



Standards Committee

Date: 26 March 2013
Time: 6.15 pm
Venue: Committee Room 1
District Council Offices, Queen Victoria Road, High Wycombe Bucks

Membership

Chairman Councillor Mrs L M Clarke
Vice Chairman Councillor Ms J D Wassell

Councillors: D J Carroll, Mrs G A Jones, Ms R Knight, J L Richards OBE, J A Savage and D A C Shakespeare OBE

Independent Persons (Observers): Revd G Hargrove and Mrs E Springford

Parish Council Observers: Parish Cllr D Banfield, Parish Cllr J Sherlock and Parish Cllr Mrs V Smith

Agenda

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**For further information, please contact Peter Druce 01494 421210,
peter_druce@wycombe.gov.uk**

Agenda Item 1

APOLOGIES FOR ABSENCE

To receive apologies for absence.

Agenda Item 2

DECLARATIONS OF INTEREST

To receive any disclosure of disclosable pecuniary interests by Members relating to items on the agenda. If any Member is uncertain as to whether an interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting.

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting.

Agenda Item 3

MINUTES OF PREVIOUS MEETING – 12 NOVEMBER 2012

To confirm the Minutes of the meeting held on 12 November 2012 (previously circulated)

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Agenda Item 4

REVIEW OF MEMBERS CODE OF CONDUCT AND STANDARDS ARRANGEMENTS

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PROPOSED RECOMMENDATION TO COUNCIL

That the proposed changes to the Members' Code of Conduct and the Arrangements for Dealing with Standards Allegations under the Localism Act 2011 as set out in this report be adopted.

Corporate Implications

Sections 27 and 28 of the Localism Act 2011 requires the Council to promote and maintain high standards of conduct by members and co-opted members, to adopt a Code of Conduct which is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, and to have arrangements in place for the investigation of allegations and for the making of decisions on allegations.

Executive Summary

- 1.1 The Committee is asked to note the report including the details of the complaints received to date under the new Standards regime, and to recommend to Council the changes to the Code of Conduct and Arrangements that are proposed.

Background and Issues

- 1.2 At its meeting on 31 July 2012, and in accordance with the recommendations of the former statutory Standards Committee, the Council adopted a new Code of Conduct and Arrangements for dealing with standards allegations in accordance with the Localism Act 2011. It was also resolved that the new Standards Committee would undertake a review of the Code in six months' time so that any changes could be made in the light of operational experience.
- 1.3 Experience over the first few months of operation of the new Code and Arrangements has not suggested that any major changes need to be made to the Code of Conduct. The Code is attached as **(Appendix A)**. One minor change to the Code is proposed, which is explained below.
- 1.4 However a number of changes are being proposed to the Arrangements in the light of experience to date. These changes are intended to enable complaints received to be dealt with more efficiently and transparently. They:

- (a) enable the Monitoring Officer to dismiss complaints at the initial stage in certain straightforward circumstances;
- (b) introduce the opportunity for the subject member to review the complaint at the initial stage and provide his or her views on a suitable resolution;
- (c) introduce a list of referral criteria which are intended to clarify whether and under what circumstances the complaint will be referred for investigation.

These proposed changes are explained in detail below. The Arrangements, showing the changes that are proposed, are set out in **(Appendix B)**.

2. Complaints received to date

- 2.1 The following table shows the complaints that have been received since the adoption of the new Code and Arrangements, and the outcome of those that have been processed. It will be seen that the majority of these complaints have either showed no breach of the Code or, where there has been a potential breach, this has not been considered sufficiently serious to warrant investigation. The majority of complaints have involved councillors from one Parish Council. The table also includes complaint IA44, which could not be completed before the new regime came into operation and which was therefore concluded in accordance with the new Arrangements.

Complaint outstanding from previous Standards procedure:			
01/03/2011	IA44	Hughenden PC	11/1/2013: Hearing Panel conclusion -Breach of Code of Conduct: reprimand; publication of notice in press; and recommendations for sanctions to parish council.

Complaints submitted under Localism Act procedure:				
Date	Ref No	Date Recd	Council	Outcome
22/06/2012	SC1	22/06/2012	Hazlemere PC	No Breach
22/06/2012	SC2	22/06/2012	Hazlemere PC	No Breach
22/06/2012	SC3	22/06/2012	Hazlemere PC	No Breach
05/07/2012	SC4	05/07/2012	Hazlemere PC	No Breach
05/07/2012	SC5	05/07/2012	Hazlemere PC	No Breach
05/07/2012	SC6	05/07/2012	Hazlemere PC	No Breach
05/07/2012	SC7	05/07/2012	Hazlemere PC	No Breach

Complaints submitted under Localism Act procedure:				
Date	Ref No	Date Recd	Council	Outcome
05/07/2012	SC8	05/07/2012	Hazlemere PC	No Breach
23/07/2012	SC9	23/07/2012	Wycombe DC	Complaint withdrawn
23/07/2012	SC10	23/07/2012	Wycombe DC	Potential breach not serious enough for investigation. Additional mentoring/support proposed and arranged.
24/07/2012	SC11	24/07/2012	Chepping Wycombe PC	Local Resolution - amendment of relevant minutes
25/07/2012	SC12	25/07/2012	Chepping Wycombe PC	Local Resolution - amendment of relevant minutes
23/10/2012	SC13	23/10/2012	Wycombe DC and Princes Risborough Town Council	Potential breach not serious enough for investigation and local resolution proposed.
30/11/2012	SC14	30/11/2012	Hazlemere PC	<i>IP consulted and under consideration</i>
30/11/2012	SC15	30/11/2012	Hazlemere PC	<i>IP consulted and under consideration</i>
30/11/2012	SC16	30/11/2012	Hazlemere PC	<i>IP consulted and under consideration</i>
04/12/2012	SC17	04/12/2012	Hazlemere PC	Potential breaches not serious and local Resolution proposed
04/12/2012	SC18	04/12/2012	Hazlemere PC	Potential breaches not serious and local Resolution proposed
04/12/2012	SC19	04/12/2012	Hazlemere PC	Potential breaches not serious and local Resolution proposed
04/12/2012	SC20	04/12/2012	Hazlemere PC	Potential breaches not serious and local Resolution proposed
27/12/2012	SC21	27/12/2012	Hazlemere PC	Potential breach not serious enough for

Complaints submitted under Localism Act procedure:				
Date	Ref No	Date Recd	Council	Outcome
				investigation.
02/01/2013	SC22	02/01/2013	Hazlemere PC	<i>IP consulted and under consideration</i>
02/01/2013	SC23	02/01/2013	Hazlemere PC	<i>IP consulted and under consideration</i>
19/02/2013	SC24	19/02/2013	Hazlemere PC	<i>Under consideration</i>

N.B. An additional complaint (Hazlemere PC) is also under consideration but the complaint may be out of time.

3. Proposed changes to the Code of Conduct

- 3.1 The Code of Conduct is set out at (**Appendix A**). Paragraph 4 of the Code deals with Other Interests, in other words those that are not disclosable pecuniary interests. It is suggested that paragraph 4.2.1 would benefit by the addition of the words “body or organisation” where indicated in bold type below, so that members are clear that where they have an association with a body or organisation this should be regarded by them as an Other Interest:

“4. Other Interests

4.1 *In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a “non-disclosable pecuniary interest or non-pecuniary interest” in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.*

4.2 *You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business of your authority where –*

4.2.1 *a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person, **body or organisation** with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or*

4.2.2 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.”

4. Proposed Changes to the Arrangements

- 4.1 The following is an explanation of the proposed changes to the Arrangements, which are set out at **(Appendix B)**.

Page 1

2. The Code of Conduct: Paragraphs have been changed to show that these are available on website and also from Complaints Officer or Parish Clerk.

Page 2

Minor changes have been made to the first and third paragraphs to reflect Wycombe District Council procedures.

Addition of last sentence to third paragraph to advise that not every complaint is referred for investigation and decisions will be made according to referral criteria.

Additional paragraph to advise that lengthy complaints material may take longer to be assessed. Recent experience has shown that some complainants include large volumes of material - some of which is not relevant to the complaint or could have been summarised.

Items 4. What happens next? to 6. Stage 2: rewritten and replacement for existing procedure.

Criteria are now included for the Monitoring Officer to dismiss complaints at the initial stage in certain straightforward circumstances.

Members who are the subject of complaints have nearly always wished to see and consider the complaints made about them prior to assessment by the Monitoring Officer. This applies even when Members are aware that the complaint may not be assessed as serious enough to be investigated. Complaints procedures from other councils were therefore reviewed and it was felt that new procedure as set out was appropriate for this Council. This includes the opportunity for the subject Member to review the complaint at the initial stage and also provide their views on a suitable resolution.

The setting out of the procedure into Stages 1, 2 and 3 also provides further clarity for the benefit of the complainant and subject Member.

Page 3

Referral Criteria: These are felt to be a useful addition for the benefit of the complainant, subject member, Monitoring Officer and Independent Person to clarify whether and under which circumstances the complaint will be referred

for investigation. It should be noted that some of these duplicate criteria for the Monitoring Officer to dismiss at the initial stage, in order to leave scope for consultation with the Independent Person on the criteria if required.

Item 7 to Item 7.2: There are no changes to existing procedures, other than re-numbering.

Item 7.3: The first paragraph relates to the possible actions of the Hearing Panel and as this Council receives many Parish Council complaints, it was felt beneficial to separate the possible actions in the case of District Councillor or Parish Councillor referrals.

Items 7.4 to Item 10: There are no changes to existing procedure.

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Item 11: There is an additional paragraph to clarify that complaints can be withdrawn with the agreement of the Monitoring Officer.

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Appeals – additional information has been provided about LG Ombudsman jurisdiction as a result of a recent LGO decision.

Appendix – Wycombe DC Code of Conduct: This has been removed as the arrangements apply to complaints about both District and Parish Councillors and this could cause confusion to complainants.

Appendix – Procedure for Local Standards Hearings: No changes to this procedure are proposed and the Appendix is retained.

5. Background Papers

5.1 The Localism Act 2011.

Wycombe District Council

Code of Conduct for Members

1 Application

This Code of Conduct applies to you whenever you are acting in your capacity as a member of Wycombe District Council, including –

- 1.1 at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Cabinet Committees
- 1.2 when acting as a representative of the authority
- 1.3 in taking any decision as a Cabinet member or a Ward Councillor
- 1.4 in discharging your functions as a ward Councillor
- 1.5 at briefing meetings with officers and
- 1.6 at site visits
- 1.7 when corresponding with the authority other than in a private capacity

2 General Conduct

You must –

- 2.1 provide leadership to the authority and communities within its area, by personal example and
- 2.2 respect others and not bully any person
- 2.3 observe the Council's Member-Officer Relationship Protocol and recognise that officers (other than political assistants) are employed by and serve the whole authority
- 2.4 respect the confidentiality of information which you receive as a member –
 - 2.4.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
 - 2.4.2 not obstructing third parties' legal rights of access to information
- 2.5 not misconduct yourself in a manner which is likely to bring the authority into disrepute
- 2.6 use your position as a member in the public interest and not for personal advantage
- 2.7 accord with the authority's reasonable rules on the use of public resources for private and political purposes
- 2.8 exercise your own independent judgement, taking decisions for good and substantial reasons –

- 2.8.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
- 2.8.2 paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and
- 2.8.3 stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.9 account for your actions, particularly by supporting the authority's scrutiny function
- 2.10 ensure that the authority acts within the law.
- 2.11 When dealing in planning matters, observe the Council's Planning Matters Guidance Note

3 Disclosable Pecuniary Interests

You must -

- 3.1 Register any disclosable pecuniary interest of yourself or a 'relevant person'¹ (as set out in the Appendix to this Code) with the Monitoring Officer within 28 days of the adoption of this Code
- 3.2 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you, or a 'relevant person' have a disclosable pecuniary interest
- 3.3 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 3.4 make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.5 "Meeting" means any meeting organised by or on behalf of the authority, including –
 - 3.5.1 any meeting of the Council, or a Committee or Sub-Committee of Council
 - 3.5.2 any meeting of the Cabinet and any Committee of the Cabinet
 - 3.5.3 in taking a decision as a Ward Councillor or as a Member of the Cabinet
 - 3.5.4 at any briefing by officers; and

¹ 'relevant person' means:

(i) your spouse or civil partner; or
 (ii) a person with whom you are living as husband and wife; or
 (iii) a person with whom you are living as if you are civil partners; and
 You are aware that that other person has the interest

3.5.5 at any site visit to do with business of the authority

4 Other Interests

- 4.1 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a “non-disclosable pecuniary interest or non-pecuniary interest” in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 4.2 You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business of your authority where –
 - 4.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or
 - 4.2.2 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association

and that interest is not a disclosable pecuniary interest.

5 Gifts and Hospitality

- 5.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.
- 5.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 5.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

Appendix

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p>

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose –

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

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WYCOMBE DISTRICT COUNCIL

Arrangements for dealing with standards allegations under the Localism Act 2011

1 **Context**

These Arrangements set out how you may make a complaint that an elected or co-opted member of this Council (or of a Parish Council within its area) has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council (or of a Parish Council within its area), or of a Committee or Sub-Committee of the Council, has failed to comply with the Council's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member (or a member or co-opted member of a Parish Council) against whom an allegation as been made.

2 **The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority's website and on request from Reception or the Complaints Officer at the Council Offices.

Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should ask the parish clerk to provide you with a copy of that Parish's Code of Conduct, or make arrangements to inspect it..

3 **Making a complaint**

If you wish to make a complaint, please write to:

Complaints Officer
Wycombe District Council
Queen Victoria Road
High Wycombe
Bucks HP11 1BB

Or email: complaints@wycombe.gov.uk, heading your email "Complaint about Councillor(s)"

The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, and is available on request from the Complaints Officer at the Council Offices, as well as the Code of Conduct for the relevant Council.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

We will acknowledge receipt of your complaint within seven working days of receiving it, and we will keep you informed of the progress of your complaint. Not every complaint that falls under the Code will be referred for investigation. A decision will be made using the referral criteria below.

Complaints should be summarised as much as possible. Any complaints over 20 pages in length may require an extended period of time for consideration by the Monitoring Officer.

4. What happens next?

In certain straightforward circumstances, the Monitoring Officer is entitled to dismiss your complaint at the outset. This will happen if:

- (a) the person you are complaining about is no longer a councillor;**
- (b) the conduct you are complaining about happened more than 6 months before you complained;**
- (c) the conduct you are complaining about happened in the councillor's private life, not when they were acting as a councillor;**
- (d) the complaint is essentially against the action of the council as a whole and cannot properly be directed against individual member(s);**
- (e) the complaint is made anonymously;**
- (f) there is no prima facie evidence that the Code has been breached or there is not enough information to take the matter further;**
- (g) the same, or substantially the same issue has been the subject of a previous Code of Conduct allegation and there is nothing further to be gained.**

If your complaint is not dismissed for any of these reasons, it will then be considered in 3 stages – the aim being to reach a satisfactory resolution.

Under Stages One and Two only the details contained on your complaint form will be considered. Therefore it is very important that you set your complaint out concisely, clearly and provide at the outset all the information you wish to be considered. The information provided should only be relevant to the alleged breaches of the Code, as the Monitoring Officer cannot consider any other subject of complaint. Please identify clearly the paragraphs of the Code you believe may have been breached by

the councillor(s) and under each one provide the reason why you believe it has been breached.

5. Stage One

We will tell the Member that you are complaining about that we have received a complaint and provide them with a copy, unless you have completed section 5 of the form requesting confidentiality.

The Member will be invited to respond within 20 working days, including in his or her response any suggestion to resolve the complaint.

This response will be made available to you and you will be asked if you are satisfied with it, or whether you wish your complaint to be considered further under Stage Two.. If you are satisfied with the response, no further action will be taken, or the action proposed by the Member will proceed.

6. Stage Two

Your complaint will then be considered by the Council's Monitoring Officer in consultation with a duly appointed Independent Person whose views will be taken into account. The Monitoring Officer will decide whether your complaint should be referred for investigation. This will normally happen within 20 working days of the date of the commencement of Stage Two.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

Referral Criteria

Whilst each allegation will be considered on its individual merits, the following Referral Criteria will be considered in taking the decision either to accept a complaint for investigation or to take no further action:

- the public benefit in investigating the alleged complaint
- taking into account the nature of the allegation, whether using public funds to examine the matter further would be disproportionate
- whether the information submitted is sufficient to make a decision as to whether to refer for investigation
- whether the complaint is the same or substantially the same as a previous complaint and in that case, whether there is anything further to be gained
- whether the complaint involves conduct too trivial to warrant further action
- whether the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual member
- whether the complaint appears to be vexatious, malicious, politically motivated or a 'tit for tat' retaliation or made by a persistent complainant
- whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered
- whether any steps have been taken or proposed to remedy the action complained of, for example, an apology has already been made by the member concerned

- the complainant's view of the action taken or proposed.
- where the member or the authority has made a reasonable offer of local resolution, but the complainant is not willing to accept that offer, this may be taken into account in deciding whether the complaint merits formal investigation
- whether the complainant has requested that their identity as complainant be withheld from the member, and the matter cannot reasonably be taken further in these circumstances

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

7. Stage Three

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

7.1 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned (and to the Parish Council, where your complaint relates to a Parish Councillor), notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7.2 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

(a) Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and the Parish Council) for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

(b) Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as an Appendix to these arrangements.

The Monitoring Officer will conduct a pre-hearing process, requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to

make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

7.3 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may take the following actions, as it considers appropriate:

District Councillor:

- 7.3.1 Censure or reprimand the member;
- 7.3.2 Publish its findings in respect of the member's conduct;
- 7.3.3 Report its findings to Council for information;
- 7.3.4 Recommend to the member's Group Leader (or in the case of independent members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 7.3.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 7.3.6 Recommend to Council that the member be replaced as Executive Leader;
- 7.3.7 Instruct the Monitoring Officer to arrange training for the member;
- 7.3.8 Remove from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 7.3.9 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 7.3.10 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Parish Councillor:

- 7.3.11 Censure or reprimand the member;**
- 7.3.12 Publish its findings in respect of the member's conduct;**
- 7.3.13 Report its findings to the Parish Council for information;**
- 7.3.14 Recommend that the Parish Council arranges training for the member;**
- 7.3.15 Recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;**

7.3.16 Recommend to the Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

7.3.17 Recommend that the Parish Council excludes the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' basic or special responsibility allowances.

7.4 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member (and to the Parish Council), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

8. Who are the Hearings Panel?

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Committee, including not more than one member of the authority's Executive and comprising members drawn from at least two different political parties.

The Independent Person is invited to attend all meetings of the Hearings Panel and his or her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

9. Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she:

- 9.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons for the period up to 1st July 2013;
- 9.2 Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority's area, or
- 9.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means:

- 9.3.1 Spouse or civil partner;
- 9.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 9.3.3 Grandparent of the other person;
- 9.3.4 A lineal descendant of a grandparent of the other person;
- 9.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
- 9.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
- 9.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

10. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

11. Can I withdraw my complaint?

Complaints can be withdrawn by the complainant by agreement with Monitoring Officer at any stage in the process.

12 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman. Decisions which have been properly made according to the Council's procedure will not be overturned unless the decision making process was faulty. **Please note that with regard to actions taken by this Council in respect of alleged breaches of the Code of Conduct, the Ombudsman can only consider complaints made by members of the public or those made on their behalf - this does not include town, parish or district councillors.**

Appendix

Procedure for Local Standards Hearings

PROCEDURE FOR LOCAL STANDARDS HEARINGS

1. Interpretation

- (a) "Councillor" means the member of the authority who is the subject of the allegation being considered by the Panel, unless stated otherwise. It also includes the Councillor's nominated representative.
- (b) "Investigating Officer" means the person appointed by the Monitoring Officer to undertake the investigation (which may include the Monitoring Officer and his or her nominated representative).
- (c) "The matter" is the subject matter of the Investigating Officer's report.
- (d) "The Panel" means the Local Standards Hearing Panel which is a Sub Committee of the Council's Standards Committee to which the Standards Committee has delegated the conduct of the hearing.
- (e) "The Committee Support Officer" means an officer of the authority responsible for supporting the Panel's discharge of its functions and recording the decisions of the Panel.
- (f) "Legal Advisor" means the officer responsible for providing legal advice to the Panel. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- (g) "The Chairman" refers to the person presiding at the hearing.
- (h) "The Independent Person" is the person appointed by the Council under Section 28 of the Localism Act 2012, who is invited to attend all meetings of the Hearings Panel and whose views are to be sought, and taken into account, by the Panel before a decision is made on whether the member's conduct amounts to a failure to comply with the Code of Conduct and as to any action to be taken.

2. Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness, or expediency in circumstances where fairness is not compromised.

3. Representation

The Councillor may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Standards Committee, another person.

4. Pre-Hearing Process (Local Investigation)

Where the Monitoring Officer has considered the Investigating Officer's report and decided to refer the report to the Hearings Panel the Monitoring Officer shall:

- (a) Arrange a date for the Panel hearing;
- (b) Send a copy of the report to the Councillor, advise the Councillor of his decision to refer the report to the Hearings Panel, and advise the Councillor of the date, time and place for the hearing;

- (c) Send a copy of the report to the Complainant, advise the Complainant of his decision to refer the report to the Hearings Panel, and of the date, time and place for the hearing;
- (d) Notify the Parish or Town Council (as appropriate) of the Panel's initial decision and of the date, time and place of the hearing;
- (e) Request the Councillor to complete and return the model Pre-Hearing Forms A, B, D and E within 14 days of receipt;
- (f) In the light of any Pre-Hearing Forms returned by the Councillor, determine whether the Panel will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;
- (g) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and high-lighting the issues which the Panel will need to address, and
- (h) Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent to:
 - (i) All members of the Panel who will conduct the hearing;
 - (ii) The Councillor;
 - (iii) The Complainant and
 - (iv) The Investigating Officer.

Where reasonably practicable, the agenda, Pre-Hearing Summary Report and other documents referred to above will be sent to those persons at least 14 days in advance of the hearing date. Failing this 5 clear days notice will be given as provided by Access to Information Legislation unless the matter is genuinely urgent and permitted to be notified later under the relevant legislation.

5. **Legal Advice**

The Panel may take advice from its legal advisor at any time during the hearing or while they are deliberating on any aspect of the outcome. The substance of any legal advice given to the Panel should be shared with the member and the Investigating Officer if they are present, whether that advice is given in the hearing room or the separate room where the Panel are deliberating on any aspect of the outcome.

6. **Setting the Scene**

At the start of the hearing, the Chairman shall introduce each of the members of the Panel, the Councillor (if present), the Investigating Officer (if present), the Independent Person and any other officers present, and shall then explain the procedure which the Panel will follow in the conduct of the hearing.

7. **Preliminary Procedural issues**

The Panel shall then deal with the following preliminary' procedural matters in the following order:

- (a) Disclosures of interest
The Chairman shall ask members of the Panel to disclose the existence and nature

of any disclosable pecuniary interests which they have in the matter, and to withdraw from consideration of the matter if so required.

(b) Quorum

The Chairman shall confirm that the Panel is quorate (3 members).

(c) Hearing procedure

The Chairman shall confirm that all present know the procedure which the Panel will follow in determining the matter.

(d) Proceeding in the absence of the member

If the Councillor is not present at the start of the hearing:

(i) The Chairman shall ask the Monitoring Officer whether the Councillor has indicated his/her intention not to attend the hearing;

(ii) The Panel shall then consider any reasons which the Councillor has provided for not attending the hearing. If the Panel is satisfied with such reasons, it shall adjourn the hearing to another date;

(iii) If the Panel is not satisfied with such reasons, or if the Councillor has not given any such reasons, the Panel shall decide whether to consider the matter and make a determination in the absence of the Councillor or to adjourn the hearing to another date. If the Panel decides to proceed in the absence of the Councillor, references in subsequent paragraphs of this Procedure to the Councillor's participation in the hearing shall be construed accordingly.

(e) Exclusion of Press and Public

The Panel may exclude the press and public from its consideration of this matter where it appears likely that confidential or exempt information will be disclosed in the course of this consideration.

The Chairman shall ask the Councillor (if present) the Investigating Officer (if present) and the legal adviser to the Panel whether they wish to ask the Panel to exclude the Press and public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Panel does not resolve to exclude the press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

8. A failure to comply with the Code of Conduct?

The Panel will then address the issue of whether the Councillor failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.

(a) The Chairman shall ask the Councillor to confirm that he/she maintains the position as set out in the Pre-Hearing summary report.

(b) The Pre-Hearing Summary Report

The Chairman will ask the legal advisor to present his/her report, highlighting any

points of difference in respect of which the Councillor has stated that he/she disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Councillor to confirm that this is an accurate summary of the issues and ask the Councillor to identify any additional points upon which he/she disagrees with any finding of fact in the Investigating Officer's report.

- (i) If the Councillor admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Panel may then make a determination that the Councillor has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken (Paragraph 11).
 - (ii) If the Councillor identifies additional points of difference, the Chairman shall ask the Councillor to explain why he/she did not identify these points as part of the pre-hearing process. He/she shall then ask the Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Panel is not satisfied with the Councillor's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Councillor to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Councillor did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.
- (c) Presenting the Investigating Officer's report
- (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Councillor and why he/she concluded, on the basis of his/her findings of fact, that the Councillor had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
 - (ii) If the Investigating Officer is not present, the Panel shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Panel shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
 - (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chairman shall ask the Councillor if there are any matters upon which the Panel should seek the advice of the Investigating Officer or the witness.

(d) The Councillor's response

- (i) The Chairman shall then invite the Councillor to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
- (ii) No cross-examination shall be permitted but, at the conclusion of the Councillor's evidence and/or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Panel should seek the advice of the Councillor or the witness.

(e) Witnesses

- (i) The Panel shall be entitled to refuse to hear evidence from the Investigating Officer, the Councillor or a witness unless they are satisfied that such persons are likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the Code of Conduct.
- (ii) Any member of the Panel may address questions to the Investigating Officer, to the Councillor or to any witness.

(f) Additional Evidence

At the conclusion of the evidence, the Chairman shall check with the members of the Panel that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

- (g) If the Panel at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Panel may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Panel.

(h) Determination as to whether there has been a failure to comply with the Code of Conduct.

- (i) At the conclusion of the Councillor's response, the Chairman shall ensure that each member of the Panel is satisfied that he/she has sufficient information to enable him/her to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigating Officer's report.
- (ii) The Panel shall then retire to another room to consider in private whether the Councillor did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
- (iii) The Panel shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
- (iv) Before taking its decision as to whether there has been a failure to comply with the Code of Conduct, the Panel will seek and take into consideration the views of the Independent Person.

- (iv) The Panel's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Councillor or a witness, or to seek advice from the Legal Officer and subject to paragraph 5, it may seek such advice whilst in the retirement room. If it requires any further information, it may adjourn and instruct an officer or request the Councillor to produce such further evidence to the Panel.
- (v) At the conclusion of the Panel's consideration, the Panel shall consider whether it is minded to make any recommendations to the authority concerned with a view to promoting high standards of conduct among councillors.
- (vi) The Panel shall then return to the main hearing room and the Chairman will state the Panel's principal findings of fact and their determination as to whether the Councillor failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

9. If the Councillor has not failed to follow the Code of Conduct

If the Panel determines that the Councillor has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) If the Panel apprehends, from the evidence which they have received during the hearing, that a Councillor has failed to comply with the Code of Conduct (other than the matter which the Panel has just determined), the Chairman shall outline Panel's concerns and state that the Panel has referred this additional or alternative failure to the Monitoring Officer for further consideration.
- (b) The Chairman should then set out any recommendations which the Panel is minded to make to the relevant authority with a view to promoting high standards of conduct among councillors and seek the views of the Councillor, the Investigating Officer and the Legal Advisor before the Panel finalises any such recommendations.
- (c) Finally, the Chairman should ask the Councillor whether or not he/she wishes the authority to publish a statement of its finding.

10. Action consequent upon a failure to comply with the Code of Conduct

- (a) The Chairman shall ask the Investigating Officer (if present, or otherwise the Legal Advisor) whether, in his/her opinion, the Councillor's failure to comply with the Code of Conduct is such that the Panel should take action if so, what would be the appropriate action that should be taken.
- (b) The Chairman will then ask the Councillor to respond to the Investigating Officer's advice.
- (c) The Chairman will then ensure that each member of the Panel is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to what action should be taken.
- (d) Any member of the Panel may address questions to the Investigating Officer or to the Councillor as necessary to enable him/her to take such an informed decision.
- (e) The Chairman should then set out any recommendations which the Panel is minded to make to the authority with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the Legal Advisor;
- (f) The Panel will then retire to another room to consider in private whether action should be taken and if so, what action should be taken and when that action should

take effect; and any recommendations which the Panel will make to the relevant authority.

- (g) The Panel will consult the Independent Person before deciding whether action should be taken and (where action is to be taken) the nature of that action.
- (h) At the completion of their consideration, the Panel will return to the main hearing room and the Chairman shall state the Panel's decisions as to whether action should be taken and (where action is to be taken) the nature of that action, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Panel will make to the relevant authority.

11. The close of the hearing

- (a) The Panel will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Councillor as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Panel's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice, or a summary of that notice.

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Agenda Item 5

COMPLAINTS/COMMENTS/COMPLIMENTS - INFORMATION AND IMPROVEMENTS

Officer contact: Jean Roberts DDI: 01494 421202
Email: jean_roberts@wycombe.gov.uk

Wards affected: All

PROPOSED DECISION

The Standards Committee is asked to:

Note the attached data and charts for the period 1 October- 31 December 2012 (Quarter 3).

Corporate Implications

The establishment and maintenance of complaints procedures is conducive to the discharge of the Council's various functions and as such are authorised by Section 111 of the Local Government Act 1972.

There are no financial implications.

A robust complaints procedure assists in minimising the risks to the Council arising from complaints.

Background

Quarterly information on this data is supplied to all business units which record complaints, comments or compliments on ServiceMail, and then composite information is provided for SMB.

Further complaints statistics are also incorporated as Local Performance Indicators by the Policy and Communications Team.

Report

The information and charts for the quarter are attached herewith, together with a summarised report on LG Ombudsman complaints to 15th January 2013. The target for complaints to be responded to in target is 90%.

(a) Answering complaints within target (10 working days):

This quarter there was a total percentage of complaints within target of 99%, an excellent quarter and substantially above target (only one complaint answered out of target).

(b) Review of Complaints and Improvements as a result of complaints:

For this quarter there are 2 improvements recorded, one for Homelessness and one for Refuse services.

(c) Complaints to the LG Ombudsman:

There have been no findings of maladministration. There is one current ongoing Ombudsman enquiry.

(d) Compliments Logging

The total for compliments logged is 108 for this quarter, and the service area with the most compliments is the Customer Service Centre with 29, with Off-Street Parking coming second with 20 compliments. This is a very good result and the number of compliments is exceeding complaints by 35%.

Current Issues

- (1) With regard to customer requests to Councillors regarding housing complaints, work is proceeding to initially obtain relevant contact details for all our local housing associations, and following that a protocol can be worked up for our councillors. Red Kite are in the process of forming a Customer Panel for complaints and customer service issues and it may be that complaints could be referred to that Panel.
- (2) Automated phone system: Improvements have been shown from recent statistics with regard to customers' use of the system - following the shortening and improved wording of some of the scripts. Work is continuing and future work will also be done to provide relevant information on Council Tax and Benefit letters and publications.

Background Papers

"Have We Got It Right" leaflet for the public.

Agenda Item 5 Appendix A

Items by Type by Business Unit by In Target between 01/10/2012 and 31/12/2012

		Total
Comments		
Development Management	Out of Target	1
	In Target	1
Total for Comments		2
Complaint		
Building Control	In Target	1
Council Tax	Out of Target	1
	In Target	15
Customer Service Centre	In Target	10
Development Management	In Target	16
Elections/Land Charges	In Target	4
Environmental Health	In Target	7
Green Space Contracts	In Target	4
Homelessness	In Target	2
Housing Applications	In Target	2
Housing Benefit	In Target	1
Housing Management	In Target	1
Museum - Wycombe	In Target	1
Parking - Off-street	In Target	3
Refuse	In Target	3
Spatial Planning	In Target	2
Sports Centres Client	In Target	7
Total for Complaint		80
Compliment		
Building Control	In Target	2
Cohesion	In Target	1
Communications	In Target	2
Corporate Administration	In Target	2

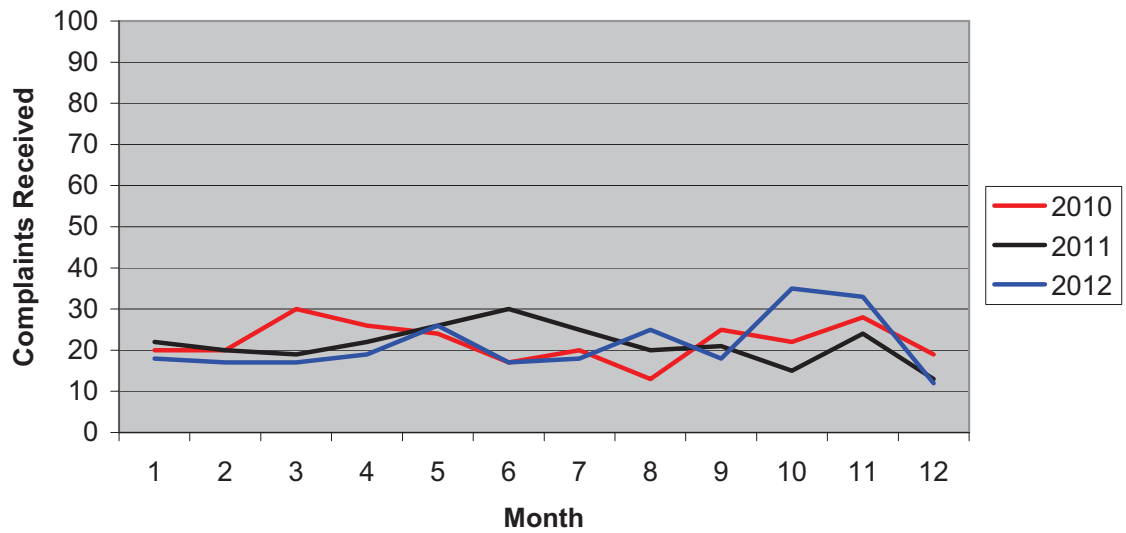
Items by Type by Business Unit by In Target between 01/10/2012 and 31/12/2012

		Total
Customer Service Centre	In Target	29
Demo & Legal HoS & PA/Complaints Officer	In Target	2
Development Management	In Target	11
Elections/Land Charges	In Target	2
Environmental Health	In Target	14
Green Space Contracts	In Target	1
Housing Applications	In Target	1
Legal Services	In Target	1
Museum - Wycombe	In Target	4
Parking - Off-street	In Target	20
Ranger Services	In Target	3
Recycling	In Target	1
Refuse	In Target	2
Spatial Planning	In Target	1
Sports Centres Client	In Target	1
Sports Development	In Target	7
Tourism	In Target	1
Total for Compliment		108
Internal Client Compliments		
Building Control	In Target	1
Spatial Planning	In Target	1
Sports Development	In Target	1
Total for Internal Client Compliments		3

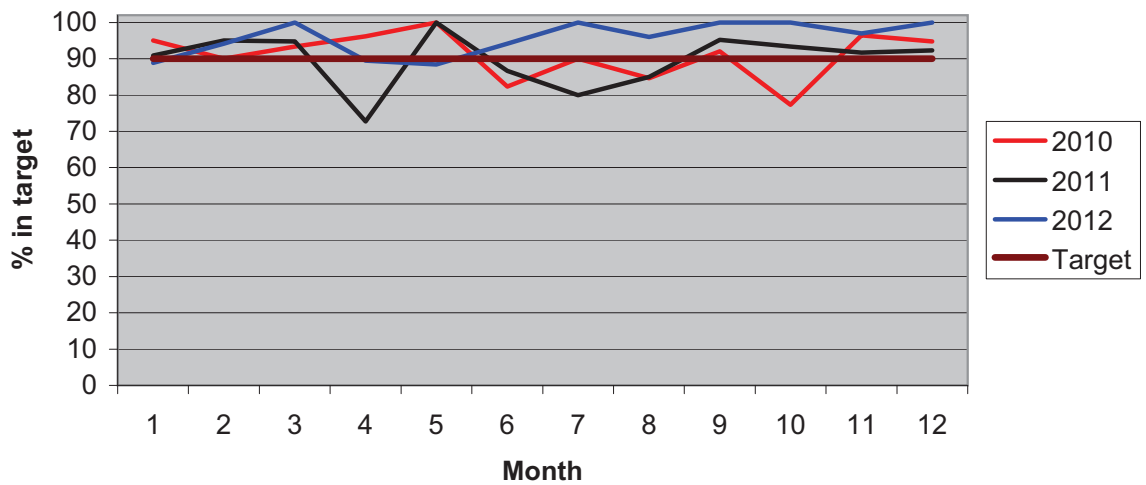
Service Improvements from 01/10/12 to 31/12/12

Item Type	Item No	Subject	Details of improvement
Homelessness Complaint	10744	Unsuitable temporary accommodation	Changes in procedure regarding inspection of properties
Refuse Complaint	10779	Missed Bins	Officer site visit + discussion with contractor

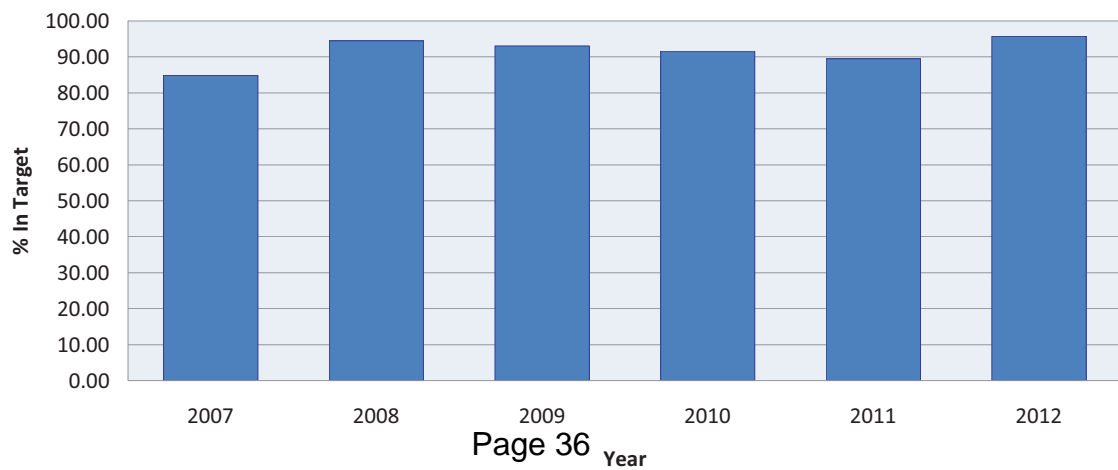
WDC Complaints Received by Month 2010-2012


























WDC Complaints in target 2010-2012



WDC Complaints In Target 2007 - 2012



**Wycombe District Council
Complaints/Compliments - Year on Year
Comparison**

	Quarter 1	Outturn Apr - Jun	  	Quarter 2	Outturn Jul - Sep	  	Target for Q2	Outturn Oct - Dec	  	Target for Q4	Outturn Jan-Mar	Year to date	% variance against target	  
Compliments and Complaints	Target for Q1													
2011-12 Year	n/a	79	n/a	n/a	94	n/a	n/a	60	n/a	n/a	55	233		
2012-13 Year	n/a	95	n/a	n/a	89	n/a	n/a	108						
2011-12 Year	n/a	79	n/a	n/a	67	n/a	n/a	53	n/a	n/a	53	199		
2011-12 Year	n/a	65	n/a	n/a	62	n/a	n/a	80						
2011-12 Year	90%	87.34%		90%	86.57%		90%	92.45%		90%	92.45%	89.29%	-0.71%	
2011-12 Year		69			58			49			49	225		
2011-12 Year		79			67			53			53	252		
2012-13 Year	90%	90.63%		90%	96.77%			98.75%						
2012-13 Year		58			60			79						
2012-13 Year		64			62			80						
2011-12 Year	90%	96.43%		90%	100.00%			88.89%		90%	88.89%	95.83%	5.83%	
2011-12 Year		27			17			24			24	92		
2011-12 Year		28			17			27			27	96		

Wycombe District Council
Complaints/Compliments - Year on Year
Comparison

	Quarter 1			Quarter 2			Quarter 3			Quarter 4		Year to date	% variance against target	
	Target for Q1	Outturn Apr - Jun	▲ ● ★	Target for Q2	Outturn Jul - Sep	▲ ● ★	Target for Q3	Outturn Oct - Dec	▲ ● ★	Target for Q4	Outturn Jan-Mar			
2012-13 Year	n/a	95.12%	●	n/a	90.32%	●	n/a	91.67%	●	n/a				▲ ● ★
	Satisfaction with complaints handling: SPEED OF RESPONSE													
2012-13 Year		39			28			22						
2012-13 Year		41			31			24						
2011-12 Year	90%	96.43%	★	90%	82.35%	▲	90%	77.78%	▲	90%	88.89%	89.58%	-0.42%	●
2011-12 Year		27			14			21			24	86		
2011-12 Year		28			17			27			27	96		
2012-13 Year	n/a	90.24%	●	n/a	93.55%	●	n/a	87.50%	●	n/a				
2012-13 Year		37			29			21						
2012-13 Year		41			31			24						
2011-12 Year	90%	96.43%	★	90%	95.56%	●	90%	81.48%	▲	90%	88.89%	91.34%	1.34%	●
2011-12 Year		27			43			22			24	116		
2011-12 Year		28			45			27			27	127		
2012-13 Year	n/a	87.80%	●	n/a	87.10%	●	n/a	87.50%	●	n/a				
2012-13 Year		36			27			21						
2012-13 Year		41			31			24						

Symbols Used:	
★	Exceeds target by more than 5%
●	Within +/- 5% of target
▲	More than 5% below target

OMBUDSMAN ONGOING CASES – 2012/13

Cllrs Notified:	Service Mail Ref	Date Received	Ombudsman Ref	Summary of complaint	Comments
	10151	08/11/12	12 005 947	The Council's building control department did not inspect building works at a neighbouring property at relevant times. In addition, there is a noise nuisance from the use of a bathroom in the neighbouring property which the Council has not taken action to stop.	Response sent to LGO 30/11/12
					1

					OMBUDSMAN CATEGORY		OMBUDSMAN SERVICE AREA									
Service Mail Ref	Date Received (Date closed)	Ombudsman Ref	Summary of complaint	Comments	Ombudsman Discretion: Discontinued	Outside Jurisdiction	P/BC	Local Tax	ASB	Hsg	Env ServidHsg	Benefits	Transport & Highways	Licensi ng	Corp & Other	
8933	01/03/2012 (26/04/2012)	11 013 367/DS	Complaints regarding repairs to shower at Council-owned property (now Red Kite).	Investigation Discontinued	1											
7336	11/11/2011 (17/05/12)	11 012 069	Did not consider company's requests for additional rate relief from 2002 to 2010 o Altered policy guidelines in respect of rate relief in order to benefit a new subcontractor. o Refused full rate relief on the complainant's new Head Office and that the grounds for refusal are not clear.	Investigation Discontinued	1					1						
9724	14/02/2012 (17/05/12)	11 019 921/DS	Alleged that the Council has reneged on its agreement to let Ms P and her baby to remain in the hostel accommodation until a Housing Association property she has been allocated through the Bucks Homechoice scheme is ready for occupation in late March 2012.	Investigation Discontinued	1			1								
10128	18/05/12	12 002 428	Delay in administration of Housing Benefit claim	Investigation Discontinued	1					1						
10023	18/04/12	12 000 367/exp	Actions by Council (as freeholder of property) and insurance company in relation to claim due to fire in the property. Complainant is leaseholder.	Investigation Discontinued	1			1								
9972	08/08/12 (08/08/12)	12 004 076 B2 JL	Refusal of planning permission	Outside Jurisdiction (planning appeal submitted)	1					1						
								1								

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Service Mail Ref	Date Received (Date closed)	Ombudsman Ref	Summary of complaint	Comments	Ombudsman Discretion: Discontinued	Outside Jurisdiction
10870	07/01/2013 (07/01/13)	12 016 241	The complainant – a local Town Councillor – complained to the District Council about the behaviour of one of its elected members. The Council considered the complaint but the complainant is unhappy with the outcome.	Outside Jurisdiction (complaint from Councillor and not member of the public) (no enquiries made)	24A(6)	OJ
					11	3 0

Agenda Item 6

REFERRAL OF MINUTES OF LOCAL STANDARDS HEARING PANEL 11 JANUARY 2013

To receive the minutes of the Local Standards Hearing Panels held on 11 January 2013 (**APPENDIX A**).

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Local Standards Hearing Panel Minutes

Date: Friday, 11th January, 2013

Time: 10.00 am - 2.50 pm

PRESENT:

Cllr Ms Rachel Knight, Cllr John Savage and Cllr Ms Julia Wassell

Also Present: Parish Councillor A Konieczny (Subject Member), Mr John Osman (Wansbroughs – Investigating Officer), Mrs Eileen Springford (Independent Person) and Witnesses: Parish Councillor E Furness, Mr D Jarman & Mrs P Ewart.

1 APPOINTMENT OF CHAIRMAN

Councillor Ms J Wassell proposed that Councillor J Savage chair the Panel, this was seconded by Councillor Ms R Knight. In response Councillor Savage agreed to chair the Meeting.

2 APOLOGIES FOR ABSENCE

An apology for absence was received from Mr D Ruddock (Monitoring Officer – Wycombe District Council) who was unwell; Deputy Monitoring Officer Ms K Khanna was present as a replacement.

3 DECLARATIONS OF INTEREST

There were no declarations of interest.

4 QUORUM

The Chairman confirmed that the Meeting was quorate.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That pursuant to Section 100B(2) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of minute 5 because of its reference to matters which contain exempt information as defined as follows:

Minute No 5 – Determination of Allegations against a Councillor - Case IA44.

Information relating to an individual, information which is likely to reveal the identity of an individual and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. (Paragraphs 1, 2 & 5 (respectively) of Part 1 of Schedule 12A to the Local Government Act 1972).

Re Paragraphs 1 & 2 it was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information as the distress that might be caused to the individual(s) concerned outweighed the public interest in disclosure.

Re Paragraph 5 it was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information as it was not possible for the Panel to deal with cases of this nature without the ability to seek and obtain confidential legal advice.

5 DETERMINATION OF ALLEGATIONS AGAINST A COUNCILLOR (REF IA44)

The Chairman was aware that the Subject Member had a number of **preliminary points** he wished to make, invited and heard these.

In response it was confirmed that separate proceedings elsewhere were not relevant to the hearing before the Panel.

It was also confirmed that no new evidence, which had not been available at the time of the Investigating Officer's investigation, could be considered at the Hearing.

The Chairman assured the Subject Member that the Panel would be arriving at its own conclusions as to whether breaches had occurred; the Investigating Officer was only making recommendations to them in the Report.

The Chairman went through the **full procedure** to be followed at the meeting.

The Subject Member confirmed that he maintained the position as set out in the Pre-Hearing Summary Report.

The Chairman confirmed that if the Subject Member had not been present the Panel was entitled to hear and decide the case in his absence.

The Deputy Monitoring Officer then presented the **Pre-Hearing Summary Report**.

The Deputy Monitoring Officer also outlined the change of regime in respect of Standards Cases that had occurred under the Localism Act which had come into effect at the end of July 2012. The case before the Panel had been initiated under

the old regime; where a finding had not yet been made under the old regime, it was confirmed that the allegation shall be treated as having been made under the new provisions, the Panel confirmed that this would be the case today.

The Investigating Officer then presented his report. Given its size the Investigating Officer has prepared a far smaller set of documents, which was circulated to all present. These represented the key pieces of evidence from the bulky report, it was confirmed that no new evidence that hadn't been contained in the full report was being introduced in this smaller set of documents.

The Investigating Officer started his presentation by referring to the summary in his report in that he had concluded that breaches of the Code of Conduct had occurred and that the Subject Member had failed to treat a member of staff with respect and that bullying of that employee had occurred.

The Officer presented some fifteen key pieces of evidence which represented comments made at Parish Council meetings, e-mails sent and internet articles/comments posted by the Subject Member which supported his opinion of the behaviour regards the breaches.

Within his key bundle of documents the Officer referred to some incidents/communications etc which had been presented to him by witnesses as evidence which he had dismissed as not constituting a breach. Additionally evidence was referred to which, though not proof of any breach, outlined for the panel the situation and circumstances under which the Parish Council was operating at the time of the incidents.

The Officer referred to the documents that he had received from witnesses after the conclusion of his investigation which he had been duty bound to include in the paperwork of the full report. These he did not wish the Panel to consider in arriving at their conclusions. These documents the Panel confirmed would not be considered.

The Officer confirmed he had approached some 14 witnesses; 8 provided by the Subject Member, 6 by the complainant(s). The Officer confirmed that he had diligently contacted all these witnesses, some had not responded, that had been their choice; all had had the opportunity to contribute to the investigation.

The background to the situation was outlined in that the Council and Community had both sub-divided into two camps in respect of the issue of the consideration of the provision of Rural Affordable Housing. The Subject Member's frustration was appreciated but he had not been victimised by the clerk. The Council as a whole may have been responsible for his frustration but the Council could not be held to blame for the Subject Member's comments at meetings, e-mail communications and internet postings in respect of the clerk. There were better ways of expressing a grievance.

In mitigation the Investigating Officer outlined that the Council had been in error to attempt to bind members to collective responsibility, particularly alongside legitimate obligations regards behaviour. It was confirmed that the subject member

on receipt of complaints regards previous internet postings had removed these forthwith without quibble; however the pattern of behaviour had recommenced. The Subject Member was only trying to represent a vocal public group; it was the manner used which was the issue before the Panel.

The **Panel asked a number of questions** and received clarification from the Investigating Officer on a number of points:

- How the Parish Council would be considered to have had sufficient capacity to deal with the Affordable Housing issue, consultants had been utilised.
- In terms of definitions of bullying, respect etc, what standards had been used to arrive at his findings? The Investigating Officer had referred to Standards for England guidance under the previous Standards regime in the absence of new definitions under the Localism regime.
- The status of the Parish Chairman as the employee's line manager in respect of the timesheets issue was established.
- It was confirmed by the Investigating Officer that the subject member had not shown any conciliation or issued any apology at any time to date.

The **Subject Member was invited to respond** by the Chairman.

The Subject Member indicated that he did not recognise the Member described in the Investigating Officer's submission as himself.

The Subject Member's assertion as to a bias of the Investigating Officer in respect of Rural Affordable Housing was dismissed by the Panel as irrelevant to the matter before the Panel.

The Subject Member outlined that his persistent questioning of the Parish Council had been constantly 'stonewalled'. He had had less and less confidence in the Clerk, he believed that the Chairman and Clerk had been teaming up against him.

The Panel had a number of questions of the Subject Member:

- The Subject Member confirmed he knew that the Clerk had been upset but he had only been trying to do his job.
- The Subject Member acknowledged that the Chairman was the appropriate line manager to which to address any issues regards the clerk's behaviour, however as said he believed the Chairman and Clerk were colluding against him.
- The Subject Member confirmed that as he had become more experienced as a Councillor he acknowledged that a more 'community minded' approach to communicating as a Councillor had to be adopted.

The **Subject Member was asked whether he wished to call any witnesses**, to which he indicated he would like to call Mr Furness.

Mr Furness was called and answered a number of questions in respect of his evidence. He indicated that he felt his evidence presented in the report (which he had seen) did not reflect that he had indicated to the Investigating Officer that the helpfulness of the Parish Clerk prior to his election as a Parish Councillor had been considerably less than after election. Only the latter helpfulness had been reflected in the Report.

Mr Furness indicated he felt the website articles, e-mails and public comments made by the Subject Member were reasonable given the circumstances.

The Subject Member indicated he did not wish to call any further witnesses.

The Investigating Officer indicated he wished to call two witnesses:

- A Mr Jarman (a former Councillor at the concerned Parish) entered the Meeting. He recounted how the clerk had been in tears at the Council office regards the Subject Member's behaviour on numerous occasions and how he had attempted to console her. He did not believe the Subject Member had been abiding by the Code of Conduct all the Parish Councillors had signed upon election/co-option.

Mr Jarman confirmed that mediation in the dispute had been considered, another Councillor with experience of Counselling had attempted to initiate such, the breakdown of such had resulted in the redress of the Council to Legal Advice.

Mr Jarman confirmed that he believed that the Subject Member had been fully aware of the distress he was causing to the employee. He confirmed that he did not believe that the Council had been 'misled' by the clerk.

- A Mrs Ewart (former Chairman of the Parish Councillor) was called and confirmed to the Panel that she had seen and heard the Subject Member make inappropriate comments about the employee at Council Meetings. Mrs Ewart confirmed that the Subject Member had posted numerous disparaging remarks about the Council and various Councillors on the internet, but primarily regards the Parish Clerk.

Mrs Ewart confirmed she had seen various derogatory e-mails regards the Clerk which were virtually always copied in to a considerable number of people.

Mrs Ewart confirmed she was the clerk's line manager and that the Subject Member always felt that he was being denied an opportunity to express his views, when often it was the inappropriate time, opportunity would occur under the correct procedure the Council was always adhering to.

Mrs Ewart confirmed that the Subject Member had accused the clerk of not being able to do her job in his remarks mentioning her 'P45'.

The Subject Member then indicated that he did not wish to remain in the Hearing. The Chairman indicated, as previously, that the Panel was entitled to hear the matter and reach a decision in his absence.

Mrs Khanna advised the Subject Member that he was welcome to stay for the remainder of the Hearing and that the Panel would listen to any final statements he needed to make before they retired to make a decision. The Subject Member decided to leave never the less.

The Panel at this point took the opportunity to break for lunch.

Upon resumption of the Panel Hearing after lunch, the Chairman asked the present 'Independent Person'; Mrs E Springford for her view as to whether the Subject Member had contravened the Code of Conduct as alleged.

Mrs Springford indicated that she felt that the Subject Member had breached both 3(1) & 3(2)b of the Code of Conduct. Mrs Springford agreed with the findings of the Investigating Officers report, nothing the Subject Member or any of the witnesses had said before the Panel had made her think otherwise. The Subject Member was wrong to take out his frustration on an employee.

The Panel then retired to consider their determination.

Here the Panel considered all that had been presented to them in the Report and during the Hearing that morning.

They too concurred with the Independent Person's opinion and **returned to the Committee Room** and:

RESOLVED:

- (i) That Councillor Konieczny had breached section 3(1) of the Members Code of Conduct in that he failed to treat others with respect. Specifically he had failed to treat the Parish Clerk an employee of Hughenden Parish Council with respect. This was evidenced by the fact that Councillor Konieczny had subjected the Parish Clerk to unreasonable and excessive personal attacks at meetings, in emails and internet articles which went far beyond the normal course of reasonable debate. The evidence confirmed that on some occasions Cllr Konieczny's comments were not made, off the cuff, in the heat of the moment or were limited to one off remarks. In those circumstances it would appear that Cllr Konieczny had made considered and intentional comments to the detriment of the Parish Clerk.
- (ii) Councillor Konieczny had breached section 3(2)b of the Members Code of Conduct in that he has bullied an employee.

Specifically Councillor Konieczny has bullied the Parish Clerk. This was evidenced by the fact that Councillor Konieczny had subjected the Parish Clerk to offensive, insulting and humiliating behaviour at meetings, in emails and internet articles. The bullying behaviour appears to have started in July 2010 and continued until April 2011. The longevity of the conduct, the nature of the behaviour, the fact that Councillor Konieczny was in a position of influence and power and that the Parish Clerk's confidence and capability had been adversely affected lead the Panel to this conclusion. The evidence confirmed that on some occasions Cllr Koniecznys comments were not made, off the cuff, in the heat of the moment or were limited to one off remarks. In those circumstances the Panel considered that Cllr Konieczny had made considered and intentional comments to the detriment of the Parish Clerk.

Reasons:

- (iii) Councillor Konieczny had breached the code of conduct by making inappropriate comments about the Parish Clerk at Hughenden Parish Council meetings.
- (iv) Councillor Konieczny had breached the code of conduct by making inappropriate comments about the Parish Clerk in emails.
- (v) Councillor Konieczny had breached the code of conduct by making inappropriate comments about the Parish Clerk on the internet.

The Panel then considered the actions available to them to in respect of this case. It was noted that had the matter been heard over a year ago under the previous Standards regime, a suspension/period of disqualification would have been contemplated in this matter. However the Localism Act had severely curtailed the actions open to the Panel for imposition.

The Independent Person present was consulted in respect of actions. Mrs Springford indicated that this had been a serious breach; it was appalling that a member of staff had been treated in this way. Mrs Springford indicated that the possible actions 1 to 3 featured in the report were essential; however the actions 4 to 7 would be recommendations to the Parish Council which would obviously be free to disregard them if they so wished.

The Panel then retired to consider the actions (if any) applicable.

The Panel decided that the said first 3 actions were appropriate however recommendations in respect of training and suspension in respect of some of the Subject Members Parish Council duties also needed to be made.

The Panel returned to the Committee Room and:

RESOLVED: That Cllr A Konieczny having failed to comply with sections 3(1) and 3(2)b of the Code of Conduct of Hughenden Parish Council, the following actions be taken:

- (i) reprimand of the member;
- (ii) publication of its findings in respect of the member's conduct;
- (iii) report of its findings to the Parish Council for information;
- (iv) recommendation that the Parish Council arrange training for the member on the Members' Code of Conduct and on the procedures of the Parish Council;
- (v) recommendation to the Parish Council that the member be removed from all outside appointments to which he may have been appointed or nominated by the Parish Council.

The following officers were in attendance at the meeting:

- | | |
|--------------|---|
| Peter Druce | - Democratic Services |
| Kiran Khanna | - Principal Solicitor (Deputy Monitoring Officer) |

Agenda Item 7

SUPPLEMENTARY ITEMS (IF ANY)

Agenda Item 8

URGENT ITEMS (IF ANY)

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