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Jeff Hughes
*Head of Democratic and Legal
Support Services*

MEETING : STANDARDS SUB-COMMITTEE
VENUE : MEETING ROOM B - CHARRINGTONS HOUSE,
BISHOP'S STORTFORD
DATE : THURSDAY 6 MARCH 2014
TIME : 3.00 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE COMMITTEE

Councillors K Crofton, S Rutland-Barsby and M Wood

CONTACT OFFICER: JEFF HUGHES

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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.

2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.

3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.

4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

AGENDA

1. Appointment of Chairman

To appoint a Chairman for this meeting.

2. Apologies

To receive any apologies for absence.

3. Chairman's Announcements

To receive any Chairman's announcements.

4. Declarations of Interest

5. Minutes (Pages 5 - 8)

To approve the Minutes of the meeting held on 26 June 2013.

6. Complaint in respect Hunsdon Parish Councillor D Gibbs - Investigation report (Pages 9 - 66)

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

MINUTES OF A MEETING OF THE
STANDARDS SUB-COMMITTEE HELD IN
THE ROOM 28, WALLFIELDS, HERTFORD
ON WEDNESDAY 26 JUNE 2013, AT 3.00
PM

PRESENT: Councillors M Carver, K Crofton and M Wood

ALSO IN ATTENDANCE:

Councillor S Rutland-Barsby

OFFICER IN ATTENDANCE:

<p style="text-align: center;">Jeff Hughes</p>	<p style="text-align: center;">- Head of Democratic and Legal Support Services</p>
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ALSO IN ATTENDANCE:

<p style="text-align: center;">Katherine Dumbovic</p>	<p style="text-align: center;">- Independent Person</p>
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1 APPOINTMENT OF CHAIRMAN

RESOLVED – that Councillor M Wood be appointed
Chairman for this meeting of the Standards Sub-
Committee.

2 DECLARATIONS OF INTEREST

Councillor M Carver advised that he would withdraw from the meeting prior to consideration of the item detailed in Minute 6 below. The Sub-Committee noted the reasons now outlined by Councillor Carver for his intended withdrawal. Councillor Rutland Barsby would replace him on the Sub-Committee to consider this item.

3 MINUTES

RESOLVED – that the Minutes of the meeting of the

Standards Sub-Committee held on 23 January 2013 be confirmed as a correct record and signed by the Chairman.

4 COMPLAINT IN RESPECT OF DISTRICT COUNCILLOR
M NEWMAN

The Monitoring Officer submitted a report on a complaint alleging that District Councillor M Newman had breached East Herts Council's Councillors Code of Conduct.

The complaint was the subject of an investigation by an independent Investigating Officer appointed by the Monitoring Officer.

The Sub-Committee considered the report of the Investigating Officer's findings on the complaint in accordance with its approved procedure.

The Standards Sub-Committee, in consultation with the Independent Person, determined that, in relation to all the circumstances of the case, there was no evidence of any failure by Councillor Newman to comply with the Code of Conduct and therefore there was no case to answer.

RESOLVED – that in relation to all the circumstances of the case, there was no evidence of any failure by Councillor Newman to comply with the Code of Conduct and therefore there was no case to answer.

5 COMPLAINT IN RESPECT OF DISTRICT COUNCILLOR
B WRANGLES

The Monitoring Officer submitted a report on a complaint alleging that District Councillor B Wrangles had breached the Council's Councillors Code of Conduct.

The Head of Democratic and Legal Support Services highlighted the Council's assessment criteria for such complaints. He invited the Sub-Committee to use the criteria to reach one of the following decisions on the complaint:

- (A) to refer it to the Council's Monitoring Officer for investigation, or
- (B) to take no action.

Based on the information provided by the complainant and the assessment criteria, the Sub-Committee agreed to take no action.

RESOLVED – that no action be taken on the complaint now submitted alleging that Councillor Wrangles had breached the Authority's Code of Conduct.

6 COMPLAINT IN RESPECT OF HUNSDON PARISH COUNCILLOR D GIBBS

The Monitoring Officer submitted a report on a complaint alleging that Hunsdon Parish Councillor D Gibbs had breached that Authority's Councillors Code of Conduct.

The Head of Democratic and Legal Support Services highlighted the Council's assessment criteria for such complaints. He invited the Sub-Committee to use the criteria to reach one of the following decisions on the complaint:

- (A) to refer it to the Council's Monitoring Officer for investigation, or
- (B) to take no action.

The Sub-Committee agreed to refer the complaint to the Monitoring Officer for investigation.

RESOLVED – that the complaint now submitted alleging that Hunsdon Parish Councillor D Gibbs had breached that Authority's Code of Conduct be referred to the Monitoring Officer for investigation.

(Note: Councillor Carver left the room prior to consideration of this item.)

The meeting closed at 3.25 pm

Chairman
Date

EAST HERTS COUNCIL

STANDARDS SUB-COMMITTEE – 6 MARCH 2014

REPORT BY THE DEPUTY MONITORING OFFICER

COMPLAINT IN RESPECT OF HUNSDON PARISH COUNCILLOR D GIBBS – INVESTIGATION REPORT

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- To consider a complaint in respect of Parish Councillor D Gibbs, a Member of Hunsdon Parish Council.
- 1.0 Background
- 1.1 Council has received a complaint alleging that a member of Hunsdon Parish Council has breached that Authority's Code of Conduct.
- 2.0 The 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.
- 3.0 The Complaint
- 3.1 A Complaint was made that Hunsdon Parish Councillor D Gibbs breached his Council's Code of Conduct.
- 3.2 Details of the complaint are set out in the Investigating Officer's report.
- 4.0 The Investigating Officer's Report
- 4.1 An investigating officer was appointed to carry out an investigation. Following the investigation, the Investigating Officer concluded that, in all the circumstances of this case, there is no evidence of a failure to comply with the Members' Code of

Conduct. A copy of the Investigating Officer's report is attached at **Essential Reference Paper B**.

5.0 Procedure

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

6.0 Implications/Consultations

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

Background Papers

None

Contact Officer: Simon Drinkwater- Director of Neighbourhood Services - 01992 531405
simon.drinkwater@eastherts.gov.uk

Report Author: Jeff Hughes – Deputy Monitoring Officer – ext. 2170.

ESSENTIAL REFERENCE PAPER 'A'

<p>Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i>:</p>	<p>People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</p> <ul style="list-style-type: none"> • Enhance our local community engagement by working together with our partners such as Parish and Town Councils, for the benefit of our communities. • Maintain our core services to a good standard and ensure high satisfaction with the council as measured through the biennial Residents Survey.
<p>Consultation:</p>	<p>None</p>
<p>Legal:</p>	<p>The procedures are in accordance with the regulations.</p>
<p>Financial:</p>	<p>None</p>
<p>Human Resource:</p>	<p>None</p>
<p>Risk Management:</p>	<p>The case should be determined in accordance with the regulations having regard to the relevant guidance.</p>

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ESSENTIAL REFERENCE PAPER B

REPORT OF AN INVESTIGATION UNDER s60 OF THE LOCAL GOVERNMENT ACT 2000 INTO ALLEGATIONS CONCERNING COUNCILLOR DAVID GIBBS A COUNCILLOR OF HUNSDON PARISH COUNCIL

CONTENTS

- 1. Abbreviations**
- 2. Complaint**
- 3. Findings**
- 4. Councillor Gibbs' official details**
- 5. Summary of allegations**
- 6. Investigating Officer's summary of facts**
- 7. Reasoning as to whether there have been failures to comply with the Code of Conduct**
- 8. Conclusion**
- 9. Additional Findings**
- 10. Appendix**

1.0 Abbreviations

'CMN' means Councillor Michael Newman

'CDG' means Councillor David Gibbs

'the application' means planning application 3/12/1440/FP in relation to Hunsdon Parish Church approved by Development Control Committee on 7th November 2012

'DCC' means Development Control Committee

'EHDC' means East Herts District Council

'HPC' means Hunsdon Parish Council

'PCCC' means Hunsdon Parochial Church Council

'the code' means Hunsdon Parish Council Code of Conduct – see document A

'the meeting' means the meeting of DCC on 7th November 2012 dealing with the application

2.0 Complaint

The complaint (document B) by CMN, is regarding CDG's report as Chairman of Hunsdon Parish Council to the 2012/2013 Hunsdon Annual Parish Meeting on 25th March 2013 (see document B) in which it is alleged that CDG breached the HPC Code of Conduct.

3.0 Finding

My finding is that there is insufficient evidence that CDG failed to comply with this Code.

4.0 Councillor David Gibbs' official details

- 2.1 CDG was first elected to HPC in May 2002 and has been re-elected since then. CMN proposed him as chairman of HPC in May 2004 and he has been elected into this position by members annually to date. He holds no other role within the Council.
- 2.2 There is no record of CDG having attended Code of Practice training. However he was furnished with a Good Councillors Guide booklet in 2003 and a Parish Counsellors Guide in 2009.

5.0 Summary of allegations

- 5.1 The breach is alleged to have occurred in CDG's report as Chairman of Hunsdon Parish Council which he read out to its Annual Meeting on 25th March 2013. This report has subsequently been published with the minutes of the meeting and posted on the village website and is therefore public knowledge. The Report relates to CMN's conduct leading up to and at EHDC's DCC meeting on 7th November 2012 when a planning application regarding the current St Francis Chapel in Hunsdon was considered. CMN is both a Member of DCC and the Local Member for that application site.
- 5.2 The allegation is that CDG made a number of accusations that CMN acted improperly in this matter and did not abide by HPC Code of Conduct :-
- 5.2.1 Following notification by the then Chairman of DCC on 18th February 2013 to the Clerk to HPC that she 'understood there was a formal investigation taking place in connection with CMN's involvement with this application...and it would be most inappropriate for her to enter into correspondence on any of the points raised in the clerk's letter in connection with him' CDG should have refrained from any comment on the matter as this was sub judice on 25th March 2013.
- 5.2.2 CDG stated that CMN had demonstrated no support for the feelings of his electorate and failed to represent the community which had plainly made its views known through two public meetings. Furthermore he had demonstrated a dismissive attitude to EHDC Code of Conduct and it was his actions and words with a negligible consultation which culminated in a granted decision and tore the village apart with his speech being full of bias and partisan content.
- 5.2.3 CDG also stated that because CMN's wife is a Church Warden and a member of PCCC who was the applicant it was perceived that a personal interest could affect his judgment on Church matters and was consequently asked to withdraw from the planning meeting but refused.
- 5.3 This report investigates whether by his conduct CDG has breached the Code and considers whether he failed to comply with the relevant sections thereof.
- 5.4 It is alleged that CDG has breached the HPC Code of Conduct for Councillors
- Part 1 Section 3 (1) – You must treat others with respect
Part 1 Section 5 - You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or Hunsdon Parish Council into disrepute.
- 5.5 A copy of the Code of Conduct is attached as Document A

6.0 Summary of Facts

- 6.1 CDG is a member of HPC and therefore subject to its Code of Conduct for Councillors
- 6.2 CMN attended the meeting of DCC on 7th November 2012 and spoke on the application in his role as DCC Member
- 6.3 CMN was subsequently investigated by the Standards Committee for breaches of EHDC code of practice
- 6.4 The allegations were found to be not proven and there was no breach of the EHDC Code of Practice

- 6.5 CDG did read his report to members of HPC Annual Meeting on 25th March 2013 acting in an official capacity of HPC
- 6.6 The decision on the investigation report was not made until 26th June 2013
- 6.7 CMN did not have a pecuniary interest in the application to declare which is the only interest which has to be registered and disclosed and he was therefore entitled to speak and vote at DCC on the application
- 6.8 There was no evidence that the majority of CMN's constituents were against this application only that the HPC was.
- 6.9 CMN was asked by the Hunsdon Parish Clerk to present HPCs objections to the DCC as Ward Councillor. CMN responded that he understood David Kitching would be at the meeting and would presumably put these points. He himself would probably speak as Ward Councillor but what he said would depend on everything he personally had read and heard prior to and at the meeting. I can find no evidence of him agreeing to present the HPCs views. Indeed in an email dated 15th October 2012 he states that he may comment at the DCC as a member of that Committee rather than on behalf of the community and with reference to the whole body of material available. I find that this is what he did, set out the background to the application and identify some issues. He did not describe the advantages that the community might gain or the penalties it might suffer from building the new chapel or invite members to vote one way or another

7.0 Reasoning as to whether there have been failures to comply with the Code of Conduct

7.1 I must now consider whether the conduct of CDG constitutes a breach of the HPC Code of Conduct. It is the responsibility of a Councillor to comply with the provisions of the Code whenever s/he conducts the business of the Authority in an official capacity. A very clear line has to be drawn between the Code of Conduct and the freedom to disagree with the views and opinions of others.

7.2 I have taken into account the decision in R(Calver) v Public Services Ombudsman for Wales 2012 which related to council members and politicians who use social media as a way of commenting on other members. Although it was found that the comments directed towards other councillors were 'sarcastic and mocking' they were not found to amount to 'political expression'. Judge Beatson J stated that it was necessary to bear in mind 'the traditions of robust debate' which may include 'some degree of lampooning of those who place themselves in public office' which would necessarily require politicians to have 'thicker skins than others'. The Court found that the Adjudication Panel's decision that comments made on a public web site had broken the council's code of practice had been a disproportionate interference with the Councillor's rights under Article 10 of the European Community Human Rights.

7.3 Part 1 Section 3 (1) – You must treat others with respect

7.3.1 CDG made his report on 25th March 2013 and stated that some villagers had asked him to explain how the application came to be granted when it was recommended by the planning officer for refusal, and objected to by a large majority of parishioners. He then went on to place much of the fault at the feet of CMN and gave an account of his interpretation of 'what went on'.

7.3.2 Quite clearly CDG believed what he said to be true, and still does.

7.3.3 There is no conclusive evidence that CDG knew of the contents of the letter of 15th February 2013 to the Parish Clerk but I am prepared to accept that this is possible.

7.3.4 CMN was not cleared of the complaints against him until 26th June 2013 and prior to that the nature of the investigation would not have been known to the public, including CDG.

7.3.5 Although I consider CDG was careless with his choice of words in his report, I do not see them as being anything more than him stating what he believed to be true and comes within the remit of the Calver case which clearly anticipates 'some degree of lampooning'. Whilst CMN does not agree with all that was said, and some of his remarks were inaccurate, this is what politics are all about and a fine line has to be drawn between opinion and lack of respect. People are entitled to their own interpretation of events.

7.3.6 Both parties are respected Councillors.

7.3.6 On the balance of probabilities I find the scales just tip in favour of CDG and do not therefore find that he has been disrespectful to CMN in his report.

7.4 Part 1 Section 5 - You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or HPC into disrepute.

7.4.1 In view of my findings in 7.3 above I see no additional evidence to suggest that CMG has brought his office or HPC into disrepute.

8.0 Conclusion

I do not find the complaint against Councillor David Gibbs founded in either section.

9.0 Final Consideration

9.1 CDG says that he did not know of the communication on 18th February 2013 advising that CMN was under investigation or the nature of any allegation. I do not therefore see how he could know that what he reported could be sub judice.

9.2 Much of what CDG said about CMN's conduct was subsequently found to be factually and demonstrably untrue, but at the time he made his report the decision on the investigation had not been made and he believed his comments to be true. Failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another.

9.3 The Calver case I refer to involved Councillors and the social media, but the points from it that I have principally taken into account is the comment of Judge Beaston that Councillors need to accept that they may not always like what is said about them.

9.4 Whilst CDG may well have been better advised not to comment in the way that he did, he has not in my view been disrespectful in terms of the Code of Practice or brought his role as Councillor or HPC into disrepute on this occasion.

9.5 I now refer to an appeal decision dated 26th February 2008 in which The Appellant appealed against the Standards Committee's finding that he had failed to follow paragraphs 2(b), 2(c) and 4 of the Code of Conduct through the comments he made about the Town Clerk on 20 July 2006 at a meeting of the Charity Trustees. In the Appeals Tribunal's view, it was "important that members should be able to express in robust terms concerns that they have

about any aspect of the running of the council and that this can include expressing disagreement with officers and can include criticism of the way in which an officer handles particular matters.” It is my view that this can also refer to Councillors as well as officers. They went on to say “Whilst this was undoubtedly uncomfortable for the Town Clerk and it could be argued that it might have been better expressed in a more appropriate forum, the Appeals Tribunal does not believe that a reasonable objective observer of the proceedings would think that the comments would bring the office of councillor or the authority into disrepute”.

9.6 My conclusion remains that CDG has not breached HPC Code of Practice after my investigation into this complaint against him.. I recommend that no further action be taken in this matter.

APPENDIX A

Schedule of evidence taken into account

<u>Document Number</u>	<u>Description</u>
A	Code of Conduct for HPC
B	Complaint
C	Minutes of DCC on 7 th November 2012 dealing with the application
D	Report to Standards Sub Committee 26 th June 2013

EAST HERTFORDSHIRE DISTRICT COUNCIL
Annex A - Copy of Hunsdon Parish Council extant Code of Conduct

HUNSDON PARISH COUNCIL

CODE OF CONDUCT

*Prepared in accordance with The Local Authorities (Model Code of Conduct) Order 2007
Coming into force 3rd May 2007*

PART 1

GENERAL PROVISIONS

Introduction and interpretation

1.

- (1) This Code applies to **you** as a member of Hunsdon Parish Council.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State. *See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401).*
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code -
 - "meeting" means any meeting of -
 - (a) Hunsdon Parish Council;
 - (b) any of the Parish Council's committees or sub-committees;
 - "member" includes a co-opted member and an appointed member.
- (5) In relation to Hunsdon Parish Council, references to the monitoring officer and the standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of East Herts Council which has functions in relation to the Parish Council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2.

- (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you -
 - (a) conduct the business of the Parish Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the Parish Council and references to your official capacity are construed accordingly.

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(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of Hunsdon Parish Council -

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with Hunsdon Parish Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3.

(1) You must treat others with respect.

(2) You must not -

(a) do anything which may cause Hunsdon Parish Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be -

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with Hunsdon Parish Council's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, Hunsdon Parish Council.

4. You must not -

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(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is -

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of Hunsdon Parish Council, or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or Hunsdon Parish Council into disrepute.

6. You -

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of Hunsdon Parish Council -

(i) act in accordance with the Council's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7.

(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by -

(a) the Clerk to Hunsdon Parish Council; or

(b) East Herts Council's monitoring officer.

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where the Clerk or the monitoring officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by Hunsdon Parish Council.

PART 2

INTERESTS

Personal interests

8.

(1) You have a personal interest in any business of your authority where either -

(a) it relates to or is likely to affect -

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;

(ii) any body -

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in Hunsdon Parish Council's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between Hunsdon Parish Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in

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paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in Hunsdon Parish Council's area in which you have a beneficial interest;

(x) any land where the landlord is Hunsdon Parish Council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in Hunsdon Parish Council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of Hunsdon Parish Council's area.

(2) In sub-paragraph (1)(b), a relevant person is -

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9.

(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of Hunsdon Parish Council and you attend a meeting of Hunsdon Parish Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of Hunsdon Parish Council which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of Hunsdon Parish Council of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

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(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in Hunsdon Parish Council's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Prejudicial interest generally

10.

(1) Subject to sub-paragraph (2), where you have a personal interest in any business of Hunsdon Parish Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of Hunsdon Parish Council where that business -

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of Hunsdon Parish Council in respect of -

(i) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(ii) an allowance, payment or indemnity given to members;

(iii) any ceremonial honour given to members; and

(iv) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11.

You also have a prejudicial interest in any business before an overview and scrutiny committee of Hunsdon Parish Council (or of a sub-committee of such a committee) where -

(a) that business relates to a decision made (whether implemented or not) or action taken by a Hunsdon Parish Council committees or sub-committee,

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(b) at the time the decision was made or action was taken, you were a member of the committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12.

(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of Hunsdon Parish Council -

(a) you must withdraw from the room or chamber where a meeting considering the business is being held -

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from the Council's standards committee;

(b) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of Hunsdon Parish Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

PART 3

REGISTRATION OF MEMBERS' INTERESTS

Registration of members' interests

13.

(1) Subject to paragraph 14, you must, within 28 days of -

(a) this Code being adopted by or applied to Hunsdon Parish Council; or

(b) your election or appointment to office (where that is later),

register in Hunsdon Parish Council's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to East Herts Council's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that

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new personal interest or change by providing written notification to East Herts Council's monitoring officer.

Sensitive information

14.

(1) Where you consider that the information relating to any of your personal interests is sensitive information, and East Herts Council's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify East Herts Council's monitoring officer asking that the information be included in Hunsdon Parish Council's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

EXPLANATORY NOTE

(This note is not part of the Order)

Paragraph 1 of the Code provides that the Code applies to any member of an authority and that it is the responsibility of each member to comply with the Code.

Paragraph 2 of the Code provides that the Code applies whenever a member is acting in his or her official capacity, and in relation to conduct in a member's private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

Paragraph 3 of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimate persons involved in code of conduct cases.

Paragraph 4 of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 5 of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 6 of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the

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authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

Paragraph 7 of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 8 of the Code provides a list of matters which constitute a personal interest.

Paragraph 9 of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

Paragraph 10 of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

Paragraph 11 of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

Paragraph 12 of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

Paragraph 13 of the Code provides that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.

Paragraph 14 of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.



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.

Title:	Councillor
First name:	Michael
Last name:	Newman
Address:	[REDACTED]
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	

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.

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- 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.

The elements of Hunsdon Parish Council's Code of Conduct¹ (Annex A) which I maintain Cllr Gibbs has breached are:

Part 1 Sect 3 (1) You must treat others with respect

Part 1 Sect 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or Hunsdon Parish Council into disrepute.

The principal evidence for my complaint is Cllr Gibbs' report as Chairman of Hunsdon Parish Council to the 2012/13 Hunsdon Annual Parish Meeting on 25 March 2013 (Appendix 1). This report was read out by Cllr Gibbs at the meeting which was attended by me, other Parish Councillors and about 15 members of the public. The report has subsequently been published with the minutes of the meeting and posted on the village website. Since the report is published then I assume there is no need for witnesses to be identified. The relevant section of his report is concerned with my conduct leading up to and at the EH Development Control Committee meeting on 7 November 2012, when a planning application to replace the current St Francis Chapel in Hunsdon was considered. I am a Member of the DCC but also the Local Member associated with this application.

My complaint is threefold:

1. Cllr Gibbs makes a number of accusations that I acted improperly on this matter and did not abide by the EHC Code of Conduct. My conduct in relation to this planning application has been investigated by an independent Investigating Officer and, although the Officer's report is (at the time of writing) complete, it will remain Confidential until considered by the Standard Committee. The Officer's findings are, though, highly pertinent to this point and I would ask that the report is taken into consideration. However, in response to a letter from the Hunsdon PC Clerk, the Chairman of the DCC advised on 18 February 2013 that a formal complaint about my conduct had been lodged and was being investigated through the proper procedure – in other words the matter was *sub judice*. Under these circumstances Cllr Gibbs should have respected this position and refrained from any comment on the matter, knowing that I would be unable to answer his...
(Continue on separate sheet(s), as necessary)

¹ At the time in question, Hunsdon Parish Council had not adopted a Code of Conduct consistent with The Localism Act 2011. Its extant Code of Conduct had been prepared in accordance with The Local Authorities (Model Code of Conduct) Order 2007 and adopted in May 2007

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1. (cont)... accusations.
2. Cllr Gibbs' statement that *"He spoke for 10 minutes to the Committee and during this time he demonstrated no support for the feelings of his electorate and failed to represent this Community which had plainly made its views known through two public meetings, not to mention the current anger and frustration in the village. His comments had little to no planning content, quoted from the Parish Plan out of context, and a common thread running through his entire speech revealed a rejection of villager's fears and his dismissive attitude to the East Herts District Councils Code of Conduct to which he should adhere. These actions and words followed by a negligible consultation culminated in a granted decision. Cllr Newman's speech at that meeting which generated the 'granted' decision helped to tear this once contented village apart; it will wreck the playing field, destroy the village scene and change forever the environment of the village centre. It has created nothing less than a divisive atmosphere. His speech, full of bias and partisan content..."* is, in every detail, an untruthful, unreasonable and unjustified defamation of my integrity. For example and in the context of his assertion that I *"...quoted from the Parish Plan out of context..."*, I provided copies of the summary (from which I quoted) and full versions of the Hunsdon Parish Plan to the EH Head of Planning and it is Mr Steptoe's view that *"an entirely reasonable interpretation of them would be that although the reuse/ redevelopment of the current chapel site is expressed as a preference in the parish plan, a separate village centre location should and could also comprise an acceptable alternative."* (Appendix 3)
3. Cllr Gibbs' statement that *"...but because his wife is a Church Warden, and a member of the PCC who are the applicants, it was perceived that a personal interest could affect his judgment on Church matters, he was consequently asked to withdraw before the planning meeting, ...; he refused to withdraw."* is again untrue and a defamation of my integrity. I was asked in an email from the Hunsdon PC Clerk on 5 November 2012 (Appendix 2) whether I was planning to speak at the DCC, and I responded that that I was planning to speak. At no stage was I asked to withdraw from the meeting, hence at no stage did I *"refuse to withdraw"*.

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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:

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

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D. Remedy sought

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

I request that Cllr Gibbs makes a written apology to me. A draft of the apology is to be submitted to, and approved by the Chairman of the EH Standards Committee

The apology should be read by Cllr Gibbs at the first available scheduled meeting of Hunsdon Parish Council, and recorded in the minutes thereof.

The apology should be included in the first available scheduled edition of the Hunsdon Parish Magazine.

Hard copies of the apology should be posted on noticeboards around Hunsdon at the first opportunity and for at least one month.

The apology should be posted on the village website at the first opportunity and for at least one month.

(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

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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	Mixed	Asian	Black	Chinese or other ethnic group
White British	White and Black	Indian	Caribbean	Chinese
White Irish	Caribbean	Pakistani	African	Other
Any other White background	White and Black African	Bangladeshi	Any other Black background	
<input checked="" type="checkbox"/>	Any other mixed background <input type="checkbox"/>	Any other Asian background <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*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

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Appendix 1 – Extract from the Chairman's report at the Annual Parish Meeting in Hunsdon on 25 March 2013

My final report must be in some detail as it is the most important factor this village has had to face. Some villagers have asked me to explain how a Planning Application which was refused by an East Herts Planning Officer, and objected to by a large majority of parishioners, came to be granted by East Herts Planning and Development Control Committee last November. The Parochial Church Council (PCC) entered a Planning Application to East Herts Council to build a Chapel/Community centre on church owned land, currently leased by this council from the Diocese of St Albans for the last 60 years, commonly known to residents as the recreation ground, or playing field, in Acorn Street. The lease runs until the middle of next year. The process detail is considerable so I will not enter into that now, but many people would like to know "what went on", of the massed feeling against an oversized building in the wrong place, endangering the future of our ancient Parish Church as well as duplicating facilities now available in the refurbished Village Hall a few yards away. Letters of support and objection from the public were available for members of the Planning and Development Control Committee to read and is hoped that they did in addition to taking into consideration their own Planning Officer's "Refusal" Report, they then heard the three minute presentations by the Church and then this Council. The Committee Chairman then asked for representations from the Committee members, this was answered by Cllr. Newman, Ward Councillor for Hunsdon. In this position he represents this Community, but because his wife is a Church Warden, and a member of the PCC who are the applicants, it was perceived that a personal interest could affect his judgment on Church matters, he was consequently asked to withdraw before the planning meeting, and perhaps his position of Deputy Chairman of that Planning and Development Control Committee would complement any advice given; he refused to withdraw. He spoke for 10 minutes to the Committee and during this time he demonstrated no support for the feelings of his electorate and failed to represent this Community which had plainly made its views known through two public meetings, not to mention the current anger and frustration in the village. His comments had little to no planning content, quoted from the Parish Plan out of context, and a common thread running through his entire speech revealed a rejection of villager's fears and his dismissive attitude to the East Herts District Councils Code of Conduct to which he should adhere. These actions and words followed by a negligible consultation culminated in a granted decision. Cllr. Newman's speech at that meeting which generated the 'granted' decision helped to tear this once contented village apart; it will wreck the playing field, destroy the village scene and change forever the environment of the village centre. It has created nothing less than a divisive atmosphere. His speech, full of bias and partisan content to the Planning Committee left this council no option but to unanimously pass a vote of 'No confidence' in Cllr. Newman.

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Appendix 2 - Copy of email exchange with Hunsdon PC Clerk prior to DCC on 7 November 2012

Councillor Newman (Michael)

From: Councillor Newman (Michael)
Sent: 05 November 2012 16:41
To: Parish Clerk
Subject: RE: 7 November Dev. Control Committee Meeting

Joy

Apologies for not responding.

I understand that David Kitching will be speaking at the meeting so presumably will be putting these views. I will have the opportunity to speak as Ward Councillor and will probably do so. What I say will depend on everything I, personally, have read and heard leading up to the meeting and at the meeting.

Best regards

Mike

Cllr Michael Newman

East Herts Council, Member for Hunsdon Ward

[REDACTED]

From: Parish Clerk [REDACTED]
Sent: 05 November 2012 13:33
To: Councillor Newman (Michael)
Subject: FW: 7 November Dev. Control Committee Meeting

Mike, Just following up this e mail as I have had no reply from yourself. Thanks Joy

From: Parish Clerk [REDACTED]
Sent: 30 October 2012 17:20
To: michael.newman [REDACTED]
[REDACTED]
Subject: 7 November Dev. Control Committee Meeting

Mike,

Please find attached a document that HPC is sending to all members of the development control committee for their perusal before the committee meeting.

The Parish Council wants these arguments to be presented at the meeting. As Ward Cllr we would like to ask you would do so. However we are mindful that you may be uncomfortable with this and therefore I have had an initial conversation with R Beeching to stand in if that is the case.

Joy

Joy Robinette
Hunsdon Parish Clerk

[REDACTED]

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Appendix 3 - Copy of email from Kevin Stepto, EH Head of Planning

Councillor Newman (Michael)

From: Stepto Kevin
Sent: 05 April 2013 14:45
To: Councillor Newman (Michael); Councillor Rutland-Barsby (Suzanne); Drinkwater Simon
Subject: RE: St Francis Chapel, Hunsdon

Mike - thanks for the copy of the summary document - that is certainly a less specific summary document - from the knowledge of both documents I feel that an entirely reasonable interpretation of them would be that although the reuse/ redevelopment of the current chapel site is expressed as a preference in the parish plan, a separate village centre location should and could also comprise an acceptable alternative.

Kevin

MINUTES OF A MEETING OF THE
DEVELOPMENT CONTROL COMMITTEE
HELD IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON
WEDNESDAY 7 NOVEMBER 2012, AT 7.00
PM

PRESENT: Councillor S Rutland-Barsby (Chairman).
Councillors M Alexander, D Andrews,
E Bedford, S Bull, A Burlton,
Mrs R Cheswright, G Jones, G Lawrence,
P Moore, M Newman and T Page.

ALSO PRESENT:

Councillors W Ashley, P Ballam,
E Buckmaster, M Carver, L Haysey,
J Ranger, P Ruffles and N Symonds.

OFFICERS IN ATTENDANCE:

Liz Aston	- Development Control Team Leader
Glyn Day	- Principal Planning Enforcement Officer
Simon Drinkwater	- Director of Neighbourhood Services
Peter Mannings	- Democratic Services Officer
Kevin Steptoe	- Head of Planning and Building Control Services
Alison Young	- Development Control Manager

388 CHAIRMAN'S ANNOUNCEMENTS

The Chairman urged Members to attend an important

District Plan training session on 8 November 2012, as well as the District Plan Executive Panel meeting on 28 November 2012.

389 DECLARATIONS OF INTEREST

Councillors M Alexander and P Moore declared disclosable pecuniary interests in application 3/12/1150/FP, in that they were Board Members for Riversmead Housing Association. They left the room whilst this matter was considered.

390 MINUTES – 10 OCTOBER 2012

RESOLVED – that the Minutes of the meeting held on 10 October 2012 be confirmed as a correct record and signed by the Chairman, subject to the following amendment:

Minute 352 – 3/12/0424/FP – Closure of Railway Foot Crossing and Construction of a New Footbridge with Ramped Access at Johnsons Railway Crossing, Bishop's Stortford for Network Rail:

Insert as 18th paragraph – Councillor T Page confirmed that he would be happy to liaise with the Landscape Officer on behalf of the Committee.

391 3/12/1150/FP – DEMOLITION OF GARAGES AND CLEARANCE OF ASSOCIATED LAND, CONSTRUCTION OF AFFORDABLE HOUSING, 1X4 BED DETACHED HOUSE, 4 X3 BED SEMI-DETACHED HOUSES AND 3 X 2 BED BUNGALOWS ON GARAGE SITE TO THE REAR OF 17-28 GRASS WARREN, TEWIN, HERTS, AL6 0JJ FOR RIVERSMEAD HOUSING ASSOCIATION

Keith St Pier, Stuart Kirkham and Dean Goodman addressed the Committee against the application. Simon Camp spoke for the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/12/1150/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

Councillor L Haysey, as the local ward Member, stated that she had found that striking the right balance had been difficult in respect of this application. She commented that there were a number of defects in the application that were relatively easy to address. She referred in particular to the quality of design and the impact on the quality of life for the residents of Tewin.

Councillor L Haysey referred to Officer's concerns in respect of the protection of the openness of an English Design Site. She stated however that the building height was low and although this area was not part of the application site, a solution to improve the scheme's design should be explored between the applicant and Officers.

The Director referred Members to the comments detailed in the additional representations schedule, as Officers had suggested an additional condition for Members to consider.

In response to a query from Councillor A Burlton in respect of the access and the land at Grass Warren, which was outside of the application site, the Director confirmed that Members should consider the application as submitted.

Councillor T Page stated that this application was for a small but high density scheme which would harm the character and appearance of the surrounding area. He commented that the application was contrary to the National Planning Policy Framework (NPPF) requirements in respect of good design and sustainable development.

Councillor Mrs R Cheswright invited Officers to respond to

the comments of Hertfordshire Fire and Rescue in respect of access to this site for 18 tonne fire hydrants. She also commented on whether this issue, as well as those raised by Councillor L Haysey, were sufficient to merit a deferral of this application so that Officers could liaise with the applicant to address all of the outstanding concerns.

Councillor M Newman referred to access for cars and emergency vehicles as being the principal issue in respect of this application. He stated that although the proposed access just about met the minimum highways standards in the eyes of Hertfordshire Highways and Hertfordshire Fire and Rescue, the proposed arrangements did not represent a practical access.

The Director advised that condition 7 was designed to ensure that the surfacing of the access road within the application site was capable of catering for all the vehicles that would need to access the application site.

Officers could include the remainder of the access road within this condition as Riversmead Housing Association owned the land referred to by Councillor L Haysey. The result would be a Grampian style condition meaning that no development could take place until the access details were finalised.

The Director stated that the negotiations with Hertfordshire Fire and Rescue had resulted in amendments to the scheme so that fire service vehicles and other service vehicles would be able to leave the site in forward gear. Officers had recommended approval as the application met the minimum standards in terms of design and access.

The Director stressed that seeking to improve the access would inevitably alter the impact of the proposed development in terms of the loss of green space.

Members were reminded that a revised access and the loss of green space would mean that residents would

need to be re-consulted. Some residents who had previously been content with the scheme might now feel compelled to object to the application. A deferral would therefore be necessary if Members wished the matter of access to be considered further.

Councillor Mrs R Cheswright proposed and Councillor D Andrews seconded, a motion that application 3/12/1150/FP be deferred to enable Officers to investigate the possibility of alternative means of access with the applicant.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/12/1150/FP, planning permission be deferred to enable Officers to investigate the possibility of alternative means of access with the applicant.

- 392 (A) 3/12/1075/FP – RENOVATION/EXTENSION OF 4 EXISTING DWELLINGS, ERECTION OF 4 NEW DWELLINGS, CHANGE OF USE, ALTERATIONS/EXTENSIONS TO EXISTING AGRICULTURAL BUILDINGS TO PROVIDE 7 DWELLINGS, DEMOLITION OF EXISTING AGRICULTURAL BUILDINGS, ASSOCIATED PARKING, LANDSCAPING/ACCESSIBLE PARKLAND WITH NATURE AREA; AND (B) 3/12/1076/LB-CHANGE OF USE, RENOVATION, EXTENSION OF EXISTING LISTED/CURTILAGE LISTED BUILDING AND DEMOLITION OF EXISTING LISTED/CURTILAGE LISTED BUILDINGS AT HOME FARM, MOOR PLACE, MUCH HADHAM
-

Kevin Gregory addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/12/1075/FP, planning

permission be refused for the reasons detailed in the report now submitted. The Director of Neighbourhood Services also recommended that, in respect of application 3/12/1076/LB, listed building consent be granted subject to the conditions detailed in the report now submitted.

Councillor M Carver, as the local ward Member, stated that he hoped that Members had visited this hugely important site to gain an understanding of the complexity of this application. He commented that Home Farm was a grade 1 listed Manor House close to a number of other listed buildings and features set in historic parkland and gardens.

Councillor M Carver emphasised that this was a total composite scheme that protected and enhanced the listed buildings at Home Farm, as well as the parkland within which this development would be located. The viability of the application was based on all of the elements of the scheme, namely the refurbishment and renovation with extension of Home Farm as well as the four new builds.

Councillor M Carver stressed that the refurbishment and sale of Moor Place was dependent on the development of Home Farm. He referred to the volume of work that had been undertaken by Officers and stakeholders in respect of this application. He further commented that all of the issues raised by this application had been satisfactorily addressed.

Councillor M Carver stated that the Parish Council was supportive and the public exhibition had indicated that the wider public was also largely supportive despite the housing element being contrary to policy GBC3 of the East Herts Local Plan Second Review April 2007.

Councillor M Carver urged Members to approve the full planning permission and listed building consent to protect and enhance the grade 1 listed Manor House, the other listed buildings and features as well as the historic parkland and gardens.

Councillor T Page stated that he had had the privilege of visiting Moor Place to observe some fantastic buildings, some of which had fallen into disrepair. He commented that some of the 20th century farm buildings were completely out of place and were constructed of materials that would not be used today.

Councillor T Page stressed that the old listed buildings should be offered to the current generation to enjoy, as well as adding to the vitality of the local community by opening up farm land that was no longer required. He concluded that the application complied with policies BH11, BH12 and BH17 and was a sympathetic scheme that brought back into use some very fine old buildings for the enjoyment of the local community of Much Hadham.

In response to comments from Councillors M Newman and A Burlton, the Director confirmed that Officers' main concerns had centred on the new build elements of this application, which Officers had felt could not be justified. Members were advised that Officers were supportive of work being done to the listed buildings to avoid further degradation of these buildings.

The applicant had stated however, that such works were not viable without the approval of application 3/12/1075/FP for the new build properties and Members must come to a view as to whether this application was acceptable in policy terms. The Director concluded by advising Members that policies BH11 and BH12 were not saved policies so should not be taken into account when determining these applications.

Councillor M Newman proposed and Councillor A Burlton seconded, a motion that application 3/12/1075/FP be granted subject to the applicant entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990 and subject to appropriate conditions.

After being put to the meeting and a vote taken, this motion was declared CARRIED. In respect of application 3/12/1075/FP, the Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

After being put to the meeting and a vote taken, in respect of application 3/12/1076/LB, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that (A) in respect of application 3/12/1075/FP, planning permission be granted subject to the applicant entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990 and subject to appropriate conditions;

(B) in respect of application 3/12/1075/FP, authority be delegated to the Director of Neighbourhood Services to formulate the Section 106 agreement and conditions in consultation with the local ward Member and the Chairman of the Development Control Committee; and

(C) in respect of application 3/12/1076/LB, listed building consent be granted subject to the conditions detailed in the report now submitted.

393 A) 3/12/1409/FP AND B) 3/12/1410/LB – CHANGE OF USE OF 2 NO. CLASS B1 OFFICE BUILDINGS TO CREATE 12 NO. 1 AND 2 BED RESIDENTIAL DWELLINGS AT 6 AND 7 BLUECOATS AVENUE, HERTFORD FOR BLUECOATS JOINT VENTURE

The Director of Neighbourhood Services recommended that, subject to the applicant entering into an agreement pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of application 3/12/1409/FP, planning permission be granted subject to the conditions now detailed. The Director of

Neighbourhood Services also recommended that, in respect of application 3/12/1410/LB, planning permission be granted subject to the conditions detailed in the report now submitted.

Councillor M Newman sought and was given clarification as to what was being proposed by this application. The Director confirmed that a condition had been included to ensure that this permission would only be implemented in place of, and not in addition to, the previous proposal approved under reference 3/11/0824/FP.

After being put to the meeting and votes taken, the Committee supported the recommendations of the Director of Neighbourhood Services as now submitted.

RESOLVED – that (A) subject to the applicant entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of application 3/12/1409/FP, planning permission be granted subject to the conditions detailed in the report now submitted; and

(B) in respect of application 3/12/1410/LB, listed building consent be granted subject to the conditions detailed in the report now submitted.

394 3/12/1440/FP – NEW CHAPEL/COMMUNITY FACILITY INCLUDING PARKING AND CHANGE OF USE OF LAND FROM AGRICULTURE TO RECREATION LAND AT GLEBE LAND, ACORN STREET, HUNSDON, SG12 8PA FOR HUNSDON PAROCHIAL CHURCH COUNCIL

David Kitching addressed the Committee against the application. Mark Dunstan spoke for the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/12/1440/FP, planning permission be refused for the reasons now detailed.

Councillor M Newman, as the local ward Member, stated

that the existing chapel had served as a valuable community facility for 50 years, particularly for elderly residents. He stated however, that the lack of foundations meant that this unusual shaped building's safe use was now beyond question. He commented that there was no way to rebuild this structure which was in need of demolition due to the cracks in the walls.

Councillor M Newman referred to the Glebe Land site as the only viable location for the relocation of the Chapel in Hunsdon, as Officers had pointed out to the applicant that rebuilding the Chapel on the existing site was not a viable proposition.

Councillor M Newman stated that the site was owned by the diocese of St Albans but was leased to Hunsdon Parish Council. He referred to the conflict posed by this application in that some residents felt the site should be retained for the amenity of the village whilst others wanted the site for the amenity of churchgoers.

Councillor M Newman stressed that both views should be respected if the community of Hunsdon was to be truly inclusive. He emphasised that at recent public meetings, there had been opposition to the application. He stated that such public meetings tended to attract those in objection to planning applications.

Councillor M Newman referred to the conflict between the Officer's recommendation and the Council's planning policies in that this application offered compensatory land and a previous application had been withdrawn as Officers had raised concerns about the lack of compensatory land.

Councillor M Newman concluded that there was no mention of the National Planning Policy Framework (NPPF), which was explicit in encouraging community facilities such as places of worship. He also pointed out that a key issue was the balance between the loss of amenity in terms of a new building where there was

currently no form of development versus the loss of any facility for communal worship in Hunsdon.

Councillor P Moore stated that the existing chapel was in no way serviceable as a church. She stressed that churches offered much more than a place of Sunday worship in that they provided many community activities as well as offering emotional and spiritual guidance to residents.

Councillor M Alexander stated that the proposed development offered a church and community function that would have good access in the centre of Hunsdon and there was a bus stop directly opposite the site. He referred to the ageing population with 25% of people being over the age of 60.

Councillor M Alexander commented that recreation came in many forms and the dictionary definition was inclusive of many of the things that could be undertaken should this application be approved.

In response to comments from Councillors A Burlton and T Page, Councillor M Newman commented at some length about the historic use of various plots of land in Hunsdon. The Director advised that Members had identified the key points to consider, namely the community need versus the visual appearance and impact of the application.

The Director also referred to the balance Members should consider in respect of the impact of the application on the value of the space that was available for community usage in Hunsdon.

Members were advised that the Officer's recommendation was based on the quality of the alternative provision of open amenity land and that the scale of the proposed development was excessive in this location.

Councillor P Moore proposed and Councillor M Alexander

seconded, a motion that application 3/12/1440/FP be granted subject to appropriate conditions and authority be delegated to the Director of Neighbourhood Services to formulate the conditions in consultation with the local ward Member and Chairman of the Development Control Committee.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that (A) in respect of application 3/12/1440/FP, planning permission be granted subject to appropriate conditions; and

(B) in respect of application 3/12/1440/FP, authority be delegated to the Director of Neighbourhood Services to formulate the conditions in consultation with the local ward Member and Chairman of the Development Control Committee.

- 395 A) 3/12/1325/FP – ERECTION OF 5NO. DWELLING HOUSES, GARAGES AND CHANGE OF USE AND ALTERATION OF WORKSHOP TO FORM A SINGLE DWELLING AND DEMOLITION OF A SMALL STORE BUILDING, DEMOLITION OF AGRICULTURAL BARN AND ALTERATIONS TO ACCESS AND LANDSCAPING WORKS AND B) 3/12/1324/LB - CHANGE OF USE AND ALTERATION OF BARN TO FORM A SINGLE RESIDENTIAL DWELLING HOUSE AND DEMOLITION OF SMALL STORE AND AGRICULTURAL BARN AT PRIORY FARM, HUNSDON ROAD, WIDFORD, SG12 8RA FOR MRS SJ RICHARDSON AND MR SC FINDLAY
-

Frances Luck addressed the Committee against the application. Patrick Downes spoke for the application.

The Director of Neighbourhood Services recommended that, in respect of applications 3/12/1325/FP and

EAST HERTS COUNCIL

STANDARDS SUB-COMMITTEE – 26 JUNE 2013

REPORT BY THE DEPUTY MONITORING OFFICER

COMPLAINT IN RESPECT OF HUNSDON PARISH COUNCILLOR
D GIBBS

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- To consider a complaint in respect of Parish Councillor D Gibbs, a Member of Hunsdon Parish Council.

1.0 **Background**

1.1 Council has received a complaint alleging that a Parish Councillor has breached his Authority's Code of Conduct.

2.0 **The 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.

3.0 **The Complaint**

3.1 A Complaint was made that Parish Councillor D Gibbs breached Hunsdon Parish Council's Code of Conduct (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** under an earlier Agenda Item.

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	People 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.

5.0 Implications/Consultations

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

Background Papers

None

Contact Officer: Simon Drinkwater- Director of Neighbourhood Services - 01992 531405
simon.drinkwater@eastherts.gov.uk

Report Author: Jeff Hughes – Deputy Monitoring Officer – ext. 2170.

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 needs to 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

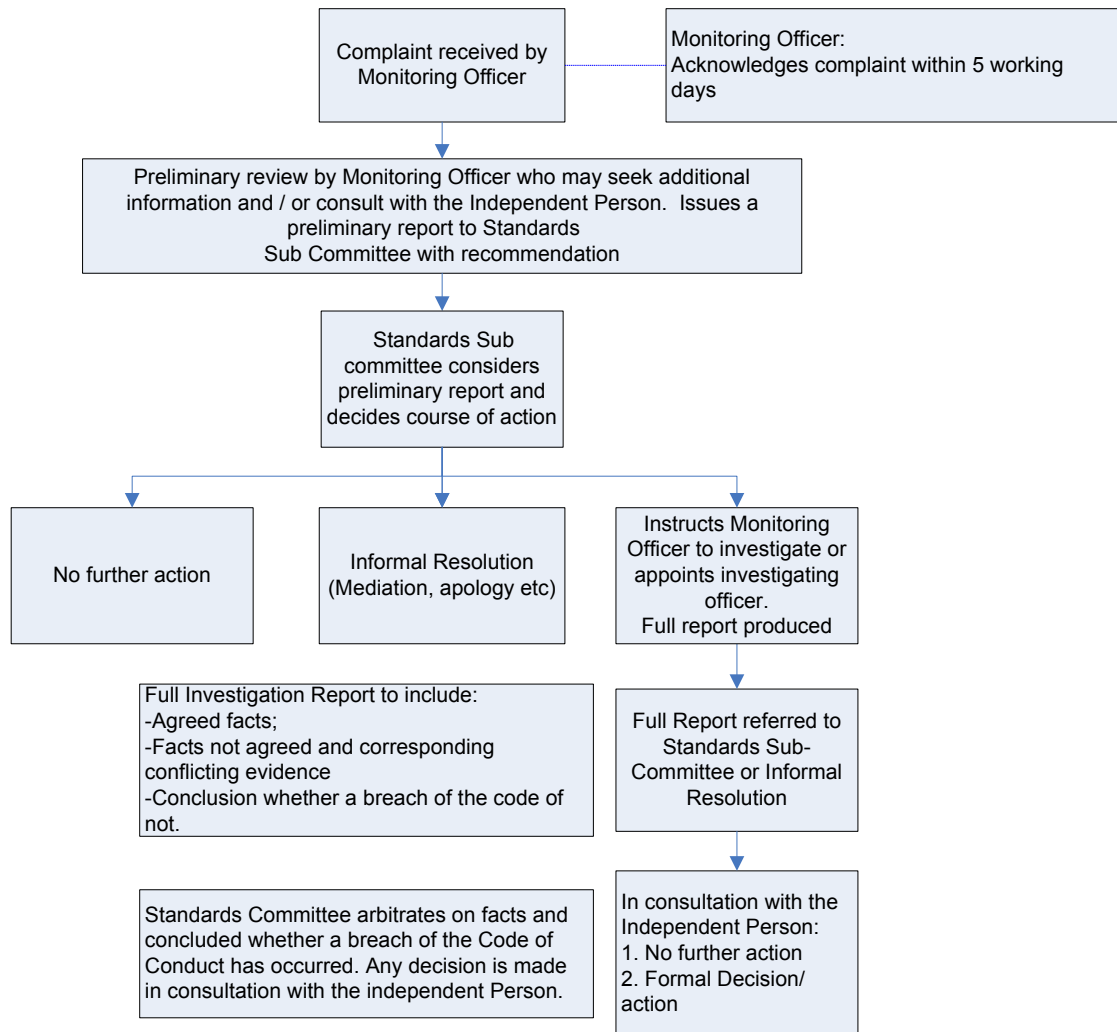
The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

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

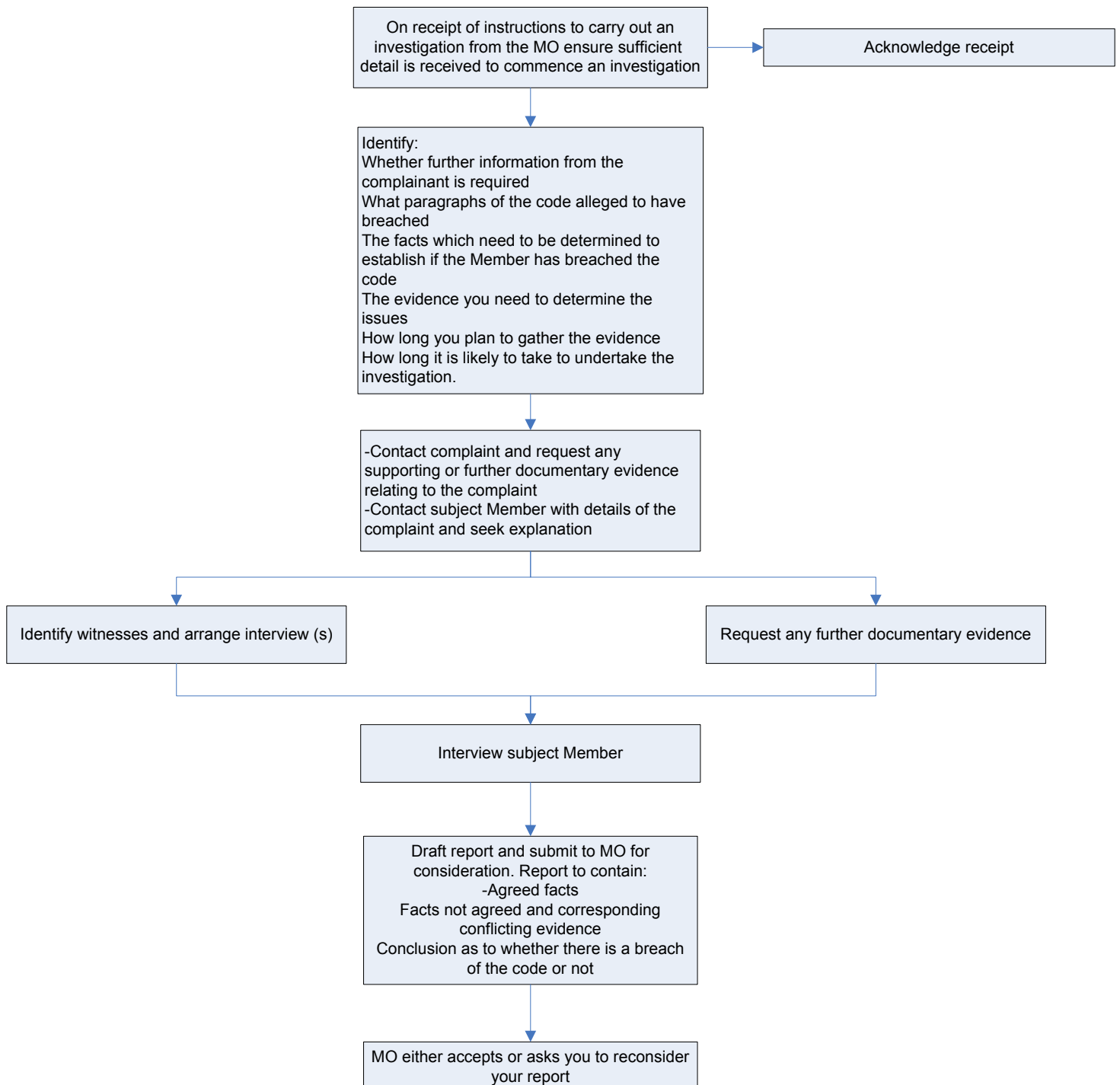
1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, 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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