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Chairman and Members of the
Standards Sub-Committee.

Your contact: Jeff Hughes
Ext: 2170
Date: 28 May 2014

cc. All other recipients of the
Standards Sub-Committee agenda.

Dear Councillor,

STANDARDS SUB-COMMITTEE – 4 JUNE 2014

Please find attached the following reports which were marked “to follow” on the agenda for the above meeting:

6. Complaint Against District Councillor – EHDC/1/2014 (Pages 3 – 46).

Please bring these papers with you to the meeting next Wednesday.

Yours faithfully,

Jeff Hughes
Head of Democratic and Legal Support Services
East Herts Council
jeff.hughes@eastherts.gov.uk

MEETING : STANDARDS SUB-COMMITTEE
VENUE : ROOM 27, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 4 JUNE 2014
TIME : 2.30 PM

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EAST HERTS COUNCIL

STANDARDS SUB-COMMITTEE – 4 JUNE 2014

REPORT BY MONITORING OFFICER

COMPLAINT IN RESPECT OF A DISTRICT COUNCILLOR

WARD(S) AFFECTED: NONE.

Purpose/Summary of Report:

- To consider a complaint in respect of a District Councillor.

1.0 Background

- 1.1 The Council has received a complaint alleging that a District Councillor has breached the Council's Code of Conduct.

2.0 Report

- 2.1 The Council has agreed a procedure for considering complaints.

- 2.2 The Sub-Committee will consider the report and decide what action to take.

- 2.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Having consulted the Independent Person, it is not considered that the complaint can be resolved informally.

- 2.4 The complainant wishes to keep his name and address confidential. The name and address have been kept confidential and have not been disclosed to the Member involved. The complaints form and the attachments have been redacted to exclude references to the complainant's name, address and email address.

3.0 The Complaint

- 3.1 Details of the complaint are set out in the complaints form and accompanying documents. (see **Essential Reference Paper 'B'**).

4.0 Procedure

- 4.1 A copy of the Council's complaints procedure is contained in **Essential Reference Paper 'C'**.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Contact Officer: Simon Drinkwater – Monitoring Officer
01992 531405
simon.drinkwater@eastherts.gov.uk

Report Author: Simon Drinkwater – Monitoring Officer
01992 531405
simon.drinkwater@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	<i>People</i> This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	None.
Legal:	The procedures are in accordance with the regulations.
Financial:	None..
Human Resource:	None.
Risk Management:	The case should be determined in accordance with the regulations having regard to the relevant guidance.
Health and wellbeing – issues and impacts:	None.

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EAST HERTFORDSHIRE DISTRICT COUNCIL

COMPLAINT FORM : CODE OF CONDUCT FOR MEMBERS

A. Your details

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<i>AGENT / REPRESENTATIVE FOR RESIDENTS OF BRICKENDON</i>	
Title:	
First name:	
Last name:	
Address:	
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	<i>1st APRIL 2014</i>

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people may see this form:

- Monitoring Officer of the Council
- Standards Committee members
- Council's Independent Person(s)
- The subject member(s)
- the Parish Clerk (if applicable)

If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

EAST HERTFORDSHIRE DISTRICT COUNCIL

Please tell us which complainant type best describes you:

- ☒ A member of the public (MEMBERS OF THE PUBLIC)
☐ An elected or co-opted Member of the Council
☐ An independent member of a Standards Committee
☐ A Member of Parliament
☐ A Monitoring Officer
☐ Other council employee, contractor or agent of the Council
☐ Other ()

2. Equality Monitoring Form - please fill in the attached form.

B. Making your complaint

3. Please provide us with the name of the Member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name
Cllr	WILLIAM (MR)	ASHLEY

4. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

It is also important that you provide all the evidence you wish to have taken into account. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.

EAST HERTFORDSHIRE DISTRICT COUNCIL

- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

PLEASE SEE ATTACHMENTS ENCLOSED.

(Continue on separate sheet(s), as necessary)

It appears Cllr Ashley has gained a pecuniary advantage in the manner in which he obtained various planning permissions bringing himself, East Herts Council and Members of the Planning Committee into disrepute. Once he obtained various planning permissions it appears he then abused his position by ambiguous means in changing the fundamental framework of implementing such permissions.

Design and access statements and planning policies actually quoted in obtaining such permissions appear to be very misleading to ordinary members of the public such as ourselves. Once obtained some of the permissions appear to have been covered up by misleading and ambiguous statements to Officers, the press and others.

In recent times it appears he has flagrantly breached conditions imposed on particular permissions. In doing much of the above William Ashley & Partners appear to have obtained substantial financial gain, both in assets and financial payments such as rents. There are numerous supporting documents for the claims made above, many of which are contained in the offices of East Herts Council.

It is alleged that Cllr William Ashley has broken the code of conduct referred to in essential reference paper 'B', including selflessness, accountability, openness, honesty and leadership amongst many others. It is further alleged he has not acted within The Localism Act provisions and has failed to follow the principles to achieve best value for residents and maintain public confidence in this authority.

We have previously raised our concerns in two separate letters to the portfolio holder (Malcolm Alexander) the entire Development Management Committee, Kevin Steptoe – Head of Planning and the press (Mercury newspaper).

One letter was sent in September 2013 the other in January 2014. Both letters are enclosed for your perusal (Items A, B & C), just as a taster of evidence available and proof of our determination of uncovering the truth.

I have spoken in depth with 'The monitoring officer' – Simon Drinkwater on Friday 4th April and concluded that we must now present this to the standards committee for a final determination.

As suggested by the monitoring officer, we are submitting the application form for making a complaint as the first step. He stated supporting evidence was not necessary at this stage as we will be guided at a later date as to what will be required by the committee.

Thank you for taking the time thus far.

Yours sincerely



For the residents of Brickendon

Cllr Malcolm Alexander
 The Firs
 14 The Ridgeway
 Ware
 Herts
 SG12 0RT

26.09.13

Dear Sir

Please excuse the anonymity but I and a number of residents of Brickendon Liberty have serious concerns as to the goings on at Monks Green Farm, Brickendon.

We are unable to contact our local member (Cllr William Ashley) as it is he our concerns are with and not knowing our County Councillor and of having little faith in EHDC planning department.

Although these issues have been raised with our Parish Council from time to time, they appear reluctant to take the matter further, maybe because Cllr Ashleys wife (Linda Ashley) is a member of the Parish Council and the other members are friends with the Ashley family. On that point it was suggested contacting the portfolio holder, namely you.

The areas of concern are as follows

The Live-work units built at Monks Green farm last year have not been built according to the plans submitted. What was supposed to be two bedroom properties is in fact 3 or 4 bedroom. The buildings appear to be much higher than what was approved. This may be demonstrated by the fact they are two storey and not single storey as on the approved plans. The units are numbered 1 to 12, why are the live units separate from the work units? Does that imply the work unit may become a live unit in time to come?

Most importantly it is common knowledge for the past year that five of the units have been rented as live units only. Does EHDC police this, as it was the main reason that planning permission was granted in the first place. It appears to the residents of Brickendon that both the Parish council and the planning department of EHDC are complicit in this gross breach of planning. Enclosed is a copy of the sales literature that Councillor Ashley used to rent his properties in 2012. It shows details of the extra height, 2nd floor and many extra windows. It is also being advertised on Right Move this week.

A recent planning application (NO 3/13/1513/FO) By Cllr Ashley to change a use of a garage at long Croft monks Green farm to office use for G.P.Cars has raised concerns with many local residents. It is understood earlier this year a certificate of lawfulness was to be refused for the car sales business, so why should the business wish to expand into another building? What evidence was submitted that the work element of long Croft (approx 30%) is up to capacity that another office is required? As the garage is already operating as G.P.Cars head office (see G.P.Cars website) should not this application be retrospective?

With approximately 100 cars stored on ground adjacent to Cllr Ashleys residence, is this not a breach of planning permission?

It has been discussed by our group that if it appears nothing is done about this state of affairs in the coming weeks, then we will consider taking it

to the press, along with contents enclosed in this letter that will be supplied to show proof that you, as portfolio holder are aware of some of the residents of Brickendon's concerns. A telephone call to your advertised number will be made (anonymously) in the next couple of days to confirm you're receiving of this letter.

Yours sincerely
Concerned Brickendon Liberty residents

Councillor Alexander
The Firs
14 The Ridgeway
Ware
Herts
SG12 0RT

January 2014

Dear Sir
Re: William Ashley & Partners, Monks Green Farm

Following our previous correspondence regarding this site there remains many unanswered planning issues, including the latest enforcement hearing, which is due to be heard at The Development Management Committee meeting on 5th February 2014. The Officers bringing this to committee are stating "That no further action be taken in regard to the breach of condition" It appears Mr Steptoe's officers have lost the plot on this one and this could be a waste of public money.

Normally if you breach a planning condition you are required to remedy it. Either you make a retrospective planning application and you take your chances or you cease the use. Not in this case and bear in mind this application is for a currently elected Councillor, who was chairman of the Development Control Committee less than 2 years ago. That can be exemplified by when the applicant submitted application no 3/13/1513/FO in August 2013, it was to remove an onerous condition, NOT as stated in the officer's report stated in 1.6.

This under normal circumstances would be a "delegated decision" and even as a councillor does not have to go before the committee. The same applies to a Certificate of Lawfulness, it's a delegated decision. But as the case officer (who refused the two previous certificates of lawfulness) was made aware that this was a "Retrospective" application that dictates it must go before the Development Management Committee. Something we believe the applicant had not bargained for, otherwise why was this application not made earlier when according to the applicant's previous evidence G.P Cars have been there since 2008.

May we commend you for the way the Chairman and the committee debated the November application. The first time we believe the applicant has had an application debated and questioned. The request for more information and investigation was needed. Unfortunately the applicant withdrew his application on 19/12/13 following a request from the Development Manager to provide more information, which he declined to do (Copy of this email request enclosed)

An enforcement application followed (E/12/0314/B) on 8th January 2014 which was granted after a short debate, surprisingly it was only for the car storage and not the head office of GP Cars that operates on the site. Now we have this Non Enforcement, enforcement application. If the officer's recommendation is followed, it gives the applicant the planning permission he wanted two years ago, but without actually making a planning application and without any planning conditions attached. This surely is as bad as the England cricket team, it's just not cricket!

The officer's report appears very contentious as to Mr Steptoe's previous conclusions on the webcast of November's meeting.

PLEASE READ BELOW IN CONJUNCTION WITH OFFICERS REPORT NO: E/14/0009/B ATTACHMENT ENCLOSED (Item C)

In 1.2 the officer states that Longcroft is a Live/work unit in the first place but finishes stating it does not specifically require it to be so. The normal requirement for a live/work unit is two-thirds live and one third work "at ground level" (not basement level). Is this small office one third of the entire property or not? Is it used for the car sales business as in the applicants planning application (copy enclosed) Or is it as stated in the Mercury newspaper of November 2013, from the tenant, his daughters do their homework in that small office and none of Longcroft is used in connection with GP Cars.

1.3 Clearly shows why there has been a continuous breach for many years according to the tenant, unseen by his landlord and neighbour for 6 years.

1.5 Shows cars and office are and have been closely linked. How can you have GP Cars sales head office (The garage) with no cars on site?

1.6 No further evidence has been provided by the applicant, lack of transparency.

1.9 The owner declines to answer the extra information sought, which members wanted answers to before making a decision on last November. Ignorance is no excuse of the owner if particular rooms, if any, are used. Contrary to the evidence submitted in his planning application. Who's fooling who? The work unit must be identified when making the application and in this case should be policed by the owner.

In 2.2 Is Longcroft a Live/work unit or not? Subject to the NPPF would longcroft been given planning permission as a new dwelling in the greenbelt.

Compared to public plans Longcroft appears to be in the wrong place. It also appears one of the barns that was to be dismantled is still standing, with the other one not used in the construction of the building.

Note : Just like the chicken sheds; see picture enclosed, does Longcroft look like two reconstructed barns?

4.3 to 4.8 of the officer's report should be irrelevant as it was and is a breach of planning condition in the first place. It appears to be the intention of the applicant to get away with it. It was member's debate that put this on hold last November, now it's your turn again.

4.9 Were highways made aware there are 11 members of staff and the office is a Car sales office operating up to 100 cars, where no matter where the cars go the purchaser would probably have to visit the office on more than one occasion to make

the purchase. An office of 2/3 people is one thing. This is not that, it has 11 members of staff, an office, a workshop, a valeting shop and up to 100 cars. According to the original planning application it is so successful it has outgrown the 30% space at Longcroft.

4.13 Why cannot officers confirm whether there is any office use? There is an enforcement department at EHDC. Besides the applicant has invited members to view the site and as owner of Longcroft, he has the right to enter the building to inspect.

Now here comes the "Piece de resistance ". This officer makes an important note that there is no planning requirement for the office use to continue and that even if the building is used "entirely for residential purposes" it would not be a breach of planning control. THIS IS IN COMPLETE CONTRADICTION OF THE HEAD OF PLANNING. In the November meeting, in his second statement in answer to questions from Councillor Alexander & Councillor Andrews (on the webcast) about what happens if a business fails (which is not the case here) in a live work unit. Part of his answer was - quote- "What we apply and where we feel we are able to reasonably go is to say that you can't start to use that floor space that is for working purposes for residential purposes and you have got to, if you like, retain it for the potential of someone to be able to use it for a business in the future"

It is evident that you the members I.E Councillors Alexander, Andrews, Crofton, Newman, Cheswright, Moore, Symonds have called for much more information and questions to be answered by the applicant, which he has declined to do so. So how can you make a decision on that? Good Luck to you all, we once again will be watching the debate on the webcast.

We are not happy to the lack of response to our last letter and after enduring the embarrassing way East Herts Planning department have handled the Monks Green Farm planning applications, from the "Chicken sheds" fiasco to the current day, it is now time to step up our resolve. We are currently looking for a spokesperson to speak on our behalf, as it is our concern not to be personally identified for fear of safety and persecution and retribution. We do have a candidate in mind who we hope to persuade to represent us in the near future, with a view to take the entire Monks' Green Farm debacle dating back these past 2 years especially to the standards committee. We will be looking at you (The Portfolio Holder) to advise us on this matter.

Could you please arrange for a copy of this letter and all supporting documents to be copied to all members of the committee, the Chairman and Mr Kevin Steptoe before Wednesday's development management committee meeting.

Yours sincerely

Very concerned Residents of Brickendon

A copy of this will be sent to the Mercury Newspaper today

5L E/14/0009/B – Breach of Condition 3 (restriction of use) of planning permission reference 3/06/0604/FP, following the provision of office accommodation within the upper floor of the detached garage at Longcroft, Monks Green Lane, Brickendon, Hertfordshire, SG13 8QL

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION:

That no further action be taken in regard to the breach of condition.

_____(000914B.GRD)

1.0 Background:

- 1.1 The site is shown on the attached OS extracts. It is located on the western edge of a complex of buildings forming Monks Green Farm and is within the Metropolitan Green Belt. Access to the farm is via Mangrove Lane to the north of the site and the site the subject of this report comprises a detached garage building located within the immediate grounds of Longcroft, a residential dwelling located on the farm.
- 1.2 Planning permission was granted for the dwelling known as Longcroft in 2005 (see following planning history section) and this included a small office in one room to enable its use as a live/work unit. A basement was also permitted to provide a storage area in connection with the office use. The permission granted did not, however, specifically require the use of the building as a live/work unit and there were no conditions imposed on the permission requiring the office element of it to be retained.
- 1.3 The detached garage building the subject of this report was subsequently granted planning permission in 2006 under reference 3/06/0604/FP. That permission was subject, inter alia, to the following condition:
 1. *The building hereby permitted shall only be used for the housing of private vehicles and for purposes incidental to the enjoyment of the dwellinghouse and not for any living accommodation or commercial activity without the prior written consent of the Local Planning Authority.*
- 1.4 The purpose of the garage was said to provide secure vehicle parking

at ground floor and additional storage for the adjacent live/work unit at Longcroft within the upper floor.

- 1.5 However, Members may recall that the Council became aware that the tenant of Longcroft was using the upper floor of the detached garage as an office to carry out administrative functions associated with their car sales business. This business also currently involves the unauthorised storage of cars elsewhere within the farm but this is a separate matter that is the subject of separate enforcement action.
- 1.6 Having reminded the owner of the above condition, a retrospective application was submitted in August 2013 seeking planning permission, under reference 3/13/1513/FO, to vary the above condition to permit the use of the first floor as an office. Again, Members may recall that the application was reported to the Development Management Committee on the 6th November 2013 when Officers recommended that planning permission be granted for the variation of the condition. However, Members resolved to defer a decision on the application in order to enable officers to consider further information relating to the use of the garage and the associated house at Longcroft.
- 1.7 However, on the 19th December 2013 the applicant withdrew the application.
- 1.8 The use of the garage has, however, continued and it is therefore necessary to determine whether it is expedient in the public interest to take enforcement action to secure the cessation of the use of the first floor of the garage for office purposes.
- 1.9 Officers have sought additional information from the applicant about the use of the dwelling at Longcroft and whether there is any office use remaining within the dwelling itself. However, the owner has advised Officers that he is unable to provide that information as he is currently in a legal process with the tenant of the property and he does not wish to jeopardise that process. The owner is unaware himself as to which particular rooms in the house are used, if any, as an office area.
- 2.0 **Planning History:**
- 2.1 Planning permission was granted in 2004, under reference 3/04/0249/FP, for the conversion of two existing barns on the farm to live/work units. Later in 2004, planning permission was granted, under reference 3/04/1564/FP, to dismantle the two barns and re-erect them as a live/work unit further away from the listed farmhouse.

- 2.2 A later revised application was submitted for the dwelling known as Longcroft under reference 3/05/0221/FP. That application sought permission for a dwelling, although the submitted plans included the provision of a small office and a basement for storage purposes for the office element of the proposal. No conditions were imposed on the dwelling to restrict its use as a live/work unit however and none to require the retention of the office space within the property.
- 2.3 The garage, the subject of this report, was approved planning permission in 2006, under reference 3/06/0604/FP and was subject to the condition referred to in paragraph 1.3 above.
- 2.4 Application 3/13/1513/FO to vary condition 3 of the permission ref: 3/06/0604/OP was withdrawn on 19th December 2013.

3.0 Policy:

- 3.1 The relevant 'saved' Local Plan policies in this application include the following:

GBC1	Appropriate Development in the Green Belt
TR2	Access to New Developments
TR7	Car Parking – Standards
ENV1	Design and Environmental Quality
ENV16	Protected Species

- 3.2 In addition, the National Planning Policy Framework is relevant, particularly Section 3.

4.0 Considerations:

- 4.1 The main planning issue to consider in this case is whether the use of the first floor of the garage building as an office is acceptable in this location.
- 4.2 The site lies within the Green Belt where there is a presumption against inappropriate development. Policy GBC1 and paragraphs 89 and 90 of the National Planning Policy Framework (NPPF) sets out some exceptions to this presumption. The NPPF allows for the re-use of buildings provided they are of permanent and substantial construction and they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt.
- 4.3 The Local Plan supports the re-use of rural buildings for business use through Policy GBC9, provided the existing building is in keeping with its

surroundings, is permanently and soundly constructed, the use is sympathetic to the rural character of the building and surroundings not requiring extensive alterations and that the conversion would not lead to dispersal of activity on such a scale as to prejudice town and village vitality.

- 4.4 The building is a modern build and officers consider it to be of permanent and substantial construction. At the time of a site visit by a planning officer, the office was being used to desk 3 staff within the upper floor and appeared reasonably spacious and functional. Existing dormers provide natural light. During another visit by an enforcement officer it appeared that there were four desks. As it is being used successfully in its current form as an office, officers do not consider there would be a need for substantive alteration or extension. Planning officers note that any wider use of the building, or extension of it, would require planning permission.
- 4.5 In respect of whether the use of the building is sympathetic to the rural character of the building and surroundings, it is noted that use of the office has not resulted in the need for any additional hard standing, signage or other commercial paraphernalia that may have impacted upon the open character of the Green Belt. This is unlikely to be necessary in the future, because the modest size of the unit would restrict the scope of the office use to expand which in turn restricts the number of people capable of working or visiting the site.
- 4.6 Whilst the residential dwelling Longcroft is located nearby, the office use is a daytime activity unlikely to impact significantly on the amenities of this occupier through levels of noise or late night comings and goings. Parking for two cars is available in the ground floor of the garage and the existing hard standing adjacent to Longcroft is of sufficient size to locate any other staff or visitor vehicles without a significant impact on openness or the need for additional encroachment into the rural area. Accordingly, use of the upper floor of the garage as an office would have a very limited impact on the surroundings and is considered by officers to be sympathetic to the rural character of the building and surroundings.
- 4.7 With regard to whether use of the upper floor of the building as an office impacts upon town and village vitality, officers consider that this would not be the case. The scale of the use is very limited and is unlikely to have any material impact on the economic vitality of Hertford, the nearest town. Furthermore, the NPPF supports economic growth in rural areas to create jobs and prosperity. Paragraph 28 states that to support a strong rural economy, local plans should support the growth

and expansion of all types of business and enterprise in rural areas.

- 4.8 The NPPF supports the expansion of business and enterprise in rural areas. The re-use of rural buildings is considered an appropriate form of development in the Green Belt. Use of the first floor of this building as an office would have no harmful impact on the openness of the Green Belt or the character of the area, the amenities of surrounding neighbours, highway safety or ecological matters.
- 4.9 During the consideration of the above-mentioned application ref:3/13/1513/FO, Hertfordshire Highways were consulted. They did not wish to restrict the grant of permission. They commented that, given the relatively modest size of the garage there is unlikely to be any significant impact on the free and safe flow of traffic on the public highway. The stretch of highway/right of way network accommodates a farm and other businesses with various different types of vehicles coming and going quite regularly throughout the day. Any additional traffic associated with the office is unlikely to cause a danger or inconvenience when compared to the existing situation. In addition, there appears to be sufficient parking and turning space for vehicles within the site.
- 4.10 Hertfordshire Biological Records Centre was also consulted on the earlier application. They did not formally comment although they verbally indicated that they did not wish to restrict the grant of permission. Although bats had been recorded in a local barn, there was no record to suggest the garage had been used as a bat roost. In any case, given the upper floor was already in use as an office, any impact on bats would already have taken place.
- 4.11 Natural England did not wish to restrict the grant of permission.
- 4.12 Brickendon Liberty Parish Council noted that the application was retrospective but registered no objections.
- 4.13 Officers cannot confirm whether or not there is any office use remaining within the dwelling itself. However, it is important to note that there is no planning requirement for an office use to continue within the dwelling and therefore, even if the building is currently used entirely for residential purposes, this would not be a breach of planning control and is not a material consideration in the determination of this matter relating to the garage.

5.0 Recommendation:

- 5.1 In summary, the use of the first floor of the existing building is supported in principle by the policies of the Local Plan and national policy set out in the NPPF.
- 5.2 The resulting office is of limited size and is unlikely to provide accommodation for more than 4 people. The Highway Authority does not object to this limited scale of office use as it is most unlikely to result in any significant increase in traffic generation to and from the farm. Given the farm use, and the other established businesses on the farm site, Officers concur with this view and consider that the service of an enforcement notice on these grounds would not be justified.
- 5.3 Similarly, the building is not located in proximity to any other residential properties, except those owned by the farm and therefore it would not be possible to sustain an objection to the use on neighbour amenity grounds.
- 5.4 The use is low key and does not involve any external alterations to the building. There is also ample provision for parking at the site and therefore Officers can see no objection to the use on the grounds of visual impact.
- 5.5 It is therefore recommended that no enforcement action be taken in respect of the breach of condition 3 of application reference 3/06/0604/FP.

EAST HERTFORDSHIRE DISTRICT COUNCIL

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and in compliance with the rules of natural justice, we believe Members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him / her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example:
- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
 - may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Assessment Sub-Committee will consider the request alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

PLEASE SEE ATTACHED SHEET AND SUPPORTING DOCUMENTS.

NOTE: IT IS THE COMPLAINER AND COMPLAINERS WE WISH TO BE WITHHELD
AND NOT THE COMPLAINT ITSELF, I.E. RESIDENTS OF BRICKENDON.

WE ARE WILLING TO ATTEND ANY PRIVATE INTERVIEW AS REQUIRED
TO EXPLAIN THE VAST AMMOUNT OF EVIDENCE ACCUMULATED.

(Continue on separate sheet(s), as necessary)

Appendix to Item C (Confidentiality of complainant)

It is myself [REDACTED] and a number of residents of Brickendon who wish to remain anonymous. It is without doubt that myself and others may be victimised, harassed, intimidated and feel threatened by the member.

This can be best shown by two examples from a number that have occurred in recent times. The first one was against myself when I had the occasion to invite Mr W Ashley to a meeting of the "Brickendon Local plan group" of which I was the vice chairman.

During the conversation in January 2012 and for no apparent reason Mr W Ashley changed the subject and began throwing insults and slanderous accusations at me personally. I attempted to respond but it was futile, I begged him to stop, but he was not having any of it, which led to me putting the phone down. Over the next 3 weeks I attempted to resolve his problem with me by Email, again he was not having any of it and did not reply until the third attempt.

A)1-Please find enclosed (copy of) one of the email sent and his reply (Note on East Herts.gov.uk site).

The second example involves Mr Tim Barnard, Ex Parish Councillor of Brickendon, who resigned over the so called "Chicken Sheds" debacle at Monks Green Farm in 2012.

In December 2013 (On a request from Sarah Greek of the Mercury newspaper) Mr Barnard attempted to send two photographs he had of Monks Green Farm regarding a story they were putting together. Inadvertently (and he knows not why) he sent it to Linda Ashley, Cllr Ashley's wife.

B)1-Enclosed is a copy of that innocent email and the subsequent reply from Mr Ashley and a following letter from Mr Ashley's solicitor. It should be self explanatory.

I don't think that 2 photos and a simple email warrants such a reply, but this has happened before to Mr Barnard and similar incidents involving myself have involved torrents of abuse from Mr Ashley.

It must be noted at this stage these are examples of why we wish to remain anonymous and is not the reason of complaint although you may find it not the way a councillor should behave. It is further repeated we would be prepared to meet with the officers and or committee to discuss the evidence surrounding the complaint.

AI

Councillor Ashley (William) [William.Ashley@eastherts.gov.uk]
08 February 2012 09:09

RE: [REDACTED]

RE:

Dear [REDACTED]

Many thanks for your e-mail. As you can appreciate I am a very busy man, lets agree to disagree.

Best regards.

William.

From: [REDACTED]

Sent: 08 February 2012 07:17

To: Councillor Ashley (William)

Subject:

Dear William

Following our conversation of over 3 weeks ago I have attempted to resolve our differences by inviting you twice, by email to hold talks on the issues raised, you have ignored my contacts.

I have thought long and hard on your comments and have decided not to let the matter rest until I get the opportunity to defend myself. I find your statement that "I duped you in getting my house " totally unacceptable. You further stated I should not of got my housing development through and that I am the greediest man you know and numerous dispersions regarding Paradise Park. I find that very intimidating and personal, especially coming from my Local Councillor but more importantly coming from The Chairman of the Planning Committee.

I have spoken to others over this issue and consequently give you a third opportunity to finally put these issues where they belong.

I am only available up to Sunday as I am away for two weeks starting Monday 13/2/12.

Best regards



Sent: 17 December 2013 14:09
To: Councillor Ashley (William)
Subject: FW: tim barnard shared photos with you

From: [tim](#) [REDACTED]
Sent: 17 December 2013 10:53
To: [linda](#) [REDACTED]
Subject: Fwd: tim barnard shared photos with you

Hi Guys, welcome back! These are the two photos that I tried to send to Sarah at the Mercury that wouldn't send. They are of the before and after of chicken shed burning and tie in nicely with the report that someone has found asbestos in the field. Could you try sending them please? She was expecting them. Love, Tim

-----Original Message-----

From: tim barnard [REDACTED]
To: [REDACTED]
Sent: Tue, 17 Dec 2013 10:32
Subject: tim barnard shared photos with you

You have been sent 2 pictures.

DSC03979.JPG
DSC03968.JPG

These pictures were sent with Picasa, from Google.
Try it out here: <http://picasa.google.com/>

This email and any files transmitted with it may be confidential and are intended for the sole use of the intended recipient, copyright remains with East Herts Council.
If you are not the intended recipient, any use of, reliance upon, disclosure of or copying of this email is unauthorised.
If received in error, please notify us and delete all copies.

All e-mails and attachments sent or received by East Herts Council may be subject to disclosure under access to information legislation.

Please note that the Council does not accept responsibility for viruses. Before opening or using attachments, check them for viruses.

2 Attached Images



From: Councillor Ashley (William) <William.Ashley@eastherts.gov.uk>

To: [REDACTED]

Subject: FW: tim barnard shared photos with you

Date: Wed, 18 Dec 2013 9:42 am

Attachments: DSC03979.JPG (67K), DSC03968.JPG (63K)

Dear Mr Barnard.

My wife Linda has passed on your e-mail sent to her in error. I will keep my response to you brief but in reading the content it is evident that this is an ongoing e-mail exchange between you and another party and between you both and Sarah from the Mercury. From this and the articles written in the local newspaper I assume it is Sarah Greek.

You will recall in November 2012, your written communication to me was defamatory and prior to this you have been vocal in your opinion of me. The content of your e-mail last November concluded with me taking advice from my Solicitor and in him communicating directly with you 26th November 2012.

To now receive another communication from you a year or so on, leaves me in no doubt that you choose to continue your harassment towards me. Your communication/s are intimidating to both me and my family and harmful to my reputation as a businessman, a Councillor and as a local resident.

It is with disappointment that I find myself writing this to you but given the length of time your vendetta has lasted towards me, this leaves me with growing concern for me and my family and wondering what lengths you are prepared to go to in order to achieve whatever your intention is.

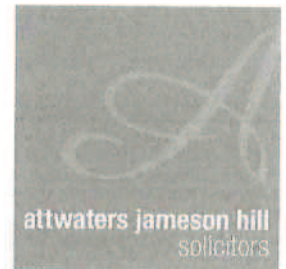
With this in mind, I am reporting your communications to the police and will take further advice from my Solicitor.

William.

From: Linda Ashley [<mailto:linda@eastherts.gov.uk>] [REDACTED]

Our Ref: RAJ/NP/ASHLEY/120331

Date: 16 January 2014



72-74 Fore Street
Hertford
Hertfordshire SG14 1BY
DX 57908 Hertford
www.attwatersjamesonhill.co.uk

T Barnard Esq



Dear Sir

Re: Monks Green Farm – Cllr William Ashley

You will recall that we wrote to you some 14 months ago on the 26th November 2012 with regard to the matter of your defamatory comments via your email correspondence.

Since then Mr Ashley is in receipt of a further email sent from you on 17th December 2013 to his wife Linda Ashley, clearly in error. You will be aware of the email I refer to as Mr Ashley has provided you with a reply to this on 18th December 2013 expressing his concerns.

We have advised Mr Ashley that there are two relevant areas of law which may warrant further action. The first is that if you are publishing defamatory allegations about him then he is entitled to bring proceedings against you for damages for defamation.

The second is that there is a criminal offence of harassment and Mr Ashley will ensure that communications received by him are forwarded to the police so that they can be thoroughly investigated with a view to ascertaining whether a prosecution would be justified.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Attwaters Jameson Hill'.

Attwaters Jameson Hill Solicitors

Robert Jameson
Partner
SWB : 01992 554881
DDI : 01992 568030
FAX : 01992 551885
rob.jameson@attwaters.co.uk

Partners
David Kerry
Robert Jameson
Jonathan Clarke
Stephen Tetlow
Sheenagh Parsons
Andrew Flannagan
Joanne Westbrook
Joyti Henchie
Nicholas Evans
Clare Newton
Peter Westbrook
Tracy Kenny
Madeline Seibert
Lesley-Ann Mayhew
Sheri-Anne Mizon

Associates
Catherine Dean

Authorised and regulated
by the Solicitors Regulation
Authority
SRA No. 51886



Lexcel Accredited

Offices also at
Ware
Harlow
Loughton

EAST HERTFORDSHIRE DISTRICT COUNCIL

D. Remedy sought

7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

- ① THE MAIN AIM OF THIS COMPLAINT IS TO SEEK THE TRUTH IN THE MOST THOROUGH AND INVESTIGATIVE MANNER POSSIBLE AS TO THE CODE OF CONDUCT OF Cllr WILLIAM ASHLEY BOTH PAST AND PRESENT.
- ② FOR THE STANDARDS COMMITTEE TO DELIVER AN UNBIASED COMPREHENSIVE REPORT AND PUT AN END TO THIS ALLEGED CONTINUING BLIGHT ON EAST HERTS COUNCIL.
- ③ SHOULD THE STANDARDS COMMITTEE FIND THE CODE OF CONDUCT HAS BEEN BREACHED FOR THEM (THE PROFESSIONALS) TO ADJUDICATE RESPONSIBLY IN THE MATTER.
- ④ TO SEEK ALTERNATIVE METHODS TO PREVENT THE POSSIBILITY FOR MEMBERS OF THE DEVELOPEMENT MANAGEMENT COMMITTEE ABUSING THE SYSTEM IN THE FUTURE AND TO SUBMIT THEMSELVES TO A BETTER SCRUTINY IN SUCH MATTERS. E.G PLANNING APPLICATIONS BE HEARD BY ANOTHER ADJACENT AUTHORITY FOR PLANNING COMMITTEE MEMBERS AND/OR COUNCILLORS OF EAST HERTS DISTRICT COUNCIL.

(Continue on separate sheet(s), as necessary)

E. Additional information

8. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.
9. In line with the requirements of the Disability Discrimination Act 1995, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
10. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

Monitoring Officer Contact details:

The Monitoring Officer – Simon Drinkwater
East Herts Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ

EAST HERTFORDSHIRE DISTRICT COUNCIL

Monitoring Form – Local Assessments of Complaints Standards Committee - Assessment Sub Committee

Working towards equal opportunities

East Hertfordshire District Council is committed to a policy of equality of opportunity in both employment and service provision. We seek to ensure that no person receives less favorable treatment on the grounds of gender, race, or ethnic origins, marital status, disability, age, sexual orientation, family responsibilities, religion, trade union involvement or political belief or is disadvantaged by conditions or requirements which cannot be shown to be justifiable.

White

White British
White Irish
Any other White
background

☒

Mixed

White and Black
Caribbean
White and Black
African
Any other mixed
background

☐

Asian

Indian
Pakistani
Bangladeshi
Any other Asian
background

☐

Black

Caribbean
African
Any other Black
background

☐

Chinese or other ethnic group

Chinese
Other

☐

*Categories used are those utilised by
the Office of Population Censuses and
Surveys

Do you have a physical or mental impairment which has a substantial and long term adverse effect on your ability that you wish to declare under the Disability Discrimination Act?

Yes

☐

No

☒

Councillor William Ashley

We have been advised through the Controlling Officers Department not to include the hundreds of pages of evidence available in this matter. It was suggested and agreed that we submit a bullet point edition for your perusal and if and when required you may wish to view the evidence we have collated in recent times.

Car Storage 90+Vehicles (Adjacent to Cllr Ashley's house) for G.P.Cars – No planning consent for the last five years, attempted obtaining planning permission by 2 certificates of Lawfulness – **withdrawn** and one planning application – **withdrawn** (was applied - not retrospective) **evidence available** but was retrospective! **Enforcement issued January 2014**. Now appealing (at great public expense) saying have had car storage there for 20+ years (Untrue according to the officers) **Evidence available** – Does this mean this Councillor Ashley knowingly bucked the system on the 10 year rule and did not pay business rates for this use. (**Evidence available**)

Garage at Longcroft Used for Head Office of GP Cars – **evidence available**. According to Cllr Ashley planning application for office use was because the business expanded so much at the house of Longcroft that they needed to have use of the upper floor of the garage in addition – not true. According to his tenant, Longcroft has never been used for live work – only the garage - **evidence available**. Garage is/was Head Office for 5 years, opposite Cllr Ashley's front door. **Evidence available** This house is now up for rent again at £54K per annum, available from 1/5/14 **evidence available**. Not as a live/work unit but with the garage on an ordinary rental (live) property.

Workshop and valeting unit not identified in planning terms and or business rate terms. The house Longcroft has not been used in the requirement planning permission was granted for – **evidence available**. As of today 1/5/14 it is not being advertised as a live work unit. - **evidence available**

It appears Longcroft was not built (as per the original permission) evidence in EHDC files not so easy for public access – needs investigation.

The so called Chicken sheds (2012) were not built according to the planning permission – **evidence available**. The chicken sheds were not built according to the design & access statement submitted by Cllr Ashley- **evidence available as well as highlighted by the Mercury Newspaper**

The Chicken Sheds are not rented or advertised as live/work units – **evidence available**

The Chicken Sheds are not rated correctly with EHDC – **evidence available**

The Chicken Sheds have an extra floor – not as permission granted – **evidence available**

The Chicken Sheds have been split into 12 units, not the six permission was granted for – **evidence available**

The Chicken sheds (i.e. Cllr Ashley) received a substantial sum of money (grant) from DEFRA for conversion of the Chicken Sheds. Cllr Ashley has newly built the complex with a live element for units 6 to 12 and the work element being 1 to 6. It appears without proper approval, at an advertised rental rate of approx £2000 per unit per month. It adds up to a substantial sum of money.

It is in these items mentioned above (there are many others), it is believed a PECUNIARY GAIN has been achieved.

During last month (April 2014) it has been established there is another large car sales company operating at Monks Green Farm -A1 Autos – **evidence available**

On searching EHDC planning website so far there appears to be no planning permission for this use and for the building it is housed in. – **evidence available**

Also according to the revenue inspector at EHDC, it too is not listed for business rates and is being investigated accordingly.

Taking into account some of the anomalies at the Monks Green site, as Landlord Cllr Ashley should be aware of what is going on, on the very farm he and his family live on. It therefore remains questionable to what extent his role is in all the alleged goings on at Monks Green Farm.

It must be strongly stated it is not the planning merits of this complaint that are in question, it is whether Cllr Ashley has broken the Code of Conduct, in applying for planning permissions, achieving the planning permissions by evidence given and what he did with those planning permissions when implemented.

Having seriously digested “The Code of Conduct” in essential reference paper “B”. It appears that Cllr Ashley may have broken just about every section of the code, with integrity and objectivity being borderline depending on one’s point of view.

We await your response and further instructions.

Yours sincerely



(Agent) for Residents of Brickendon

Complaints Procedure

1.0 Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted Member of this authority (or of a Town or Parish council within its area) has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 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 authority (or of a Town or Parish council within the authority’s area), or of a Committee or Sub-Committee of the authority, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least 1 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 Town or Parish council) against whom an allegation has been made.

2.0 The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the authority’s website and on request from Reception at the Council Offices.
- 2.2 Each Town and Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should inspect any website operated by the Town or Parish Council and request the Town or Parish Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3.0 Making a complaint

- 3.1 If you wish to make a complaint, please write or email to:

The Deputy Monitoring Officer - Jeff Hughes
East Herts Council
Council Offices
Wallfields

Pegs Lane
Hertford
SG13 8EQ

Tel: 01279 655261

- 3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of Members' interests and who is responsible for administering the system in respect of complaints of Member misconduct.
- 3.3 In order to ensure that the Council has 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, next to the Code of Conduct, and is available on request from the Reception at the Council Offices.
- 3.4 Please provide the Council 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. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.
- 3.5 The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance. The Council will endeavour to deal with a complaint within 3 months.

4.0 Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before referring it to the Standards Sub-Committee
- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the

Assessment Criteria annexed at Appendix 2. The Standards Sub-Committee will make a recommendation as to whether the complaint should be investigated. Where the Sub-Committee requires additional information in order to come to a decision, the Monitoring Officer 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 Town or Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Town or Parish Council before submitting it to the Sub-Committee.

- 4.3 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. Where the Member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Sub-Committee will take account of this in deciding whether the complaint merits further investigation.
- 4.4 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 or other regulatory agencies.

5.0 How is the investigation conducted?

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.
- 5.2 If the Council decides that a complaint merits further investigation, the Council may 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 or Monitoring 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 need to be seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will 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 from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation 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.

5.5 Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

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

6.1 If an Investigating Officer has been appointed 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 Town or 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 Investigation Final Report. The Monitoring Officer will then report to the Standards Sub-Committee which will make a decision based on the report.

6.2 If an Investigating Officer has been appointed and 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.

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

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and will then either send the matter for a hearing before the Standards Sub-Committee and in consultation with the Independent Person seek an informal resolution.

7.1.1 Informal 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 may 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 Town or Parish Council for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Sub-Committee which may conduct a 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 hearing complaints, which is attached as Appendix 4 to these arrangements.

At the hearing, the Investigating Officer or the Monitoring 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 or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, 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 dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with

the Code of Conduct, the Chairman will inform the Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8.0 What action can the Standards Sub-Committee take where a Member has failed to comply with the Code of Conduct?

8.1 The Sub-Committee may decide to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may consider:-

- 8.2
 - i. A formal letter to the Councillor found to have breached the code;
 - ii. Formal censure by motion;
 - iii. Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
 - iv. Press release or other appropriate publicity;

8.3 The Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

9.0 What happens at the end of the hearing?

9.1 At the end of the hearing, the Chairman will state the decision of the Standards Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

9.2 The Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Sub Committee, and send a copy to you, to the Member and to the Town or Parish Council, making that decision notice available for public inspection.

10.0 Who are the Standards Sub-Committee?

10.1 It is a Sub-Committee comprising Independent Members.

10.2 If the Councillor complained about is a member of a Town or Parish Council a Town or Parish Councillor who is a member of the Standards Committee will also be invited to attend the Sub-Committee.

- 10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee 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.

11.0 Who is the Independent Person?

- 11.1 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.

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

11.2.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2.2 *(Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area), or*

11.2.3 Is a relative or close friend, of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose, a "relative" means:

11.2.3.1 Spouse or civil partner;

11.2.3.2 Living with the other person as husband and wife or as if they were civil partners;

11.2.3.3 Grandparent of the other person;

11.2.3.4 A lineal descendent of a grandparent of the other person;

11.2.3.5 A parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2; or

11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or

11.2.3.7 Living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.

12.0 Revision of these arrangements

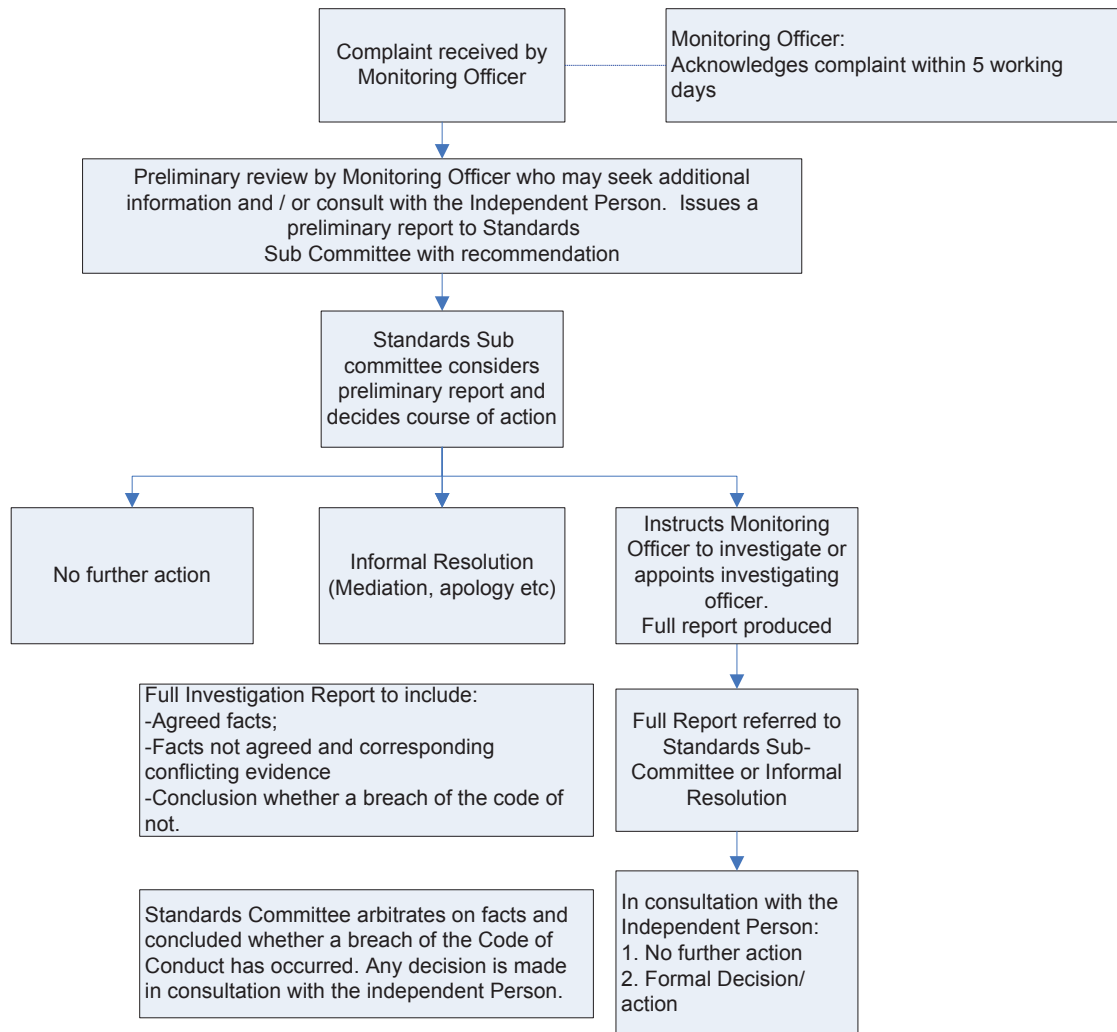
The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13.0 Appeals

- 13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you can make a complaint to the Local Government Ombudsman.

APPENDIX 1

Complaints Procedure Flowchart



Preliminary tests:

Potential breach of the code?

What to do with it?

Assessment of public interest?

Decision within 28 working days of receipt

Or seek additional information as required prior to making a decision.

Independent Persons is consulted

Complaints which would not normally be referred for investigation:

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is "tit-for-tat" or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor's private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor
6. There is insufficient information available for referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Council; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
11. Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

APPENDIX 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

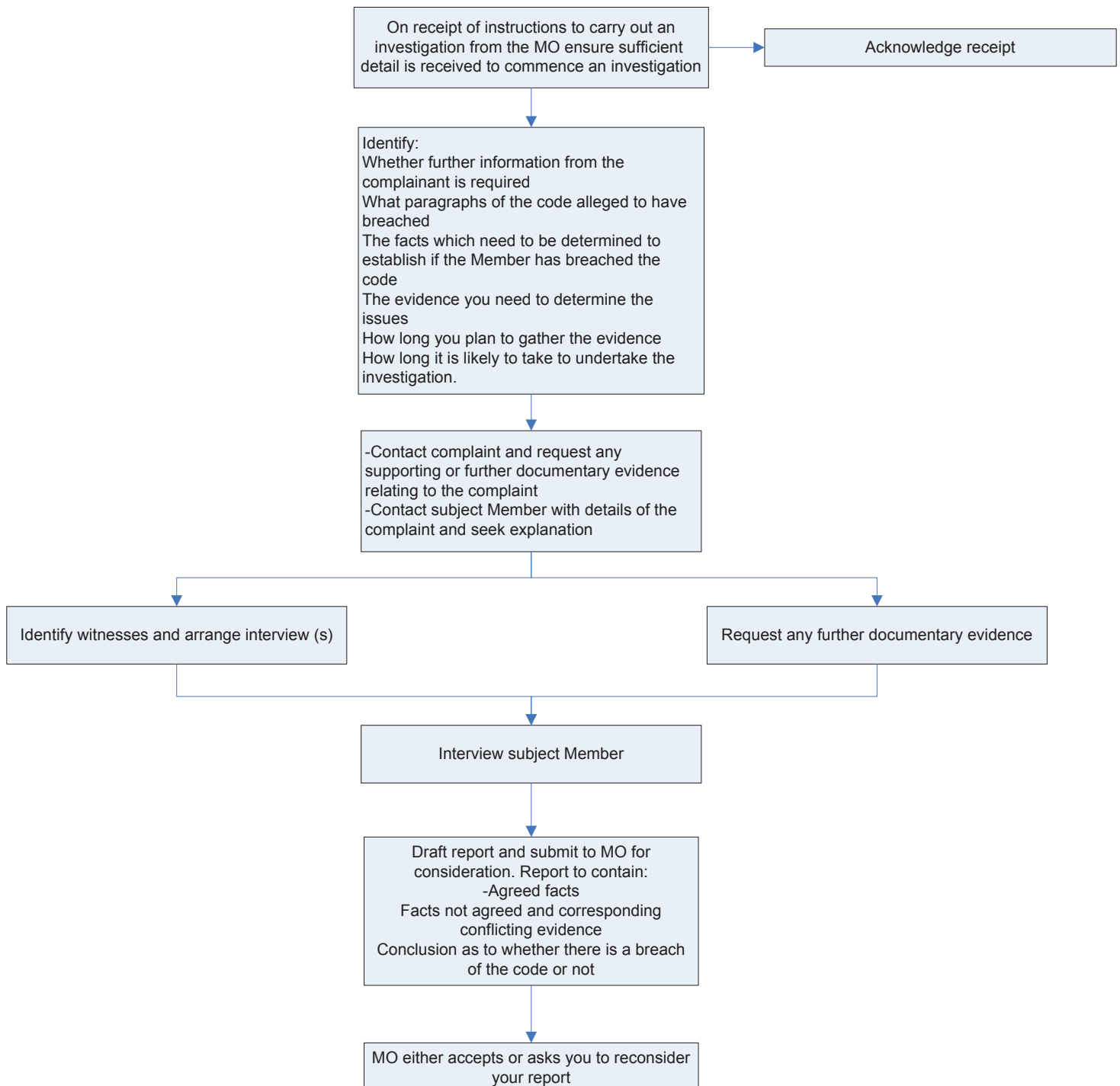
1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. it is about someone who is no longer a Councillor
5. There is insufficient information available for a referral; or
6. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Council; or
9. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
10. Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

APPENDIX 3

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 for co-operation with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



Appendix 4

Complaints Standards Sub-Committee Procedure

<u>Item No.</u>	<u>Procedure</u>
1	<p><u>Quorum</u></p> <p>1.1. Three Members must be present throughout the hearing to form a quorum.</p> <p>1.2. The Sub-Committee shall elect a Chairman for the meeting</p>
2	<p><u>Opening</u></p> <p>2.1 The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones.</p> <p>2.2 The Chairman asks all present to introduce themselves</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position</p>
3	<p><u>The Complaint</u></p> <p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions arising from the Investigator's report and not to make a statement)</p> <p>3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer</p>
4	<p><u>The Councillor's case</u></p> <p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative)</p>

	<p>4.2 The Investigating Officer may question the Councillor and/or any witnesses</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses</p>
5	<p><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the Complaint</p> <p>5.2 The Member (or their representative) may sum up their case.</p>
6	<p><u>Decision</u></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</p> <p>6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</p> <p>6.2.3 The Sub-Committee will give reasons for their decision</p> <p>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct the Panel will consider any representations from the Investigator and/or the Member as to:</p> <p>6.3.1 Whether any action should be taken and</p> <p>6.3.2 What form any action should take</p> <p>6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person</p> <p>6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council)</p> <p>6.6 The Sub-Committee will consider whether it should make any recommendations to the Council or in relation to a Parish Councillor to the Parish Council with a view to promoting high standards of conduct among Members.</p>

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