sub-Committee wishes to make it known that the above decisions reflect the evidence presented and should also be viewed from the perspective of what any reasonable person, knowing all these facts might possibly conclude.

(3) That the Parish Council be recommended to take the following actions:-

- In relation to Parish Council meetings generally, Parish Councillors should be trained on conflicts of interest and the Code of Conduct. It should however be made clear that in addition to formal training, every Parish Member should, of their own volition take or create every opportunity for training and updating themselves on the relevant legislation and guidance.
- Parish Council agendas should include a formal item for the declaration of interests.
- There should be clarity about the open forum part of meetings and in what capacity Councillors are acting in during this particular part of the meeting. If for example, Councillors find themselves in the position that their planning application is to be considered at the open forum part, they could consider asking an agent or such other person to address the meeting, which would avoid complaints and add clarity to their role.
- The Parish Council Code of Conduct should be updated to include the provisions of the Localism Act.
- The Parish Council should also examine its co-option arrangements to ensure transparency and compliance with the relevant statutory provisions.
- The Parish Council should examine, and where necessary provide training on the protocols and best practice for debate at meetings.
- That the censure of both Parish Councillors Dugard and Wright be reported to the next available meeting of Slapton Parish Council.

Standards Complaint Against Councillor Dugard

1. I have been asked by the Monitoring Officer of Aylesbury Vale District Council to investigate a complaint under the authority's Members' Code of Conduct by two members of the public and the former clerk to the Parish Council against Councillor Dugard Parish Councillor of Slapton Parish Council. The complaint from Mr and Mrs Skillings is dated 14th June 2015. The complaint by Mrs Godsland is dated 22nd June 2015.
2. According to the Complaints Procedure if the decision at stage 2 is to investigate the complaint, the matter will be investigated in most cases by an external investigator whose report will be considered by the Hearing Sub Committee.

The Complaint from Mr and Mrs Skillings (Appendix A)

3. The complaint is set out below:

3.1 Concerns Relating to the Register of Interests

"From November 2012, when he appeared on the Parish Council Minutes as a member, until April 4th 2015 possibly up to May 7th 2015 Councillor Dugard has not completed the Register of Interests, contrary to the Code of Conduct Part 3 para 12.

(I asked the Parish Clerk on April 4th 2015 why Councillor Dugard had not registered interests. I was told it was because his co-option had been "wholly unexpected". I did not check again until after the elections had taken place).

Only four candidates sought re-election prior to May 7th 2015, including Councillor Dugard and Councillor Wright. Councillor Dugard has now completed the Register of Interest's, but has failed to list all the employment and businesses carried on by him, contrary to the Code of Conduct Part 3 para 12 (a) (b).

In addition Councillor Dugard has failed to register that his company, Interguide group Ltd, owns a second property in Slapton. It is the house in which Councillor Wright lives. This property was owned by Councillor Wright until November 2013.

The nature of the arrangement is not known, if Councillor Dugard's company is receiving rent for the property, he has not declared this benefit. If Councillor Wright is not paying rent for his continued occupation, this gift / hospitality has not been declared."

3.2 Concerns Relating to Declaring Interests at Meetings:

"Early in 2015, two applications for development within Slapton were filed by Councillor Dugard's company, one for 18 houses, the other for a 180 berth marina.

In January 2015 the application to build 18 houses was discussed at the PC meeting. Although it is not minuted, the clerk has confirmed that Councillor Wright did not withdraw from the meeting but stayed and took part in the vote". At the meeting on February 11th at which the Marina was first raised, it was discussed in the formal meeting as well as in Open Forum. Councillor Dugard did not withdraw from the Parish Council discussions contrary to the Code of Conduct para Part 2,10a.

At a meeting on March 11th at which the Marina application was considered, the clerk to the PC asked Councillor Wright specifically if he had an interest to declare. He said he had not, and stayed to speak in favour of the proposal, and then to vote in favour. This was minuted. Councillor Dugard did withdraw from this meeting”.

Given the fact that Councillor Wright lives in a house owned by the applicant’s company, which has not been declared, his continued participation in the meetings of January 15th and March 11th would appear to be contrary to the Code of Conduct part 2 Para 7 (1), Part 1 Para 5(a) Para 6, Part 2 Para 8 and Para 9(1)”.

The Complaint from Mrs Godsland (Appendix B)

4. The complaint is set out below:

“In his register of interests Councillor Dugard fails to state that his business, Interguide Group Ltd, owns Chiltern Cottage where Councillor Wright currently resides.

“I consider that this failure to register an interest on the part of both councillors, and Councillor Wright’s failure to disclose an interest at the meeting in question constitute a breach of the Members Code of Conduct for Slapton Parish council, primarily in relation to sections 7(1), 8 and 9 and hence of sections 10a and 10b of the code. The failure to mention the ownership of Chiltern Cottage in their registration of interests is in breach of section 12f. Both councillors are also in breach if 5a.”

In addition, I wish to complain about the conduct of Councillor Dugard during the open Forum at two consecutive meetings of Slapton Parish Council held on 11th February and 11th March 2015 in relation to the same planning application; specifically he breached section 2 (b) and section 4 of the Code of Conduct in the following ways:

- a) I was in the Carpenters Arms several days before the meeting on 11 March when Councillor Dugard stated his intention to encourage his customers to attend the meeting to lend him support. I assume that he carried out this intention because a man whom I have never seen at a council meeting before and who, I assume, was there to support Councillor Dugard heckled Corry Cashman, the previous District Councillor, loudly and rudely when the latter was explaining that there was no District Council Local Plan and that the NPPF governed planning issues.*
- b) Councillor Dugard’s attitude was aggressive and bullying, particularly at the second meeting, whenever members of the public expressed opposition to his application. He interrupted people on several occasions when they were expressing views he did not like. Indeed two members of the public commented on this, one refusing to allow him to interrupt her.*
- c) At the meeting on 11 February, he made a personal attack on Patience Skillings who is directly impacted by the marina application, as she and her husband live in the Lock Keeper’s Cottage at Slapton Lock. In response to a point about the nature of the canal network, Councillor Dugard attacked her for opposing his application when she and her husband had extended the lock cottage.*

There are many witnesses to the incidents above but I would consider Corry Cashman, Upper Floor Flat, The Bothy, Mentmore, Leighton Buzzard, LU7 0QG,

Patience and Terry Skillings, Keepers Cottage, Slapton Lock, LU7 9DB and Wendy McCleod, 15 Spinney Bungalows, LU7 9BY to be the main ones.

5. The Slapton Parish Council Code (SPC Code)

For information, I set out below those sections of the Slapton Parish Council Code of Conduct for Members as referred to by the complainants.

Part 1 Paragraph 5

A member –

- (a) Must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage.*

Part 1 Paragraph 6

A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

Part 2 Paragraph 7 (1)

A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 12 and 13 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers, or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend.

Part 2 Paragraph 8

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

Part 2 Paragraph 9 (1)

Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

Part 2 Paragraph 10 (a)

A member with a prejudicial interest in any matter must –

- (a) Withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the standards committee of the responsible authority.*

Part 3 Paragraph 12 (a) (b) (d) (f).

Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of this election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 8 (1) of the Local Government Act 2000 by providing written notification to the monitoring officer of the responsible authority of

- (a) Any employment or business carried on by him;*
- (b) The name of the person who employs or has appointed him, the name of any firm in which he is partner and the name of any company for which he is remunerated director;*
- (d) The name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;*
- (f) The address or description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority;*

6. The Law

Under the Localism Act

Section 30 *Disclosure of pecuniary interests on taking office.*

- (1) A member or co-opted member of the relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interest which the person has at the time when the notification is given.*

Section 31 *Pecuniary interests in matters considered at a meeting or by a single member*

- (1) Subsections (2) to (4) apply if a member or co-opted member of a relevant authority,*
 - (a) Is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority,*
 - (b) Has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and*
 - (c) Is aware that the condition in paragraph (b) is met.*
- (2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).*
- (3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the*

authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.

- (4) *The member or co-opted member may not*
- (a) *Participate, or participate further, in any discussion of the matter at the meeting, or*
 - (b) *Participate, or participate further, in any discussion of the matter at the meeting, or is subject to section 33.*

Section 34 Offences

- (1) *A person commits an offence if, without reasonable excuse, the person—*
- (a) *Fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),*
 - (b) *Participates in any discussion or vote in contravention of section 31(4), or*
 - (c) *Takes any steps in contravention of section 31(8).*
- (2) *A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person*
- (a) *Knows that the information is false or misleading, or*
 - (b) *Is reckless as to whether the information is true and not misleading. A person commits a criminal offence if, without reasonable excuse, the person fails to comply with section 30(1).*

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 defines what a disclosable pecuniary interest is and can be found at **Appendix C**. The definition includes employment, office, trade, profession or vocation and land.

7. Investigation

In order to investigate this matter I have interviewed the complainants and Councillor Dugard. (The notes of these interviews can be found at **Appendix D**)

8. The Facts

There is no formal place in the Parish Council meeting where members are asked if they have any interests to declare.

Councillor Dugard tells me that he became a councillor in 2012.

I have asked Councillor Dugard, Mrs Godsland and the current Parish Clerk for copies of Councillor Dugard's signed acceptance of office but I have not been sent this. I enclose an example of the form sent to me by Mrs Godsland. (**Appendix E**).

All councillors were reminded by the clerk at the meeting on 22nd May 2013 to complete their register of interests. (**Appendix E**)

Councillor Dugard has a register of interest dated 13th May 2015 (**Appendix F**) he does not have one before this point.

The only interest that he has registered is his company Interguide Group and Newbury Farm.

Planning application 14/02818/AOP for 18 houses was made valid on 26th November 2014 and was submitted by Councillor Dugard's company Interguide Group.

Planning application 15/00164 for a 180 berth Marina was submitted by Councillor Dugard and is dated 19th January 2015.

The minutes of 14th January 2015 Parish Council meeting show that Councillor Dugard attended the open forum part of the meeting as applicant when his application for 18 houses was discussed. The clerk confirmed in an email of 12th June 2016 that he declared an interest and left the formal part of the meeting.
(Appendix A)

The minutes of 11th February 2015 Parish Council meeting show that Councillor Dugard attended the open forum part of the meeting as applicant when the Marina application was discussed he stayed for the formal part as Councillor and did not declare an interest he participated in the discussion and did not leave the room.

The minutes of 11th March 2015 Parish Council meeting show that Councillor Dugard attended the open forum part of the meeting as applicant he declared an interest and left the room for the formal part of the meeting when his application was discussed.

Chiltern Cottage is registered with the land registry under title number BM229774 the registered owners are Interguide group Ltd of New Bury Farm, Mill Road, Slapton, Leighton Buzzard LU79BT. Councillor Dugard is the sole Director and Shareholder of this company.

9. Councillor Dugard's Comments

I asked Councillor Dugard a series of questions about his register of interest and his declaration of interests at meetings. The notes of the meeting can be found at **Appendix D**. I sent Councillor Dugard the notes of the meeting on 17th December 2015 and asked for his comments. He did not return any comments. He called me on 20th January 2016 and I asked him to send in his comments on the interview notes. He said he wanted to look at them again but he would send them back to me. He has not done this.

I sent him the report on 22nd April and he sent his comments by email on 19th July, they are enclosed at **Appendix D**.

Councillor Dugard explained that he knew and was friendly with Councillor Wright he said at interview that if he had to choose another father it would be Councillor Wright.

He showed me a copy of a letter dated 20th October 2013 (**Appendix G**) which offered Councillor Wright a business arrangement in relation to Chiltern Cottage. The Interguide Group would undertake and finance the development of a three bedroomed house within the garden of Chiltern Cottage and that the deeds of Chiltern Cottage be signed over to Interguide Group Ltd for security. Once the new house was built it would be called Chiltern Cottage and Councillor Wright

would own this property. Councillor Dugard explained that due to this arrangement his view was that Councillor Wright still owned Chiltern Cottage.

He said that he had not undertaken any training as a Parish Councillor on the Code of Conduct. This was offered by the clerk in an email dated 27th September 2013. (**Appendix H**)

10 Conclusion

10.1 Register of Interest

Councillor Dugard became a councillor in 2012 he did not have a register of interest until 13th May 2015. He was reminded that he should have a register of interest on 22nd May 2013 and this is minuted (the minutes can be found at **Appendix E**).

Failing to have a register of interest is a breach of the Slapton Parish Council Code of Conduct for members Part 3 Paragraph 12 (a) (b). He was also offered training by email dated 27th September 2013 (**Appendix H**) on the Localism Act which would include training on member's interests.

It is also a breach of the Localism Act Section 30 (1). A pecuniary interest includes land and employment or trade and Councillor Dugard had such interests before May 2015.

Councillor Dugard's register of interest dated May 2015 is incomplete he told me at interview that owns the following properties in the village that are not listed on the register of interest:

- Chiltern Cottage,
- The Carpenters Arms

Land Registry searches are at **Appendix H**.

His company own the following business in the village. Councillor Dugard told me at interview that he is the biggest employer in the village; the following businesses do not appear to be listed on his register of interest:

- Jesters
- The Equestrian Centre
- The Veterinary Practice
- Carpenters Arms

Company House searches are at **Appendix H**.

Failing to have a complete register of interest that declares all disclosable pecuniary interests and financial interests is contrary to paragraphs 12 of the Slapton Parish Council Code of Conduct and section 30 of the Localism Act.

10.2 Declaration at Meetings

Councillor Dugard withdrew prior to his item being discussed and declared interests at the Parish Council meetings on 14th January 2015 and 11th March 2015.

At the 11th February 2015 meeting when his planning application for the Marina was considered he did not declare an interest took part in the discussion and did not leave the room. (The planning application is at **Appendix G**) His part in the meeting is shown in the minutes paragraph 3 (b) at **Appendix A**. This is a breach of the Slapton Parish Council Code of Conduct for Members Part 2 Paragraph 10 (a) and (b) as he had a prejudicial interest he should have withdrawn from the room and not tried to influence the decision. It is also a breach of Part 1 paragraph 5 as he was conferring himself an advantage by being able to participate in the discussion on his own planning application.

It is also contrary to the Localism Act Section 31. Councillor Dugard had a disclosable pecuniary interest in the matter before the meeting. The interest was not entered on the authority's register as Councillor Dugard did not complete a register of interest until 13th May 2015 and there was no pending notification. He participated in the meeting and did not leave the meeting.

10.3 Bullying

The former clerk and Mr and Mrs Skillings tell me that Councillor Dugard was aggressive and bullying at the open forum part of the meeting on 11th February 2015. However as he attended this part of the meeting in the capacity of applicant not councillor the code is not engaged. The code is only engaged when the member is acting in his capacity as member.

There is no evidence that Councillor Dugard was acting in his capacity as councillor at the meeting in the Carpenters Arms and hence the code is not engaged for this incident either.

11. General Recommendations

In relation to the Parish Council meetings generally I make the following recommendations:

Members should be trained on conflicts of interest and the Code of conduct.

There should be a formal part of the agenda for declaration of interests.

There should be clarity about the open forum part of the meeting and in what capacity councillors are acting in during this part of the meeting. If councillors find themselves in the position that their application is to be considered at the open forum part of the meeting then if they asked an agent to address the meeting this would avoid complaints and add clarity to their role at meetings.

That the Parish Council Code of Conduct should be updated to include the provisions of the Localism Act.

Standards complaint against Councillor Wright

1. I have been asked by the Monitoring Officer of Aylesbury Vale District Council to investigate a complaint under the authority's Members' Code of Conduct by two members of the public and the former clerk to the Parish Council against Councillor Wright Parish Councillor of Slapton Parish Council. The complaint from Mr and Mrs Skillings is dated 14th June 2015. The complaint by Mrs Godsland is dated 22nd June 2015.
2. According to the Complaints Procedure if the decision at stage 2 is to investigate the complaint, the matter will be investigated in most cases by an external investigator whose report will be considered by the Hearing Sub Committee.

The complaint from Mr and Mrs Skillings (Appendix A)

3. The complaint is set out below:

"In January 2015 the application to build 18 houses was discussed at the PC meeting. Although it is not minuted, the clerk has confirmed that Councillor Wright did not withdraw from the meeting but stayed and took part in the vote".

"At a meeting on March 11th at which the Marina application was considered, the clerk to the PC asked Councillor Wright specifically if he had an interest to declare. He said he had not, and stayed to speak in favour of the proposal, and then to vote in favour. This was minuted."

"Given the fact that Councillor Wright lives in a house owned by the applicant's company, which has not been declared, his continued participation in the meetings of January 15th and March 11th would appear to be contrary to the Code of Conduct part 2 Para 7 (1), Part 1 Para 5(a) Para 6, Part 2 Para 8 and Para 9(1)".

The complaint from Mrs Godsland (Appendix B)

4. The complaint is set out below:

"In his register of interests Councillor Wright claims to own Chiltern Cottage himself"

"In response to a direct question on my part, as clerk, which I have recorded in the minutes, Councillor Wright confirmed that he had no interest in this planning application (15/00164/APP-Slapton submitted by Councillor Dugard for a Marina). He then spoke and formally voted in favour of the application."

"I consider that this failure to register an interest on the part of both councillors, and Councillor Wright's failure to disclose an interest at the meeting in question constitute a breach of the Members Code of Conduct for Slapton Parish Council, primarily in relation to sections 7(1), 8 and 9 and hence of sections 10a and 10b of the code. The failure to mention the ownership of Chiltern Cottage in their register of interests is in breach of section 12f. Both councillors are also in breach of 5a."

5. **The Code**

For information, I set out below those sections of the Code as referred to by the complainants.

Part 1 Paragraph 5 (a)

A member –

- (a) Must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage.*

Part 1 Paragraph 6

A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

Part 2 Paragraph 7 (1)

A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 12 and 13 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers, or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend or –

- (a) Any employment or business carried on by such persons;*
- (b) Any person who employs or has appointed such persons, any firm in which they are a partner or any company of which they are directors;*
- (c) Any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or*
- (d) Any body listed in sub-paragraphs (a) to (e) of paragraph 13 below in which such persons hold a position of general control of management.*

Part 2 Paragraph 8

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

Part 2 Paragraph 9 (1)

Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant fact would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

Part 2 Paragraph 10

A member with a prejudicial interest in any matter must

- (a) Withdraw from the room or chamber where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the standards committee of the responsible authority; and*

(b) *not seek improperly to influence a decision about that matter.*

Part 3 Paragraph 12

Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 81 (1) of the Local Government act 2000 by providing written notification to the monitoring officer of the responsible authority. of:

(f) *the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority.*

6. The Law

Under the Localism Act

Section 30

Disclosure of a pecuniary interest on taking office

(1) *A member or co-opted member of the relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interest which the person has at the time when the notification is given.*

Section 31 Pecuniary interests on taking office

(1) *Subsections (2) to (4) apply if a member or co-opted member of a relevant authority*

(a) *Is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority,*

(b) *Has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and*

(c) *Is aware that the condition in paragraph (b) is met.*

(2) *If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).*

(3) *If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.*

(4) *The member or co-opted member may not.*

(a) *Participate, or participate further, in any discussion of the matter at the meeting, or*

(b) *Participate in any vote, or further vote, taken on the matter at the meeting but this is subject to Section 33.*

Section 34 Offences

- (1) *A person commits an offence if, without reasonable excuse, the person.*
- (a) *Fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),*
 - (b) *Participates in any discussion or vote in contravention of section 31(4), or*
 - (c) *Takes any steps in contravention of section 31(8).*
- (2) *A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person.*
- (a) *Knows that the information is false or misleading, or*
 - (b) *Is reckless as to whether the information is true and not misleading. A person commits a criminal offence if, without reasonable excuse, the person fails to comply with section 30(1).*

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 defines what a Disclosable Pecuniary Interest is and can be found at **Appendix C**.

7. Investigation

In order to investigate this matter I have interviewed the complainants and Councillor Wright.

8. The facts

There is no formal place in the Parish Council meeting where members are asked if they have any interests to declare.

I have asked Councillor Dugard, Mrs Godsland and the current Parish Clerk for copies of Councillor Dugard's signed acceptance of office but I have not been sent this. I enclose an example of the form sent to me by Mrs Godsland. (**Appendix E**).

Councillor Wright has a register of interest dated 10th June 2013 (**Appendix F**) the only interest that he has registered is under section 5 "Any land in the Council's area in which you have a beneficial interest" is "Home". No address is given.

His next register of interest is dated 13th May 2015. (**Appendix F**) the only interests registered is under section 8 "Land Ownership and Interests" is "Chiltern Cottage LU7 9BX".

Planning Application 15/00164 for a 180 birth Marina was submitted by Councillor Alan Dugard and is dated 19th January 2015.

The minutes of 14th January 2015 Parish Council meeting show that Councillor Wright was at the meeting and that he did not declare an interest when Councillor Dugard's planning application for 18 houses was discussed.

The minutes of 11th February 2015 Parish Council meeting show that Councillor Wright was at the meeting when the Marina application was discussed. He did not declare an interest.

The minutes of 11th March 2015 Parish Council meeting show that Councillor Wright was present at the meeting when the Marina application was discussed. The minutes record that “Councillor Wright confirmed, in response to an enquiry from the clerk, that he did not have an interest.”

Chiltern Cottage is registered with the land registry under title number BM229774 the registered owners are Interguide Group Ltd of New Bury Farm, Mill Road, Slapton, Leighton Buzzard LU79BT. Councillor Dugard is the sole Director and Shareholder of this company.

9. Councillor Wright’s comments

I asked Councillor Wright a series of questions about his register of interest and his declaration of interests at meetings. The notes of the meeting can be found at **Appendix I**.

- 10.** I attach at **Appendix I** Councillor Wright’s comments on his statement (email of 21/12/15) and the draft report (emails of 25/4/16 and 18/7/16) I sent him asking for comments on factual inaccuracies.

Councillor Wright explained that he knew and was friendly with Councillor Dugard but so were most of the other Parish Councillors. He did not consider that he had an interest to declare at the parish council meetings that heard planning applications submitted by Councillor Dugard or his company.

He gave me a copy of a letter dated 20th October /2013 (**Appendix G**) which offered him a business arrangement in relation to Chiltern Cottage. The letter shows that Interguide group will undertake and finance the development of a three bedroomed house within the garden of Chiltern Cottage and that the deeds of Chiltern Cottage be signed over to Interguide Group Ltd for security. Once the new house was built it would be called Chiltern Cottage and Councillor Wright would own this property. Councillor Wright explained that due to this arrangement his view was that he still owned Chiltern Cottage.

He said that he had not undertaken any training as a Parish Councillor on the code of conduct. This was offered by the clerk in an email of 27th September 2013 (**Appendix H**)

11 Conclusion

My view is that Councillor Wright should have been clear on his register of interest about this business arrangement with Councillor Dugard in relation to Chiltern Cottage. The Parish Council register of interests and Code of Conduct requires members to disclose financial interests this includes beneficial interests in land and disclosable pecuniary interests on their registers. On the first register dated 10th June 2013 under land Councillor Wright put “home”. On the register dated 13th May 2015 the entry under land reads “Chiltern Cottage “ and the postcode is included. There is no indication of what the beneficial interest is or any connection with Councillor Dugard.

My view is that he does have a beneficial interest in Chiltern Cottage due to the facts that he occupies it and due to the arrangement documented in the letter from Interguide Group dated 20th October 2013 (**Appendix G**).

He should have declared a personal and prejudicial interest and not taken part in the meetings due to his friendship and his business relationship with Councillor Dugard where Councillor Dugard’s planning applications were discussed. Under

Part 2 Paragraph 7 (1) and Part 2 Paragraph 9 (1) of the Parish Council Code of Conduct. My view is that if a member of the public with knowledge of the relevant fact would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

Part 2 Paragraph 7 (1)

“if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers, or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend “ –

Part 2 Paragraph 9 (1)

“Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant fact would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.”

I consider that he could be viewed as having used his position to confer an advantage for Councillor Dugard contrary to Part 1 Paragraph 5 (a) of the code of conduct.

On balance I do not consider that Councillor Wright had a disclosable pecuniary interest under the Localism Act in any of the matters under consideration at Parish Council Meetings mentioned above due to the friendship and business arrangement with Councillor Dugard. The relationship between the two members is not one that would constitute the disclosable pecuniary under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations it does not fall into any of the categories.