

COUNCILLOR CODE OF CONDUCT INVESTIGATION

PRIVATE AND CONFIDENTIAL

Case Reference: EHDC 2015-1

Report of an investigation into allegations concerning (now former) Parish Councillors Mrs Selina Bannerman and Dr Anthony Baxter of Much Hadham Parish Council ('MHPC'). Investigation and report by Jeanette Thompson, Deputy Monitoring Officer of North Hertfordshire District Council appointed by the Monitoring Officer for East Hertfordshire District Council

Investigation under the adopted procedure of East Hertfordshire District Council's ('EHDC') section 28 (6) Localism Act 2011 Councillor Code of Conduct investigation arrangements.

DATE: 11 APRIL 2016

CONFIDENTIAL REPORT

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1. Introduction, summary of complaints and findings

- 1.1 This report has been prepared following an investigation into complaints made against the (now) former Much Hadham Parish Councillors, Mrs Selina Bannerman and Dr Anthony Baxter and alleged breaches of the MHPC's Code of Conduct (Appendix A). It has been finalised following comments on the draft report from the complainant Mrs Farmer and the former Councillors.
- 1.2 Both Councillors resigned on 1 December 2015 and given this fact all parties (understandably) questioned the need for an investigation. Nevertheless, as my instructions remained my role was to undertake a proportionate, fair and independent examination of the alleged breaches and consider:
- Whether the Councillors were acting as Councillors at the time of the alleged breaches of the of the Code of Conduct (*finding that they were and therefore not repeated in each finding*);
 - Was the alleged behaviour a breach or breaches of the adopted MHPC Code of Conduct (see individual allegations in summary/ full, findings summary/ full and reasons for these below);
 - Whether there were any mitigating factors which might aggravate or explain behaviour or mitigate any alleged breach (statements I have taken into account).
- 1.3 I have also considered and commented on the remedies sought by the complainant Mrs Farmer; and provided any recommendations to the Monitoring Officer.
- 1.4 I confirm that I have no links to East Hertfordshire District Council, have not worked for them and currently work as a Senior Lawyer and Deputy Monitoring Officer for a neighbouring authority, North Hertfordshire District Council. To the extent that this is relevant I would confirm that I qualified as a solicitor in 1995 and have a further Law Society Diploma in Local Government Law & Practice. I have worked in local government since 2002, at a Unitary Authority (covering both County Council/ District type matters) and District Councils. Since 2005 I have overseen and been involved in Code of Conduct Complaints relating to Unitary, District and Parish/ Town Councils as a Deputy Monitoring Officer and Monitoring Officer. The findings and reasons for the findings are my own and based on my professional legal (and local authority) opinion and experience.
- 1.5 I would also confirm that in spite of the resignations I received a high level of co-operation from the former Councillors and the complainant Mrs Farmer. Timing of the investigation and production of the draft report was delayed due to the later return of statements. I have, however, endeavoured to produce the draft report within a week of receiving the last signed statement. I finalised the report within 11 days of the deadline for comments on the draft report.
- 1.6 The complaints were made by Mrs Alexandra Farmer (who has the email address name _____, who is a resident of Much Hadham. They were made to the Monitoring Officer of EHDC by form dated 14 October 2015 (Appendix B) and the complaint was presented to the EHDC's Standards Sub-Committee on 24 November 2015 for initial consideration. Details of the complaints were released to the press and public prior to investigation. The relevant provisions of the MHPC Code of Conduct are set out below, together with the summary of complaints made by Mrs Farmer, and summary findings.
- 1.7 The MHPC Code of Conduct provides under Member Obligations:

***“When a member of the Council acts, claims to act or give the impression of acting as a representative of the Council, he/she has the following obligations:
1. He/she shall behave in such away that a reasonable person would regard as respectful.*”**

¹ Mentioned here, as appended to this report and to statement are emails to and from

2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

4. He/she shall use the resources of the Council in accordance with its requirements.”

1.8 Mrs Selina Bannerman:

1.8.1 It is alleged that at the Parish Council meeting on 6 October 2015 Mrs Bannerman breached MHPC Code of Conduct Member obligations 1 and 2, by raising “**her eyes to heaven a number of times**” and saying “**what is she criticising now**” more than once.

Alleged breach of MHPC Code of Conduct obligation 1 failure to show respect to Mrs Farmer with comments “what is she criticising [now²]”; **finding – apparent case to answer;**

Alleged breach of MHPC Code of Conduct obligation 2 – comments “what is she criticising [now]” bullying and intimidatory; **finding - no apparent case to answer.**

1.8.2 It is alleged that (on numerous occasions), MHPC Code of Conduct Member obligation 4 was breached, as the Pavilion Project “Buy a brick” donations were not used in accordance with expectation to pay down a Public Works Board loan.

Alleged breach of MHPC Code of Conduct obligation 4 – use of the Pavilion “Buy a brick” money as allegedly was a failure to use the resources of the Council in accordance with its requirements; **finding - no apparent case to answer.**

1.8.3 Pavilion Locks: It is alleged that on or around 30 September 2015, Mrs Bannerman breached MHPC Code of Conduct Member obligation 4 by failing to commission replacement Pavilion locks by due process (i.e. through a number of quotes and authorisation) and apparently used “Buy a brick” donations to meet this expenditure, which was not according to expectation to pay down a Public works Board loan.

Alleged breach of MHPC Code of Conduct obligation 4 – failing to follow due process and use of Pavilion “Buy a brick” money as alleged was a failure to use the resources of the Council in accordance with its requirements; **finding - no apparent case to answer.**

1.8.4 Correspondence: It is alleged that on numerous occasions Mrs Bannerman breached MHPC Code of Conduct Member obligations 1 and 2 by sending disrespectful, intimidating and bullying emails (two cited of 15 August and 3 September 2015) to Mr Fred Pavey, the Much Hadham Sports Association Chairman.

Alleged breach of MHPC Code of Conduct obligation 1 – that these emails were disrespectful; **finding - no apparent case to answer;**

Alleged breach of MHPC Code of Conduct obligation 2 – that these emails were bullying and intimidatory; **finding - no apparent case to answer.**

1.9 Dr Anthony Baxter:

1.9.1 It is alleged that (on numerous occasions), MHPC Code of Conduct Member obligation 4 was breached, as the Pavilion Project “Buy a brick” donations were not used in accordance with expectation to pay down a Public Works Board loan.

Alleged breach of MHPC Code of Conduct obligation 4 – use of the Pavilion “Buy a brick” money as allegedly was a failure to use the resources of the Council in accordance with its requirements; **finding - no apparent case to answer.**

1.9.2 It is alleged that on or around 8 October 2015 Dr Baxter breached the principles of objectivity and accountability by unilaterally withdrawing a request to Cllr Ian Hunt to review the Pavilion Committee (documents and issues).

² Use of word “now” disputed by Mrs Bannerman.

Alleged breach of principles of objectivity and accountability; **finding – no apparent case to answer.**

- 1.9.3 It is alleged that (on numerous occasions), Dr Baxter as Chairman of the Parish Council did nothing to stop emails (referred to above in 1.8.4 above) in breach of the principle of leadership.

Alleged breach of the principle of leadership; **finding – no apparent case to answer.**

2 Councillor details

- 2.1 **A) Mrs Bannerman** was elected to office on 18 July 2013 as a MHPC until she resigned on 1 December 2015. During that time she received no training on the Code of Conduct.
- 2.2 **B) Dr Baxter** was co-opted to office on 13 July 2010 and thereafter elected on 5 May 2011 to MHPC until he resigned on 1 December 2015. From May 2015 until his resignation he was the Chairman of the Parish Council. He was also the Chairman of the Pavilion Committee during its existence in 2015. In June 2015 Dr Baxter received training on being a Chairman with a session or reminder on the Code of Conduct.

3 The relevant Code, principles and legislation

- 3.1 The MHPC adopted a Code of Conduct on 19th October 2012 (Appendix A).
- 3.2 The relevant Legislation is the Localism Act 2011, (and to the extent relevant) the Local Government Act 2000.
- 3.3 The Seven Principle of public life.

4. Evidence

- 4.1 Following my instruction I contacted the complainant and the Councillors and asked for any additional documentation they wished to rely on prior to interview. I was sent a large number of documents by the parties – not all of specific relevance to the complaints (background issues/ related disputes and post complaint matters). Some subjects have been referred to and included in this report (as indeed they have been in the interview questions raised with witnesses and in the witness statements) to provide context to the issues involved and complaints made.
- 4.2 In addition, there were a large number of witnesses named by the parties, who could potentially have been interviewed. However, in the light of the resignations I believed it was proportionate and reasonable to interview the key parties (Mrs Farmer, Mrs Bannerman and Dr Baxter) and two other key individuals (Mr Pavey and Mr Ingham). Where other documentary evidence was already available (such as resignation statements or complaint material – i.e. extracts from complaints made by other parties against Mrs Bannerman and complaints made against another Councillor Ian Hunt (*which I stress where not referred for investigation* by EHDC) were considered and included *where relevant to the complaints against Mrs Bannerman and Dr Baxter.*
- 4.3 Whilst I have attempted to conduct the investigation in a confidential manner (as per normal practice), this was complicated by the fact that much of the complaint information had already been released into the public domain (firstly by EHDC and thereafter the press). This made confidentiality difficult at best (as parties were used to conferring with each other on this issue) and could have prejudiced the investigation.
- 4.4 The witness statement (which were based on the oral interviews conducted and documentary evidence provided by the parties) are appended:

- Mrs Farmer – Appendix C;
- Mrs Bannerman – Appendix D;
- Dr Baxter – Appendix E;
- Mr John Ingham (MHPC Clerk) – Appendix F; and
- Mr Fred Pavey (Chairman of the Much Hadham Sports Association) – Appendix G.

4.5 In reaching the conclusions I have considered the documents/ evidence provided in the light of the wording of the MHPC Code of Conduct, any interpretation and guidance on the wording within the Code, the Localism Act 2011 and the seven principles of public life. I have also referred to previous Standards Board for England guidance and the Parish Council Toolkit 2009 (where there is absence of judicial interpretation of the Localism Act 2011/ relevant provisions in the Code and/or where it may be of assistance).

5 **Complaint background**

5.1 The witnesses were all asked to comment on the specific allegations and provide any further information they believed was relevant to the proceedings. In preparing the statements the witnesses were asked for a response in the order of Mrs Farmer's complaints.

5.2 The initial background provided in the complaint form "**Details of my Complaint**" relate to the Pavilion Renovation project and contributions parishioners were asked to make via "Buy a brick" donations (advertised in the parish magazine, village shop and on the website "gofundme"). That sums raised via this mechanism would, as set out by Mrs Farmer in her complaint form background (MHPC minutes for February 2015) be used to "**offset the total of the loan**", although the go.fund.me site was not apparently established until May 2015. The loan referred to was from the Public Works Loan Board ('PWLB').

5.3 Mrs Farmer sets out the "Buy a brick" donation and background loan for the Pavilion project in the complaint. Further information and background disputes were also explored during the interviews.

5.4 Whilst Mrs Farmer is a resident/ member of the public she had also been a MHPC Parish Councillor (prior to Mrs Bannerman and Dr Baxters' term of office) and was involved with the Much Hadham Tennis Club and Sports Association. The Much Hadham Sports Association was (and is) Chaired by Mr Fred Pavey and Mrs Farmer was the Tennis club's representative on the Sport Association after its AGM in April 2015. There had been a number of long standing disputes between MHPC and the Sports Association; such disputes related (amongst other things) to the sports Pavilion and recreation ground and this had permeated the dealings between the parties (including, I believe, the relationship between the complainant Mrs Farmer and the former Councillors). There was clearly a detailed and more complex background to the complaint issues. When interviewing the main witnesses they were asked for a comprehensive explanation of other matters pertaining to the relationship between the parties, and the Sports Association/ MHPC, to provide context and potential explanation for the allegations and alleged behaviour.

5.5 Some pertinent background complaint issues/ facts:

- The Much Hadham Pavilion had been managed since the 1950s firstly under a "Committee" and thereafter by the Sports Association.
- The Sports Association is a charity and has representative from all the groups that use the recreation ground (bowls club, tennis club, two football clubs, plus two MHPC Parish Councillors and three co-opted members).
- There had been a dispute between the MHPC and the Sports Association regarding the management of the Pavilion for a number of years (which also relates to the interpretation of the Deeds, which I will not cover here). This also appeared to then extend or include (from around 2014) issues relating to the recreational ground (for example use of the tennis courts and football pitches). Some of this is evidenced in the ongoing emails exchanged between the parties. This dispute continued up to and after

the Parish Council meeting of October 2015 (the catalyst meeting for the complaints against Mrs Bannerman and Dr Baxter).

- On or around 2012 a decision (referred to in AF6) was taken by the Parish Council to renovate the Pavilion and thereafter (during 2014) to get involved in the management of it. The latter followed the management disputes referred to in the bullet point above. Mrs Bannerman played a lead role in taking the Pavilion Renovation project forward (in the practical organisational sense).
- Advice was provided to the Councillors by the Proper Officer³ for MHPC (the Clerk, Mr Ingham) on the PWLB loan for the Pavilion project and financial transactions relating to the renovation and subsequent expenditure.
- At the MHPC meeting on 19th May 2015, the Parish Council approved the setting up of the Pavilion Committee (Mr Ingham's statement paragraph 4 & appendices J11) – as indicated in the minute wording:
***“16. PAVILION UPDATE, FUNDING AND PAVILION COMMITTEE'S PROPOSALS
Cllr Mrs Bannerman referred to the proposals as outlined in Appendix B, the contents of which were fully supported by members.”***

The Pavilion Committee had a “task” for ***“maintenance, marketing, booking fees, cleaning....to run the pavilion”*** (Appendix B to MHPC item 16 minutes). After advice from the Clerk, the Pavilion Committee was chaired by the Chairman, Dr Baxter.

- The Pavilion Committee met and certain decisions were taken on expenditure which could generically fall under the terms ***“maintenance, cleaning.. run the pavilion”***. Evidence was provided that MHPC approved expenditure (such as the Pavilion locks) under their payment of accounts on 6 October 2015.
- Mrs Farmer and Mr Pavey were the nominated representatives to the Pavilion Committee from the Sports Association, although Mrs Farmer attended only one meeting of the four in July (these meetings taking place in June, July, August and September). Mrs Farmer appears to have been sent some of the minutes of the meetings in that capacity.
- The meeting of 6 October 2015 was clearly a contentious/ acrimonious one, with various complaints being made regarding three of the Councillors by numerous parties. Only Mrs Farmer's complaint was referred for investigation.

5.6 Mrs Bannerman and Dr Baxter believe that the complaints were made because of the dispute with the Sports Association (or as a culmination of that relationship and dispute over the management and renovation of the Pavilion).

6. **Complaint relating to Mrs Bannerman:**

Parish Council Meeting 6 October, alleged breach of obligation 1 & 2:

“1. He/she shall behave in such away that a reasonable person would regard as respectful.

2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.”

6.1. Mrs Farmer set out her complaint under paragraph 2 of the complaint form:

2. Parish Council Meeting

On Tuesday 6 October 2015 I attended a Much Hadham Parish Council (“MHPC) meeting.

During agenda item 6 “Residents Comments” I raised my hand and said the following (I wrote down what I wanted to say so this is an accurate record):

³ The Clerk as Proper Officer is responsible for seeing that the business of the council runs smoothly and efficiently and that the financial transactions are properly authorised and recorded. The Clerk has responsibility for guiding and advising the Council on matters of law and procedure– although is not expected to be an expert.

2.1 Breach of Member Obligations 1 and 2

During my statement and questions Councillor Bannerman raised her eyes to heaven a number of times and said in a voice loud enough for the whole audience to hear "what is she criticising now?", more than once and whilst I was speaking. I found it belittling,

embarrassing and intimidating. The witnesses listed on the complaint form saw/heard this and have offered to support this aspect of my complaint. I believe Cllr Bannerman was disrespectful and intimidatory, in breach of **Member Obligations 1 and 2 of the MHPC Code of Conduct**.

- 6.3 There is a slight expansion of the issue as set out in Mrs Farmer's statement paragraphs 27-31. Mrs Farmer explained that the meeting took place in the Green Tye Mission Hall and that she was sitting in the penultimate row of chairs in the room. She says that despite this she had a clear view of the Parish Councillors sitting at the top and Mrs Bannerman was sitting next to Dr Baxter.
- 6.4 Mrs Farmer said that she read out a prepared question (set out under paragraph 2 of the complaint) set out below:

"I am very concerned about the ongoing costs referable to the pavilion and the complete lack of accountability of the Pavilion Committee. The end of year accounts for the parish council do not show architect or surveying fees so I suspect these have yet to be paid and were they budgeted for? I understand that significant further expenditure which was not part of the original contract value of £114,000 has arisen, such as £2k on locks and bolts, presumably someone is paying for the cleaning after the open sessions after school and there are Much Hadham Parish Council Facebook page references to purchases of equipment (e.g. coffee machine, TV), do you have a licence?, references have been made to the proposed movement of items in the children's playground to make room for the reinstatement of a cricket square to bring Hertford cricket team in next year, now talk of a cafe on Facebook etc- all without any discussion or mandate from the Parish Council. Can you tell me please what are the costs referable to the pavilion which were not included in the contract value with Glenplan and are still to be paid e.g architect's fees and can you tell me what the pavilion committee's terms of reference are, its budget/spend limitations and the reporting structure in place?"

- 6.5 Whilst Mrs Farmer said that she read out the above prepared statement, this did not cover the reference to "Buy a brick" and later on in the complaint Mrs Farmer indicates that she also "[I] **said that I did not think people thought their buy a brick donations would be used for running costs**". Mrs Farmer had not donated to the "Buy a brick" fundraising; however, she must still have made a comment during the resident's slot on the evening of 6 October 2015 about this, and potentially this was a follow on comment/ or question. Mrs Farmer says she asked the questions because (paragraph 27 of her statement) she "**was concerned as to where the money was coming from to pay for these items.**"
- 6.6 Mrs Farmers says that as she was used to public speaking she could look up whilst doing so and saw Mrs Bannerman raise her eyes to heaven when she was speaking, did this a number of times and said (more than once) in a voice that was loud enough for her to hear "what is she criticising now?" Mrs Farmer said she found this disrespectful, belittling, embarrassing and intimidating, contrary to the Code of Conduct Members obligations 1 and 2.
- 6.7 Mrs Farmer stated in the complaint that the witnesses listed on her complaint form saw/ heard this and had offered to support this aspect of the complaint. Mrs Farmer said that the content of Mrs Bannerman's remark would suggest that she was criticising constantly, when she was asking questions which were a matter of public interest. Mrs Farmer says that she had only attended three out of the nine previous Parish Council meetings in 2015, so clearly

she had not been a regular member of the audience prior to the October 2015 meeting (although she had asked questions before at meetings relating to the Pavilion Project).

6.8 Two of the witnesses named by Mrs Farmer were Mrs Wetherall and Mrs O'Neill – who made separate complaints regarding a slightly different issue at the Parish Council meeting against Mrs Bannerman (although one of these, Mrs Wetherall did refer to an inquiry into payments being made and this was not referred for investigation). They have not, as explained, been interviewed for this report. Their complaint statements have been reviewed, and their specific comments on this and their interpretation are, however, detailed below.

6.9 Mrs Sue Wetherhall in a complaint (dated 6 October 2015 - extract):

As soon as the question time started Alex Farmer, a local resident, raised questions as to accountability of the pavilion committee. Councillor Bannerman was extremely rude and offhand in her replies, saying to the Chair in a loud voice "what is she criticising now" (referring to Mrs Farmer).

6.10 A Mrs Marianne O'Neill also made a complaint (dated 6 October 2015), who stated (extract):

I was alarmed at the response of Councillor Bannerman to one village resident, Mrs Alex Farmer, when she raised, what I felt was a fair question concerning the Village Pavilion Committee of which Councillor Bannerman is a member. Councillor Bannerman was rude and dismissive of Mrs Farmer's question and made an aside to the Chair of "What is she criticising now?" It is my belief that councillors should be bipartisan and there to listen to queries and concerns of residents and in this instance, I feel Councillor Bannerman was not.

6.11 Mr Fred Pavey, the Chairman of the Sports Association attended the meeting. In his witness statement (Appendix G) he said (paragraph 9) that it "**all blew up**" when it came to the "Buy a brick"; that Mrs Farmer had said something that caused "**a reaction**" and that Mrs Bannerman had said "**what is she complaining about now**". Mr Pavey said that Mrs Farmer had asked questions on earlier occasions – but that Mrs Bannerman's comment was an "**unnecessary remark**". He said that "**Mrs Bannerman had a bullying sort of attitude and did not like anyone to contradict her**" (paragraph 10; although it was unclear whether that referred to the incident or what he perceived to be her demeanour generally).

6.12 Mrs Bannerman did not accept this interpretation of events although she in part accepted that she made a similar comment, but did so only once, as she could not understand what criticisms were being made and maintains this was a question. In her statement (Appendix D paragraph 36-38):

"36. When Alex Farmer spoke she had a whole list of things she was asking about during the residents' comments.

37. She started speaking again and that was when I said to Tony Baxter "what is she criticising". It was a question. Alex Farmer was criticising and that is why I asked the question. I only used the phrase once. I couldn't work out what she was trying to say. I did not say "what is she criticising now" as claimed...."

6.13 Dr Baxter did not recall these exact comments being made at the time. He says that Mrs Farmer asked a question relating to the funding of the Pavilion and this was answered by Mrs Bannerman, that she was not happy with the answer and she asked virtually the same question again:

"43. Alex Farmer asked a question relating to the funding of the pavilion and this was answered by Selina Bannerman. Alex Farmer was not happy with the answer and she asked pretty much the same question again. She asked the questions a couple more times."

- 6.14 He says that after this Mrs Bannerman leant across to say something like **“what is she on about”** but that this was not loud enough to be heard. He accepted that Mrs Bannerman was **“pretty irritated”**, as he felt that Mrs Farmer had basically said that they had stolen the money.
- 6.15 Mr Ingham, the MHPC Clerk who was clerking the meeting, says (Appendix F) that he did not hear any comments by Mrs Bannerman during the questions by Mrs Farmer – although Mrs Farmer’s questions were, he believes, **“rude and accusing in an officious manner”** (paragraph 10).
- 6.16 Other witnesses that made complaints relating to *another Parish Councillor* make no reference to the “what is she criticising” statement and/or appear to have a different interpretation of events.
- 6.17 Minutes of the meeting of 6 October 2015 (extract at Appendix I) make reference to questions and assertions raised (under item 6(i)). That Mrs Bannerman provided a response on the expenditure. The minutes do not deal with the alleged conduct.

Finding – whether a breach of obligations 1 & 2

- 6.18 For the reasons set out below there would appear to be a case to answer in the failure to show respect (obligation 1). I have not concluded, however, that such a comment/ behaviour was bullying or intimidatory (obligation 2).

Reasons for finding – apparent case to answer:

Obligation 1 failure to show respect:

- 6.19 Since the enactment of the Localism Act 2011, relevant authorities have to adopt a Code of Conduct based on the principles in public life. With the exception of provisions relating to Disclosable Pecuniary Interests (*not relevant here*) the provisions can vary and interpretation of the provisions can therefore be uncertain and debatable. However, obligation 1 is a fairly standard phrase / term and there were similar provisions that existed under the pre-2012 regime. I am unaware of any judicial interpretation of similar Code of Conduct provisions post the introduction of the Localism Act 2011, therefore it is appropriate to look at the previous Standards Board Guidance for assistance in interpreting obligation 1.
- 6.20 Parish Councillors frequently have to deal with the coal-face of local authority work and do so without any allowance (unlike other levels of local government). Nevertheless, in public and to members of the public, Councillors should act appropriately and act (and be seen to act) in a respectful manner. It is understood that on occasion tempers become frayed, specifically over key issues. So whilst there is a balance to be struck, there is an emphasis (when dealing with the public) to “treat others with respect”. The previous Guidance on the relevant pre-2012 Code wording indicates that (highlighted sections my emphasis):

*“..Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. **This particularly applies to dealing with the public and officers.** Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct. **Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowers the public’s expectations and confidence in its elected representatives”.***

- 6.21 Mrs Bannerman accepted that she said “what is she criticising” in a public Parish Council meeting with regards to a question from a resident (even if she did not say “now”). Whilst Mrs Farmer had been involved in other disputes with the Parish Council, she was not acting in that ‘formal’ Sports Association/ Tennis club or Pavilion Committee capacity at the time that the questions were asked. This was during an allotted slot for residents’ (public) questions at the meeting; that was heard by Mrs Farmer and others at that meeting. In the light of the above definition I believe that if someone unrelated to the Sports Association or Parish Council attended that Parish Council meeting and heard that comment (being the first

resident's question of the evening) the statement "what is she criticising" by a Parish Councillor to the Chair, would, I conclude, have appeared to be disrespectful. I would not, however, consider this to be the worst contravention, as indeed if the comment/ or question from Mrs Bannerman had been phrased differently – such as "sorry Chairman, what criticisms are being made by Mrs Farmer" that this would not, in my opinion, have been disrespectful.

6.22 In reaching this conclusion:

- I accept that Mrs Bannerman only said this once (*taking account of the complaint statements made by Mrs Wetherall, Mrs O'Neill and statement of Mr Pavey*). I note that those witnesses attribute the rude / dismissive behaviour towards the responses provided by Mrs Bannerman to Mrs Farmer's questions *as well as the "what is she criticising [now]" remark*; however, this was not the specifics of the complaint from Mrs Farmer (and indeed the latter is not accepted by Mrs Bannerman/ Dr Baxter or Mr Ingham).
- I accept that Mrs Farmer may have asked a number of questions or made comments (*as demonstrated by Mrs Farmer's later comment on "Buy a brick", which was not included in the prepared statement*).
- I have taken account that Mrs Bannerman may have *believed* that these questions/ comments were raised by Mrs Farmer to personally attack her, or her integrity, or were not genuine questions (as Mrs Bannerman believed Mrs Farmer already had the answers to these questions).
- I note that there was a history of challenges between the parties (Sports Association/ Parish Council as well as individuals) through emails, other meetings or other questions raised at the Parish Council, which (rightly or wrongly) contributed to a breakdown in relations and that Mrs Bannerman may genuinely have felt she was under attack and was unsure as to what she was being criticised for.
- I also note that post complaint Mrs Bannerman and others believed there had been pre arrangement on this issue (*I was presented with no evidence for this*); however, at the point at which the statement was made by Mrs Bannerman, no other questions had been raised by other parties.
- I have taken into account that Mrs Bannerman maintains that the statement "what is she criticising" was a question (as again confirmed to me as a comment on the draft report). This has not changed my conclusion on the case to answer.

6.23 Mrs Farmer says she saw Mrs Bannerman look upwards; this is not mentioned by others. Whilst inadvisable, I would not, however, have considered that to be sufficient to constitute disrespectful behaviour, but if it occurred in combination with the "what is she criticising" comment it would have added to a public perception of disrespect in my opinion.

6.24 I would only (finally) add on this issue, that Mrs Bannerman had not received any training on the Code of Conduct. She is correct that this is not a mandatory issue for Parish Councillors, but I believe it may have assisted with strategies of dealing with difficult meetings or issues.

***Reasons for finding of no apparent case to answer:
Obligation 2 - bullying or intimidatory.***

6.25 The wording of Obligation 2 is phrased in a fairly standard way. Once again I am unaware of any post Localism Act 2011 Code of Conduct judicial interpretation of such behaviour in the context of Local Authority standards cases. I would therefore look to the previous Standards Board Guidance on the pre-2012 Code for assistance. On this issue it stated (my emphasis in bold):

*"Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour **directed at a weaker person or person over whom you have some actual or perceived influence**. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability...."*

6.26 Mrs Wetherall referred to “rude” comments and Mrs O’Neill to “rude and dismissive”. Mr Pavey refers to “unnecessary” remarks, and whilst he stated that Mrs Bannerman had a bullying manner, this was not specifically attributed to the comment “what is she criticising [now]” (more, I believe, to his perception of her demeanour/ or dealings with her in the context of the Pavilion Renovation or related disputes). There is no indication that Mrs Farmer was intimidated by this comment, as she asked further questions/ made other comments following this (as did others at the meeting - Mrs Wetherall and Mrs O’Neill, who did not, by their complaint statements describe the behaviour as bullying or intimidating). My consideration is of this comment in the context of the Parish Council meeting of 6 October 2015 and I would not consider “what is she criticising [now]”, as a one off phrase, in the light of those other observations and context of the above Guidance as bullying or intimidating.

7. **Mrs Bannerman, alleged breach of Member obligation 4**
“He/she shall use the resources of the Council in accordance with its requirements.”

7.1. Mrs Farmer stated in her complaint under 2.2:

2.2 Breach of Member Obligation 4

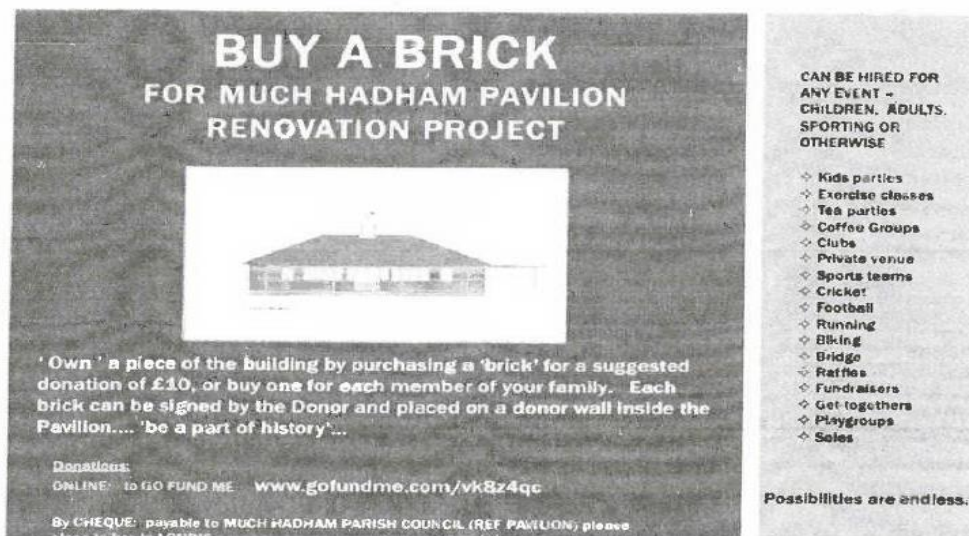
The Chair of MHPC, Cllr Baxter, then said that the organisation of the pavilion committee was going to be discussed later on so perhaps that part of my question could be answered then but he asked Councillor Bannerman to answer the questions as to expenditure. Cllr Bannerman said that the £13,000 raised from Buy a Brick and other donations had been earmarked to get the pavilion up and running and the cleaner for example had been paid from this fund and that the architect had been paid but didn’t explain from which pot of money or when this payment had been ratified. I said I did not think that people thought their Buy a Brick donations would be used for running costs. I believe that the resources (funds from Buy A Brick) of the Council have not been used in accordance with the Council’s requirements and expectation to pay down the loan but for other purposes and Cllr Bannerman breached **Member Obligation 4 of the MHPC Code of Conduct**.

Separately, I have seen the Pavilion Committee’s minutes for September (which have not been presented to the MHPC) which records that “£13k raised from donations and buy a brick Money to be used for equipment and initial costs (eg, TV, crockery, cutlery, framing, turf etc)....Funds are not to repay the loan – ongoing maintenance and running costs”. The Chair of the MHPC was at this committee meeting. I therefore believe both Cllr Baxter and Cllr Bannerman breached **Member Obligation 4 of the MHPC Code of Conduct** in using funds for purposes not required.

7.2 Mrs Farmer indicates in the above that she said she did not think people thought their “Buy a brick” donations would be used for running costs. Mrs Farmer elaborated (in paragraph 36 of her witness statement):

“I accept that the money raised was not to actually ‘buy a physical brick’ but I believe the donors thought it was to be used to offset the loan as indicated in the adverts for “Buy a brick” on facebook and in the parish magazine and as indicated in PC meetings. I do not think those donating thought the money would be used for running costs like paying for a cleaner or buying a television.”

7.3 The “Buy a brick” poster/ copy was included in Mrs Farmer’s complaint:



- 7.4 Mrs Farmer says that this was further evidenced in the MHPC minutes of June 2015 with fundraising “..**well under way to reduce the debt**”, which she suggested meant that the “Buy a brick” fund raising was meant to be used to pay down the loan as she was “**not aware of any other fund raising at this time.**”
- 7.5 Mrs Farmer had not contributed via this “Buy a brick” method and whilst I have seen complaints from Mrs O’Neill and Mrs Wetherall regarding this claim, I have not seen any other standards complaints about this or whether donors believed this was for general “up and running” costs or not. It is not within my remit to seek out other such standards complaints⁴. Mrs Farmer nevertheless maintained that the donations had not been used in accordance with the “**Council’s requirements and expectation to pay down the loan but for other purposes**”.
- 7.6 Mrs Farmer had attended other Parish Council meetings, as she said and asked questions in relation to funding. The first appears to be on 3 February 2015 when she asked why the Parish Council was considering raising a (PWBL) loan rather than grant or fund raising in the first stance. Mrs Farmer then attended the June 2015 Parish Council meeting and asked for more detail about the loan as none had been made public at this stage. Mrs Farmer says she then attended the October 2015 meeting and asked the questions regarding expenditure (detailed above previously). From her statement it is obvious that Mrs Farmer was concerned as to why other funding methods had not been considered, what she believed would be penalties if grant money was received after the loan had been taken out and the lack of transparency regarding expenditure and approval. She accepted, however, that the taking of the loan was an administrative matter for the Council. She says (at paragraphs 37 & 38 of Mrs Farmer’s statement) extracts:

“There appears to have been a decision by the pavilion committee in their September meeting (Exhibit AF7) about use of funds as it says under No2 “Funds are not to repay the loan – ongoing maintenance and running costs”. This does not appear to have been discussed at PC level, reported to the PC or ratified by the PC.”

I have not seen evidence that the Pavilion Committee was properly set up. There was no resolution that I have seen to do this. I understand that Mrs Bannerman appointed Mr Carey to Chair the committee, but he then became Vice Chair and Dr Baxter became the Chair. I’m not sure why this change was made..

The pavilion committee did not appear to report to the Parish Council its decisions or get consent for its expenditure. In failing to set up a committee properly and using

⁴ Mrs Farmer’s comment on this in the draft report was that I had not seen other complaints, as I had not approached any of the other witnesses who are resident in the parish. It is not within the remit of this investigation to seek out other standards complaints and I was not sent any others by the EHDC Standards Sub-Committee to consider.

the donated money for running costs etc rather than paying down the loan (which I believe was residents expectations), I believe that both Mrs Bannerman and Dr Baxter breached Member obligation 4..”

7.7 There was, clearly a perception by Mrs Bannerman, Dr Baxter and Mr Ingham that Mrs Farmer had attended many of the meetings and asked similar questions, but this may have related to other meetings (such as the Sports Association, Pavilion Committee) or in emails.

7.8 Mrs Bannerman (Dr Baxter and Mr Ingham) believe that there was reference to using “Council tax payers” money by Mrs Farmer and that she in some way accused them of misusing it. Mrs Bannerman says at (Appendix D paragraph 49) of her statement:

“I said at the meeting we did not use Council tax payers’ money to pay for things for the Pavilion. We used the donations. We raised around £14,000 from donations, some from Buy a Brick. We spent around £4,000. We received a donation of £5,000 from Mr Morrison for the Pavilion and he was happy for this to cover running costs. So we did not use Council resources or tax payers’ money. Also the Clerk sorted this out with John Carey and the expenses were approved. This is a statement of fact.”

7.9 Mrs Bannerman indicated that the Pavilion Committee was set up around May 2015. Two Sports Association members were to be part of the Pavilion Committee, and that Mr Pavey nominated himself and Mrs Farmer to sit on that Committee (the establishment of the Pavilion Committee was confirmed by Mr Ingham Appendix F (paragraph 4-5 & below). Mrs Bannerman went on to say (paragraph 50):

“Finances were discussed at the Pavilion Committee meetings and minutes distributed to at least Fred Pavey, the Sports Association Chairman. No issues were raised about this prior to the meeting of 6th October by them.”

7.10 Mrs Bannerman also stated (paragraph 39):

“Alex Farmer says in her complaint that she has seen the minutes of the Pavilion Committee. She not only saw the minutes, she was part of the Pavilion Committee and attended the meetings. A copy of minutes of the September meeting were sent to Fred Pavey, Chairman of the Sports Association, when items were discussed under item 2 “Finance” and these minutes were agreed. These were not questions, as she knew some of these things already, as she had been in the Pavilion Committee meeting. I exhibit SB3 a copy of the email from Fred Pavey of 2 July 2015 indicating that Alex Farmer would be one of the Sports Association reps for the Pavilion Committee and the minutes from July 2015; email from Mrs Farmer 2 September clarifying issues in the Pavilion Committee minutes; email of 24 August 2015 showing that the Pavilion Committee minutes from August 2015 were sent to Mrs Farmer; email from Mrs Farmer 26 August 2015 discussing finance from the Pavilion Committee minutes and minutes of September 2015 (that were sent to Fred Pavey). We also discussed the Pavilion project at the 15 September Sports Association meeting, the cafe and the TV when Alex Farmer attended as the rep (exhibit SB4).”

7.11 Mr Pavey and Mrs Farmer only attended the July 2015 Pavilion Committee meeting as the representatives, however, I have seen no evidence that they actually resigned from this and therefore would have been part of that Pavilion Committee as at October 2015.

7.12 Although not central to the actual complaint issue the Clerk (Mr Ingham) confirmed in his evidence that he arranged the PWLB loan. Mr Ingham provided the advice on financial matters. He stated (at paragraphs 4- 6 of his statement):

“I can confirm that the Pavilion Committee was approved by the Parish Council on the 19th of May 2015, which I attended and Clerked. It was part of an appendix item on the Pavilion update. I refer to the minutes and appendix which is exhibit J11. The

minutes refer to the Pavilion and the proposals in the appendix being fully supported....John Carey was appointed on or around this time.

The appendix included proposals for the structure and included representatives of the Sports Association. It also included how deposits were going to be taken and what sort of events were going to take place. In my opinion this could be considered effective terms of reference.⁵

In relation to obtaining a loan as opposed to grant funding or fundraising, I can confirm that I sorted out the loan with the Public Works Board... I can confirm that no penalties are going to be paid for early repayment."

7.13 Mr Ingham also states that:

"In terms of the allegation of misuse of Council resources, this was completely untrue. The money from the loan, the Chaldean Trust and the donations, as well as those providing funds under the 'Buy a brick' could be spent for the building. If putting a TV in helps the use of the building, then that would be acceptable. Some of the expenditure had to be retrospectively approved, for example the locks on the doors which Mrs Bannerman paid for herself and the Parish Council approved this at meeting on the 6th October. The sum of £2,840.77 was approved and Mrs Farmer was there when that took place (see exhibit J12). We had received more than enough money from, for example, the grant from the Chaldean Trust and other donations to cover things such as tables, crockery, cleaning materials and cleaner's overall time. Around £4,000 was spent and there was more than enough money to cover the cost of these things without touching the 'Buy a brick' money. So there was no use of Council resources and the expenditure was approved by the Parish Council."

7.14 Dr Baxter clarified (Appendix E paragraph 27) that William Compton was in charge as Chairman when the Loan was considered and the Parish Council agreed this. This was decided before he was Chairman. He also went to state (paragraph 29):

"We then intended to pay this community loan off with a grant or donations, but there were people who felt and stated (such as Alex Farmer) that if you get loan you could not get grants. I do not believe that to be the case as we had had discussions with the Hertfordshire cricket association and the ECB (and they indicated that they would be prepared to pay for the whole of the loan provided the recreation ground was open to all parishioners). There were also possibilities of funds from local stores like Tesco and those in the village."

7.15 Dr Baxter believed the Pavilion Committee had "full delegated authority" and (paragraph 56):

"We had money from three different pots of £12,000 from various sources and I am not sure what, if any of the £4000 was made from Mr Morrison's funds of £5000, Play Much Hadham or what was from 'Buy a brick'. It was up to the Parish Council. There was no loan or other funds to fit out the Pavilion or get a cleaner. The money that we spent was from the donation pot, not the Council's resources."

⁵ Mrs Farmer's commented on this on the draft report: "if the appendix referred to by Mr Ingham were effective terms of reference for the pavilion committee why did Tony Baxter draft new terms after the October meeting – I can only infer that it was a direct result of the shortcomings of the committee raised by either me or Councillor Hunt."

Part of response provided: This is an administrative matter for the Parish Council. It would be recommended practice to have clear and unambiguous terms of reference when setting up a committee or sub-committee, but it is not a specific requirement of sections 101 or 102 of the Local Government Act 1972 which cover the arrangements for discharge of functions by Local Authorities and appointment of Committees. The Parish Council Toolkit (2009) provides useful guidance (pg 58): "**Parish councils have a wide flexibility as to the number of committees (and sub committees) appointed and their terms of reference. Clear and certain written terms of reference confirm the nature, extent and limitations of the duties or powers which have been delegated. It is important that any delegation arrangements are regularly reviewed to ensure that they meet the needs of the parish council in changing circumstances. The scope of any delegation, including any limitation, should be reviewed to ensure the arrangements are efficient. There is no standard model in respect of the appointment of committees (and sub committees) and other delegation arrangements that will suit all parish councils.**"

7.16 I reviewed the website gofundme in December 2015. This was part of the funding mechanism (the other being by cheque, according to the Parish Council advert payable to MHPC). The “Much Hadham Pavilion Renovation” go fund me page (as at 16 December 2015), denoted that £1775 of £3000 had been raised at this point from donations to “Buy a brick”. More may have been received through the “Buy a brick” cheque route the funding site had apparently only raised £1775 in 6 months (extract below and as Appendix H):

Much Hadham Pavilion Renovation

BUY A BRICK
FOR MUCH HADHAM PAVILION
RENOVATION PROJECT

Own 'a piece of the building by purchasing a 'brick' for a suggested donation of £10, or buy one for each member of your family. Each brick can be signed by the Donor and placed on a donor wall inside the Pavilion... be a part of history...

£1,775 of £3,000

Raised by 59 people in 6 months

Donate Now

SHARE ON FACEBOOK

Finding – whether a breach of obligation 4

“He/she shall use the resources of the Council in accordance with its requirements.”

7.17 There would appear to be no case to answer for the reasons set out below.

Reasons for finding of no apparent case to answer:

7.18 I will start by indicating that I would consider the establishment of the Pavilion Committee and authorisation of expenditure to be an administrative, legal and/ or financial issue for the Parish Council as a whole (as opposed to a question of whether a Councillor has not used resources correctly).

7.19 The Parish Council is a statutory body that has a separate legal entity from the Parish Councillors. This means that the acts of a Parish Council (or failures to act) are distinct from acts of the Parish Councillors. Normally, therefore, the Councillors are not personally liable if the acts of the Council have some adverse legal effect; so the Parish Council as a body could fail to establish a Committee or fail to authorise expenditure / use of resources according to its rules and procedures and any administrative or financial challenge would have to be by way of, for example, of judicial review (on legality/ “vires” / or reasonableness of the actions) or via Audit. This is not something that EHDC would have remit/ jurisdiction to investigate. Local Authorities have legal power to delegate to (amongst other things) Committees under sections 101 and 102 of the Local Government Act 1972 – although these provisions do not specifically say that this has to be supported by terms of reference (or indeed a separate constitution).

7.20 That is not to say that the Pavilion Committee was established unlawfully or that expenditure was not authorised effectively – but that these are not issues which fall readily under individual Parish Councillor’s Code of Conduct responsibilities. The only exceptions I believe to this would be if the Councillors were obviously ignoring advice from the Proper Officer (the Clerk) on such matters *and in this case I find no evidence of ignoring the Proper Officer advice* (or – and *I stress there is no evidence of this*, Councillors have misappropriated/ misused resources personally).

- 7.21 The Councillors here were volunteers with relatively little experience in such *local authority* project matters. Advice was rightly provided by the Proper Officer (the Clerk) on the loan, Pavilion Committee and expenditure.
- 7.22 *To the extent that my interpretation on that issue is wrong*, however, I have considered whether (the Parish Council via Mrs Bannerman) seeking donations via the Parish magazine advert/ Gofundme site (to service the loan) as allege and then potentially using this for another (albeit related) Pavilion purpose of maintenance/ cleaning or other items (including the Pavilion locks) would be failing to use Council resources in accordance with its requirements.
- 7.23 Firstly it is debatable, in my opinion, as to whether these donations are even “Council resources” in the true sense. If, however, they are, then consideration needs to be given on interpretation of the MHPC obligation.
- 7.24 Again MHPC’s obligation 4 “**He/she shall use the resources of the Council in accordance with its requirements.**” is worded in a *similar way* to the paragraphs in the pre 2012 Code “**must use the authority’s resources for proper purposes only.**” There is no post 2012 judicial interpretation of this wording in Code of Conduct cases that I am aware of and therefore I will look to the previous Standards Board for England Guidance for interpretative assistance.
- 7.25 The Guidance at the time for this provision, on the whole, sought to prevent Councillors from using Council resources for improper/ personal or political purposes – it does not refer to the use for one Council project to another. It stated:
- “Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for. You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority’s rules is likely to amount to a breach of the Code of Conduct. If you authorise someone (for example a member of your family) to use your authority’s resources, you must take care to ensure that this is allowed by your authority’s rules.”*
- 7.26 I would conclude, from the documents and minutes (and evidence from Mrs Bannerman/ Dr Baxter and Mr Ingham) that the Parish Council’s requirements were to operate the Pavilion as a going concern.
- 7.27 Mr Ingham says that the Pavilion Committee was approved at the 19th May 2015 MHPC meeting, the Parish Council approved the setting up of the Pavilion Committee (Mr Ingham’s statement paragraph 4 & appendices – approved as indicated in the minute wording):
- “16. PAVILION UPDATE, FUNDING AND PAVILION COMMITTEE’S PROPOSALS
Cllr Mrs Bannerman referred to the proposals as outlined in Appendix B, the contents of which were fully supported by members.”*
- 7.28 The Pavilion Committee had a “**task**” for “**maintenance, marketing, booking fees, cleaning....to run the pavilion**” (Appendix B to MHPC item 16 minutes). After advice from the Clerk, the Pavilion Committee was chaired by the Chairman, Dr Baxter. The Pavilion Committee met and certain decisions were taken on expenditure which could generically fall under the terms “*maintenance, cleaning.. run the pavilion*”. Mr Ingham says these were approved by MHPC under the payment of accounts item at their Parish Council meetings; the Pavilion Locks were approved subsequently by the Parish Council on 6 October 2015.
- 7.29 The wording in the 19 May 2015 does not actually state that the Parish Council “resolved” to set up the Pavilion Committee, which would have been the preferable, advisable and clear

wording. Nevertheless, the Clerk as Proper Officer has advised that this was approved by the Parish Council.

- 7.30 Furthermore, funding was received from other sources, and it is unclear whether the donations via "Buy a brick" could be shown to have been used to fund the running costs expenditure in any event. In comments made on the draft report, Mrs Farmer cited the fact that in December the Parish Council produced accounts after the resignation of the Councillors and ensured all donations received were applied to refurbishment project rather than covering operating costs. This does not alter my conclusion that again, this would normally be an issue for the person appointed by the Parish Council to administer its financial affairs (their section 151 Local Government Act 1972 Officer). That person is usually the Clerk and it is the duty of that Clerk in that situation to ensure that accounts and records are maintained according to proper accountancy / audit practices (for example the Local Audit and Accountability Act 2014, Regulations and/ or Transparency Code for exempt smaller authorities). Mr Ingham in that capacity has confirmed that there was other funding and that funding could have covered the running costs expenditure.
- 7.31 Moreover Mrs Bannerman and Dr Baxter *believed* that the Pavilion Committee had been set up properly, had used the donations and/or Council resources lawfully and were entitled to rely on the advice of the Proper Officer (the Clerk) on such matters.
- 7.32 On the evidence I have seen, the Council's purpose was wider than that stated on the Pavilion "Buy a brick" fund raising/ or otherwise and was more than just to service the loan. I would therefore conclude that, in the event that this falls under the Code of Conduct, that the Councillors used the resources in accordance with the Council's requirements.

8. Complaint relating to Dr Anthony Baxter:

Alleged breach of MHPC Code of Conduct obligation 4 "He/she shall use the resources of the Council in accordance with its requirements."

- 8.1. This allegation related to the same issues outlined above and I find no apparent case to answer for this reasons set out under 7.18-7.32.

9. Complaint relating to Dr Anthony Baxter

Alleged breach of principles of objectivity and accountability:

- 9.1 Mrs Farmer set out her complaint regarding this issue under 2.3 of her complaint form:

When agenda item 13 of the 6 October meeting was reached "Pavilion update and recreation ground activities" John Carey, a co-opted member of the Pavilion Committee, made a presentation and then the Chair, Cllr Baxter, said that as Cllr Hunt was a detail man and that the pavilion committee needed to be reviewed he would like to ask Cllr Ian Hunt to review the pavilion committee. Cllr Hunt first apologised to the residents for how the MHPC had treated some of the residents earlier in the meeting and said that all questions from residents should be treated with respect and that the councillors were here to represent the residents of the parish and they should attempt to answer questions as fully

as possible. Cllr Hunt then outlined the short comings of the Pavilion Committee and accepted Cllr Baxter's offer. At that point many residents clapped.

However 36 hours after asking Cllr Hunt to help review the Pavilion Committee the Chair unilaterally took Cllr Hunt off this task and has since drafted a new constitution and terms of reference himself (clearly copying the outstanding terms of reference put together for the Neighbourhood Plan Steering Committee by Cllr Hunt because the document still refers to the Steering Committee in 3.1). The terms of reference contains statements which suggest that this committee oversaw the design and building of the pavilion which was not the case. I believe that these actions by Cllr Baxter **breach the principles contained in the Introduction to the Code of Conduct of objectivity and accountability.**

- 9.2 Mrs Farmer says that she became aware of Cllr Hunt's removal following an email from Mr John Carey (a member of the Pavilion Committee). He was removed on 8 October 2015 by the Chairman, Dr Baxter, which Mrs Farmer believes demonstrated a lack of objectivity and accountability. Mrs Farmer acknowledged, however that there was no official appointment to undertake this role by the Parish Council, but maintained there had been a lot going on that evening; Cllr Hunt had made comments about the Pavilion Committee and its shortcomings and she believed Cllr Hunt should effectively have been given time to address the Pavilion Committee's issues.
- 9.3 Dr Baxter said in his statement that before the meeting on 6th October, Cllr Hunt had phoned him to say that he proposed disbanding the Pavilion Committee. Dr Baxter said he had asked him to help, to work with the Pavilion Committee and expected him to co-operate and show some grace.
- 9.4 At the meeting it would appear from the minutes that Mr Carey presented some information to the Parish Council regarding the Pavilion Committee and following the presentation of the item Dr Baxter asked Cllr Hunt, to work with the Committee. Cllr Hunt had said (as per the minutes "**that he was prepared to do so, but before he committed himself he wanted to make some conditions and request assurances**" (extract of amended minutes 6 October 2015 item 13 from Appendix I). A summary of the conditions were set out in the minutes together with the concerns raised by Cllr Hunt:

Cllr Hunt stated that he was prepared to do so, but before he committed himself he wanted to make some conditions and request assurances. Cllr Hunt then read to the meeting from a prepared statement. [REDACTED]

In summary, Cllr Hunt initially stated that, before providing assistance to the Pavilion Committee (as requested by the Chairman), he would want an assurance that the residents who had raised matters relevant to the pavilion project were afforded a civil response and that they would not be treated in future in the way he perceived they had been treated by Parish Councillors this evening. He would want the Pavilion Committee to have the full support of the Sports Association and he would want to see total transparency and full accountability before he offered any assistance.

Cllr Hunt ^{raised concerns about} [REDACTED] for their perceived failings on financial accountability, agendas, minutes and action of Pavilion Committee meetings, good corporate Governance, lack of a Constitution and terms under which the Committee was working.

9.5 The meeting was clearly heated. Things appeared to have been said that caused upset to a number of Parish Councillors, the Parish Clerk and Mr Carey as complaints were made against Cllr Ian Hunt regarding his behaviour at the meeting on 6 October 2015 via Dr Baxter (by Mr Ingham, Mrs Bannerman, Cllr Keys, Cllr Keogh, Mr John Carey and a member of the public). *I stress that this general complaint by those parties was not referred for investigation by EHDC, as the Standards Sub Committee found no evidence.*

9.6 Post meeting Dr Baxter says that he withdrew the request as following the meeting (paragraphs 61-62) as:

“there were 30 odd emails between John Carey (Vice Chairman of the Pavilion Committee) and Cllr Hunt where Mr Carey tried to elicit Cllr Hunts help but Cllr Hunt was obstructive in achieving the goal of getting a terms of reference in place. Cllr Hunt said he was, for example, not prepared to help John Carey until he “knew him better”, to come round for coffee first and John was not prepared to do this - he just wanted to get on with getting terms of reference in place.

I felt that Ian Hunt was being deliberately obtuse, deliberately unhelpful and unwilling to help. There were various pre-conditions set and I believed he was procrastinating and I took the decision, as I said in my complaint form to the Standards Committee, to rescind the request for assistance from him for the benefit of the village. I then got on with drafting the terms of reference myself, which was not rocket science as I based them on previous ones that Cllr Ian Hunt had prepared himself for the Neighbourhood Planning Committee. If I had not done so, days would have gone by with nothing being achieved with respect to the terms of reference and I felt I was justified and as Chairman had the authority to rescind my request of Cllr Hunt.”

9.7 Dr Baxter sent an email (extract) at 9am on 8 October to Cllr Hunt as follows (AF11) 9which was copied to the Clerk):

Dear Ian,

In the light of the communications I have read between you and Mr Carey and the failure to engage with urgency to complete the task I asked of you which was to work together to complete a constitution and terms of reference for the Pavilion Committee, and in the light of a letter of complaint I have received about your behaviour at the PC meeting on the 6th October, I am rescinding my request that you help with this task.

I will of course invite yours and other PC members comments on the updated Constitution and ToR when it is drafted which I expect will be done in a day or two.

Best wishes

9.8 Cllr Hunt did not make a complaint regarding this issue. He did, however respond to Dr Baxter on the matter and this email has been exhibited by Mrs Farmer at AF11 (copying in others). In that he defends his actions, he therefore disputed the reasonableness of the decision (extract):

- I received 18 e-mails from John Carey
- I sent 10 e-mails in reply, in one of which I had to spend time rebutting the assumption that “you clearly have the opinion of the SA firmly entrenched in your mind” – patently untrue as up to the time you appointed me on Tuesday evening to the review, I had never to my knowledge met anyone from the SA, as far as I’m aware
- at John’s request, I provided him with copies of a ToR and Constitution and advice on whether it was appropriate
- I agreed to his request for a meeting with him today, which he pulled out of, despite several attempts on my part to dissuade him from doing so

All of which you have been copied in on, so you are fully aware of the urgency I have exhibited and efforts made to achieve the goal you set.

I also wrote to you asking if you would intercede as you could see from the e-mails from John that he was not engaging with the task at hand (including one in which he said he was “on strike”, which presumably meant he was withdrawing from contributing to the urgent task you set us).

I also prepared and provided to John Carey, at his request, my recollection of the comments I made regarding the agenda item 13(ii) Pavilion Committee, which obviously took a little time too. It was, of course, after those comments that I accepted your offer to contribute to the task, so you must have seen some merit in them.

- 9.9 With regards to any alleged bias/ independency and ability to lead, Dr Baxter (paragraph 8) of his statement said:

“I had never met or knew Selina Bannerman, Mike Keogh or John Carey before I was on the Parish Council. I have got to know them since the Pavilion Project and I would even regard them now as friends. I do not, however, consider that this causes a compromise of my position. I am a Chief Executive of a public listed company for 10 years, chairman of two other companies. I have been a Chief Executive in the pharmaceutical industry overall for more than 30 years. I know how to be independent; I argue and disagree with people, including those I am friendly with. I supported Councillors, however, as they were, as you say, under my watch.”

Alleged breach of principles of objectivity and accountability – no apparent case to answer:

- 9.10 For the reasons set out below I have found no apparent breach of the principles.

Reasons for finding of no apparent case to answer:

- 9.11 There are, I believe two issues to consider. Firstly whether the principles are indeed part of the MHPC Code of Conduct and if so, whether there has been a breach.
- 9.12 As detailed above, under the Localism Act 2011, the statutory requirement is that “a relevant authority” must secure a Code of Conduct that when viewed as a whole document, be consistent with (amongst other things) principles of objectivity and accountability (section 28(1)). There is no statutory requirement that they be part of the Code of Conduct; the statutory duty is therefore place on the authority (in this case Much Hadham as a legal entity) to adopt a Code compliant with these principles. It does not, therefore, in my opinion place a specific statutory duty on a Councillor to abide by the principles. As such allegations of breach would not normally fall with the remit of consideration of Code of Conduct complaints. This is consistent with the approach adopted under the previous regime by the Standards Board.
- 9.13 To the extent that my interpretation is incorrect on this issue, I have considered whether there appeared to be a lack of objectivity and accountability in the light of the definitions and the factual issues.

- 9.14 Objectivity and accountability are two of the seven principles of public life. As defined by the Committee on Standards in Public Life⁶, Objectivity and Accountability mean that:

“Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias”.

“Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.”

- 9.15 On the evidence there was no official appointment of Cllr Hunt to the Pavilion Committee by Cllr Baxter or the Parish Council on 6 October. Cllr Baxter requested that Cllr Hunt helped to deal with the governance concerns that had been raised.

- 9.16 This was followed at the meeting by Cllr Hunt reading out a statement, which by the accounts given by Mr Ingham, Dr Baxter, Mrs Bannerman, Cllr Keys, Cllr Keogh, Mr Carey and Mr Morris critical of the Clerk and members of the Pavilion Committee. This caused upset to the Clerk, three Councillors, the Parish Clerk and a member of the public.

- 9.17 It would appear from the email at AF10 that Mr Carey tried to act on the concerns regarding the Pavilion Committee the evening of 6 October, by sending an email to Cllr Hunt (and Mrs Farmer, whom he believed and Cllr Hunt also appears to believe – see AF11 was a member of that Pavilion Committee). At least 28 emails were exchanged regarding the issue, which Dr Baxter was privy to. It is evident from the standards complaint made against Cllr Hunt that complaints were made to Dr Baxter regarding Cllr Hunt’s behaviour between 7-10 October 2015. At the point at which he rescinded his request for help to Cllr Hunt, he had received one of those complaints. In Dr Baxter’s witness statement he is of the opinion that Cllr Hunt was unwilling to help, had been working with Mrs Farmer on this issue and Dr Baxter believed he was justified as Chairman in rescinding the request for help. When he did so he sent an email to Cllr Hunt and Mr Ingham and Cllr Hunt copied various parties in to his response on 8 October.

- 9.18 Dr Baxter believed he was acting impartially, fairly and on the merits – given the exchange between Mr Carey and Cllr Hunt and had received a complaint at that stage. He would appear to have chaired the meeting of 6 October fairly. He did not withdraw the request for help after Cllr Hunt spoke at the meeting and whilst Dr Baxter was relatively inexperienced as the Chairman of the Parish Council, by his own words is *“a Chief Executive in the pharmaceutical industry overall for more than 30 years. I know how to be independent; I argue and disagree with people, including those I am friendly with. I supported Councillors, however, as they were, as you say, under my watch.”* In Mrs Farmer’s response to the draft report, she said that this conclusion Paragraph 9.18 and 9.20 – *(with regards to chairing the meeting fairly)* was in disagreement with EHDC Standards Sub-committee’s conclusion (as set out in the Monitoring Officer’s letter to the Parish Council dated 30 November 2015). In response to that I would state that the fact that the Standards Sub-Committee instructed the Monitoring Officer to write a letter before I investigated the issue does not, I believe, bind me to any specific conclusions on this particular complaint issue (of objectivity and accountability). The letter sent by the Monitoring Officer on 30 November, stated that whoever was chairing should use that office to achieve the “objective of mutual respect”, should treat fellow members with respect and when the meeting became heated should have called for a temporary adjournment. I would add in respect of the meeting, that Dr Baxter allowed additional time for questions by residents (Mr Ingham’s statement paragraph 13 – allowing an extra 25 minutes), and Mrs Farmer stated herself that Dr Baxter treated her respectfully in response to her questions. My opinion remains that he tried to chair a difficult meeting and in the round appeared to have done so fairly for all the parties concerned.

- 9.19 I therefore believe that on balance Dr Baxter was objective when he took the decision to withdraw the offer from Cllr Hunt. Equally, Dr Baxter considered the actions of Cllr Hunt to

⁶ <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2#objectivity>

have been, at best, unhelpful to dealing with the Pavilion Committee issue; considered that he would assist the issue himself by withdrawing the request for help and drafting the terms of reference himself. In the light of this and the complaint he had received he would on balance be seen to have shown leadership challenging poor behaviour in relation to the Council's employee and other Councillors. The decision to withdraw the request for help was not taken in a public forum, but given the complaint and Dr Baxter's perception of the issue, *he believed* (and I accept he believed this) that he needed to move things forward and therefore rescinded the request. There is no indication that Dr Baxter was not prepared to be accountable for his actions and I therefore also conclude that on balance in the circumstances he was acting accountably.

10. **Complaint against Mrs Bannerman**
Pavilion Locks

Alleged breach of MHPC Code of Conduct obligation 4 "He/she shall use the resources of the Council in accordance with its requirements."

10.1 I will set out the evidence in this matter, however, I believe that the same principle applies to this issue as under 7.18-7.32 above.

10.2 Mrs Farmer alleged in her complaint form (under paragraph 3) that:

On 30 September 2015 Cllr Bannerman sent the Sports Association an email which included the following paragraph "Fyi we have spent nearly £2000 on locks and keys to reach insurance standards. The whole time we were paying for the pavilion insurance it was invalid due to the locks and mainly lack of approved locks in place . If there was breakin and damage we would not have been covered . This hAs now been rectified through the money raised by the bricks ".

10.3 Mrs Farmer responded to this email setting out that there had been no requirement for this under the insurance policy and accordingly:

There is no record that the MHPC or Pavilion Committee had a requirement for this work or that it authorised its commissioning, there has been no evidence that a number of quotes were obtained as they should be, the identity of the provider is unknown and the cost appears to have been met from Buy a Brick funds, which were not, in my view donated for that purpose, or from general parish expenditure budgeted for other uses. I believe Councillor Bannerman breached **Member Obligation 4 of the MHPC Code of Conduct** in spending money (£2000) for locks that were not required.

10.4 Mrs Farmer said that she was aware of the provisions because (paragraph 44) the Sports Association had responsibility for obtaining insurance for the grounds and the facilities and buildings on the grounds. Following Mrs Bannerman's email Mrs Farmer checked with the insurance broker and it was confirmed to her that no specific locks or keys were required. Her concern:

"was not just that Mrs Bannerman was incorrect in relation to the insurance, but that spending £2000 had been unnecessary and that there was no record that the Parish Council had authorised or commissioned this work for replacement of locks or the other works mentioned in Mrs Bannerman's later email. There is no evidence in minutes I have seen of quotes being obtained and the expenditure for this appears, by Mrs Bannerman's own admission in the email to have come from the 'Buy a brick' fund raising – which I do not believe was for that purpose. I believe the donations were made to pay down the loan."

10.5 Mrs Bannerman believed the locks were required, that this was an emergency item and that anyone could have broken in. She stated (paragraphs 58-61):

“58..I was told by Charlie Sullivan (of the Football Committee) that we needed certain doors and locks to prevent the away football team from coming into the carpeted area. I believe this was approved in discussion.

59.The Sports Association said the Pavilion locks were sufficient but anyone could break into the Pavilion. We had to have a locking system, where the home team could have access. I was told we needed new locks. I did not have much choice, otherwise I was informed we would have been leaving a newly renovated Pavilion uninsured.

60.To the best of my recollection believe would have sent an email round or had verbal confirmation. There were discussions with various parties and this was not reported back until after the money was spent by me. In this issue time was deemed to be of the essence and action was required. ..

61.This was then approved by the Parish Council. Again the money we used was not Council Tax payers’ money, it was part of the £4000 spent that came from donations.”

10.6 Mrs Bannerman paid out the £2000 initially herself and the retrospective authorisation was given by the Parish Council (as confirmed by the Clerk, Mr Ingham and in exhibit J12).

10.7 Dr Baxter believed that the Pavilion Committee had authority to deal with such matters. He stated (paragraphs 64-67):

“65. When the Pavilion was near to being finished, the insurance person / locksmith expert came over and said that they were not insuring the building as the locks were not up to spec.

66. ... The contractor handed the Pavilion over to the Parish Council outside of a PC meeting. I was not at the meeting as it was midweek. I understand that the insurance company / locksmith was represented said that they would not insure the building as the locks were not safe. £110,000 had been spent and a rapid decision had to be taken to make sure the Pavilion building was insurable and insured. I am not sure if advice was sought or provided by the Clerk on this but we were caught between a rock and a hard place. Either the locks were repaired and the building insured or they weren't and the PC was liable if anything had happened to the Pavilion.

67. Because it was a large amount of around £2000, in retrospect it should have been authorised by a special committee meeting. If we had waited until the next Parish Council meeting and the building had burnt down and we were not covered by insurance then we would have been criticised. It was presented to the Parish Council after that for approval.”

10.8 Mr Pavey, who is the Chairman of the Sports Association (and deals with the Pavilion insurance) stated as follows (paragraph 12):

“12. In terms of the locks for the Pavilion I don't know why the locks were changed. The Sports Association had bought the insurance and the same insurers were dealing with it after it had been refurbished. It was never mentioned to us that we had to have different locks. I think they were told by a security advisor who attended that the locks needed to be redone. The Sports Association still holds the insurance; I am unaware whether the insurer asked the question about new locks so I don't know why they went down that road. The premium has increased because of the new value for the Pavilion but the insurance company did not ask any more.”

Alleged breach of MHPC Code of Conduct obligation 4 “He/she shall use the resources of the Council in accordance with its requirements.”

10.9 This allegation related to the same issues under 7 and I find no apparent case to answer for the reasons set out below.

Reasons for finding of no apparent case to answer:

- 10.10 For this reasons set out under 7.18-7.32 I believe this is an administrative/ legal/ financial matter for the Parish Council as a whole (not an issue to deal with under the Code of Conduct). If this interpretation is incorrect, then there is still a debatable question as to whether these donations would be a Council resource. If such donations were to be considered a Council resource, then I conclude that the donations have been used according to the Council's requirement, again for the reasons set out in 7.18-7.33 (and therefore there is no apparent case to answer on the alleged breach).
- 10.11 I would only add as an observations that it would have been desirable to have a more transparent decision making process on this issue (prior to the expenditure being committed and undertaken). I appreciate that this was seen as urgent by Mrs Bannerman and others, and indeed, even in larger Councils there are exemptions under procurement/ contract related standing orders to deal with this. However, there was no evidence produced to me that this was authorised by email or that the Clerk was consulted on the expenditure. Nevertheless, given that the Pavilion Committee task/ remit (Appendix B to the MHPC 19 May 2015 minutes) included "maintenance" and given Mrs Bannerman was concerned that the building would not be insured, this gave a degree of explanation as to why the expenditure had arisen in this way and no quotation exercise had been undertaken with potential contractors. The expenditure was, however, authorised by the Parish Council on 6 October 2015 and the Proper Officer has confirmed that this is correct. Again, as such any potential challenge would be administrative – i.e. to the powers of the Parish Council as to whether such authorisation was lawful or according to audit practices.
- 10.12 Note I have not dealt with the initial assertion by Mrs Bannerman that the building had not been insured previously. This appeared to be changed in later emails in any event.

11 ***Mrs Bannerman - Emails to Mr Fred Pavey***
Alleged breach of MHPC Code of Conduct obligation 1 –alleged failure to show respect in emails to Mr Pavey
Alleged breach of MHPC Code of Conduct obligation 2 –alleged bullying and intimidatory behaviour towards Mr Pavey in emails.

- 11.1 Mrs Farmer alleged that there have been a number of emails sent that were "unnecessarily combative" and prevent discussion taking place. This is set out under point 4 of the complaint form additional material:

4. Correspondence

Fred Pavey who is an elderly gentleman and the Chair of the Sports Association which is a local village charity which runs the recreation ground has received emails copied to the other members of the Sports Association including me, such as

"Get a grip and acknowledge when John and others who are on the PC are trying to help - or get others who will .

I for one have had enough .

Take a step back and just figure out what's important " *Cllr Bannerman 12/8/2015*

"I forgot your usual (and I speak from personal experience on several occasions) approach is to discourage, bully and disenfranchise anyone who has tried to use the facilities or help the SA, aside from the present incumbents of course.

I must not tread on your toes

I must not tread on your toes

Repeat to fade...." *John Carey 12/8/2015 (co-opted member appointed onto the pavilion committee by Cllr Bannerman)*

"Sorry for doing your job for you and encouraging youth (local and further afield) back to the playing fields of Much Hadham, oh and earning you some money." *John Carey 12/8/2015*

"Well either I can be helpful and find him for you in the village and then pass in his details or you are welcome to try to find him yourself ...

Or you could assume that I am trying to contact him on your behalf .

Do the leg work if you wish but as he didn't see or meet you he is more likely to be found by me when I meet him at the school gates to get his details ... "Cllr Bannerman 3/9/2015

These are just a few examples of endless emails containing unnecessarily combative language which leave little room for proper discussion or other views. All these emails were copied to the Chair, Cllr Baxter, and he has done nothing to try to stop this behaviour. I believe the e-mails constitute breaches of **Member Obligations 1 and 2 of the code of conduct** by Cllr Bannerman and the failure of the Chair, Cllr Baxter, to act decisively is a

- 11.2 Mrs Farmer expanded on the issue in her statement at paragraphs 51-56 of her statement. I have highlighted some relevant parts. She said:

51.Fred Pavey has chaired the SA which manages the recreation ground and pavilion for many years....

*52... **the relationship between the Sports Association and certain members of the Parish Council had experienced difficulties, specifically in relation to the take over of management of the Pavilion and public criticism made by those councillors of the Sports Association** (both in and out of the Parish Council meetings). Fred had tried to deal with this directly with the then Chairman, Cllr William Compton (who was Chairman up to the election in May 2015). **Fred Pavey had sent two letters to the Parish Council Chairman in February 2015 and an email to Mrs Bannerman dated 8 February 2015 attempting to set out the issues and resolve matters** (Exhibit AF13). Fred had a brief meeting on 29 March 2015 with Cllr Compton and it was apparently agreed then that if there was any points to discuss between the Parish Council and the Sports Association that they should be directed through the Chairman and Fred Pavey, rather than individual members publishing their views and this had followed an earlier letter from Fred Pavey dated 2 March 2015 - Exhibit AF14.*

53.This did not appear to improve, however, following the May 2015 election and that is why I arranged a meeting between the Sports Association and the Parish Council in June 2015.

54.Emails still continued relating to the management of the ground (which falls to the Sports Association, not the Parish Council)... Emails were sent from Mr Carey and Mrs Bannerman to Fred Pavey. The exchange of emails referred to in my complaint are at exhibit AF15.

*56.In sending emails of this nature I believe Mrs Bannerman breached Member obligation 1 & 2, in that there was a failure to show respect to Fred Pavey and the emails were rude and intimidatory. I have not had rude emails, but the tone was unnecessary. **I believe Fred Pavey spoke to Dr Baxter about that, and that emails should be through the Parish Council and Sports Association Chairs (see AF14).***

11.3 Mrs Bannerman's response is set out in paragraphs 63-66 of her statement:

“63. This is the full email referred to by Alex Farmer (exhibit SB6) of 8th August 2015. My son was ill in Turkey and I was at my wits end with worry and cumulative lack of sleep. I was not in a good place and quite frankly I had had about enough mental abuse.

64. The other email reference where I said on 3 September 2015: “Well either I can be helpful and find him for you in the village... get his details.” is taken out of context.

65. Fred Pavey had been terse, unhelpful and rude in meetings. I think the emails from Fred Pavey and Alex Farmer were an attempt at poking, passive aggressive bullying. It was clever but annoying.

66. I do not believe the emails that I sent were rude or disrespectful and Fred Pavey never complained about the email I sent to him, either to me, or to the Chairman of the Parish Council (as far as I am aware). It was frustrating, but in the context of the months before, the emails referred to by Alex Farmer were not rude, disrespectful, intimidating or bullying.”

11.4 Mr Pavey was asked about this issue and his response is set out in paragraph 13 of his statement:

*“13. In relation to the correspondence with Selina Bannerman, they were disrespectful, especially John Carey. It was unnecessary wording, especially for someone in that position. He couldn't bear to be spoken against. **I did not complain about the emails, I just ignored them.** I never sent rude emails to Selina Bannerman.”*

11.5 Dr Baxter's response covers his interpretation of the emails and also the complaint regarding against him regarding leadership:

*“70. **Fred Pavey never complained to me about the emails he received from Selina Bannerman.** I did not consider the emails sent by her, that are referred to by Alex Farmer as disrespectful, bullying and intimidating.*

71. If I believed this had happened, then I would have said to Mrs Bannerman to be careful, be factual and accurate and not offensive. Having read some of them, I can see it was a two way street - like chucking snowballs, and not sure who threw the first snowball. There were strong emails from both sides and there was frustration with the Sports Association and some came close to the mark.

72. In terms of my leadership, however, once the work on the Pavilion had started and there were individual things that needed to be done, there was correspondence between the Councillors and also others on the Sports Association – not just Fred Pavey. There were heated discussions and these came around July -September.

*73. **As I stated above, during my Chairmanship individual Councillors had portfolios and were expected to undertake a particular role.** If someone stepped out of line then I was critical. I remember when Ian Hunt wrote a very rude note about John Ingham and I addressed this.*

*74. **I spoke to Fred Pavey after I became Chairman and I said that I would try to sort the problems out. Various parties were involved on both sides – Alex Farmer and the footballers also sent emails. On their own the emails referred to may seem strong, but in the context of the exchanges of communications as a whole, the individuals on both sides were expressing strong views.”***

Finding – alleged breach of MHPC Code of Conduct Obligation 1 – that Mrs Bannerman failed to show respect to Mr Pavey in the emails of 12 August 2015 and 3 September 2015

11.6 No apparent case to answer for the reasons set out below.

Reasons for finding of no apparent case to answer:

11.7 I will start by clarifying that there was reference in the complaint on this issue to other emails, although the only emails provided as part of the investigation and statement to demonstrate the allegations against Mrs Bannerman were those of 12 August 2015 and 3 September 2015 detailed above. The consideration was therefore rightly restricted to whether Mrs Bannerman failed to show respect in those emails (and subsequently the allegations relating to bullying and intimidation).

11.8 I refer to the Standards Board Guidance on interpretation of this issue detailed under 6 above, which was used to consider these emails.

11.9 There was clearly a dispute between the two organisations regarding the Pavilion Renovation and the Committee and a great deal of frustration on all sides. There is therefore a danger of confusing the two issues of emails between the representatives of those organisations over contested issues and those being strongly worded, with a response in emails to a member of the public/ or conduct in public meetings.

11.10 Mrs Farmer refers to a letter (AF14) sent to the former Chairman, Mr Compton in March 2015, this letter was not sent to Dr Baxter and Dr Baxter says he was unaware of this. This letter refers to “offensive” and inaccurate emails sent – but does not name any party (other than an inaccurate letter by a former Councillor, Mr Blaise Morris).

11.11 Whilst Mrs Farmer also refers to an email sent by Mr Pavey to Mrs Bannerman dated 8 February 2015 attempting to set out the issues and resolve matters (Exhibit AF13), this was not a complaint regarding disrespectful emails – but the dispute between the Sports Association and the Parish Council.

11.12 Such was the degree of dispute that Mrs Farmer says she arranged a meeting between the Sports Association and the Parish Council (on 18 June 2015 – AF6). Many issues were discussed. There is reference in the minutes to emails, which was raised by Justin Akester at this meeting. Mr Akester apparently mentions some of the comments that had been made by the “Parish Council” in meetings were “***bordering on misconduct***” and the “***PC should be ashamed of the way they have conducted themselves on email and Facebook***”. This, however, appeared to be in connection with the Tennis Club fees – an issue of dispute regarding the Parish Council/ Sports Association/ Tennis Club (which Mrs Farmer was involved with) and public access. I therefore do not see this as directly relevant to the specific complaint that Mrs Bannerman was disrespectful to Mr Pavey.

11.13 In reaching the conclusion that there was no disrespect (or indeed bullying, see below) I am mindful that Mr Pavey states that he did not raise the specific issue with Dr Baxter; it was not raised at that meeting on 18 June. I note that at the meeting on 18 June Dr Baxter indicated (AF6) that parties could contact him if they had any problems:

“TB was keen to avoid fall-outs with the MHSA over the pavilion, wanting only the best for the village. He invited everyone to contact him to discuss any problems.”

11.14 Despite this offer in June 2015 the specific issue does not appear to have been raised with the Chairman prior to the complaint in October 2015 – which I would have expected between organisations if there was such a problem.

11.15 Dr Baxter stated that he allocated roles to Councillors. If the matter was not specifically raised with him it is therefore understandable why he was reluctant to be the only party who was dealing with the Project or the recreational ground disputes.

- 11.16 I am mindful also that this email was sent by a representative of one body (the Parish Council) to another body (the Sports Association) and there were significant disputes on many issues between the parties. The previous Guidance, which provides assistance in interpreting emails of this nature, indicates:

“In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect.”

- 11.17 I conclude that the emails related to dispute issues between the parties and accordingly do not of themselves amount to failing to treat someone with respect.

Finding – alleged breach of MHPC Code of Conduct Obligation 2 – that Mrs Bannerman was bullying and intimidatory towards Mr Pavey in the emails of 12 August 2015 and 3 September 2015

- 11.18 No apparent case to answer for the reasons set out below.

Reasons for finding of no apparent case to answer:

- 11.19 I would refer to the pre-2012 Guidance on what would constitute bullying or intimidation and the extract detailed above.

- 11.20 Mr Pavey says in his statement:

“13. In relation to the correspondence with Selina Bannerman, they were disrespectful, especially John Carey. It was unnecessary wording, especially for someone in that position. He couldn’t bear to be spoken against. I did not complain about the emails, I just ignored them. I never sent rude emails to Selina Bannerman.”

- 11.21 Mr Pavey says they were disrespectful – especially John Carey and he did not complain about them, he just ignored them. Mr Pavey said he found them disrespectful, not bullying or intimidatory. The emails related to organisational disputes (not personal ones) and were not in public. I would not conclude that the emails Mrs Bannerman sent on 12 August or 3 September 2015 would be considered bullying or intimidatory, in the light of this and the definition provided in the old Guidance.

12. **Dr Baxter as Chairman of the Parish Council did nothing to stop emails (referred to above in breach of the principle of leadership)**

- 12.1. Mrs Farmer stated in her complaint that the emails above were:

copied to the Chair, Cllr Baxter, and he has done nothing to try to stop this behaviour. I believe the e-mails constitute breaches of Member Obligations 1 and 2 of the code of conduct by Cllr Bannerman and the failure of the Chair, Cllr Baxter, to act decisively is a failure of the leadership principle contained in the code of conduct. The Chair should enforce proper procedure and the code of conduct.

- 12.2. Mrs Farmer further stated at paragraph 56 of her statement:

“..I maintain that while Dr Baxter was not rude in his dealings, he should, as Chair, have told others that they should not speak to people like that. I do not know whether it was because of his friendships or not, but as Chair he failed to act decisively and therefore failed in the principle of leadership.”

- 12.3. Mr Ingham (who clerks for other parish Councils and has worked with Parish Councils for approximately 30 years), did not specifically know about the emails referred to – but in relation to Dr Baxter and his Chairmanship of the Parish Council commented as follows:

“20. Tony Baxter was one of the best Chairmen that the Parish Council has had. He was very professional. Selina Bannerman is a doer. I feel very sorry for them and we have lost some really good Councillors.”

12.4. I would also again refer to Dr Baxter’s statement (paragraph 74):

“74. I spoke to Fred Pavey after I became Chairman and I said that I would try to sort the problems out. Various parties were involved on both sides – Alex Farmer and the footballers also sent emails. On their own the emails referred to may seem strong, but in the context of the exchanges of communications as a whole, the individuals on both sides were expressing strong views.”

12.5. Dr Baxter also attended the meeting of 18 June 2015 (AF6) and, as recorded in the minutes:

“TB was keen to avoid fall-outs with the MHSA over the pavilion, wanting only the best for the village. He invited everyone to contact him to discuss any problems.”

12.6. Dr Baxter is someone who is used to dealing with disputes and issues, but by his own account was relatively inexperienced at a senior level of the Parish Council. He undertook training in June 2015 on Chairing a Parish Council and believed he did so in a fair and reasonable manner. Mr Pavey did not raise the emails as a specific issue with him. By Mrs Farmer’s account he was not rude in meetings or emails.

Finding – alleged breach of the principle of leadership

12.7. Finding – no apparent case to answer for the reasons set out below.

Reasons for no apparent case to answer.

12.8. For the more detailed reasons set out in 9.11 and 9.12 above I have not concluded that the principles set out in the Localism Act 2011 place any statutory duty on the Councillors and therefore there can be no breach of the principles as part of an alleged Code of Conduct investigation.

12.9. To the extent that I may be wrong on this issue, I have considered whether there appeared to be a lack of leadership in the light of the established “Leadership” definition and factual issues.

12.10. Leadership is one of the seven principles of public life and is defined⁷ in the following terms:

“Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.”

12.11. In the first instance I refer to my conclusions that there was no apparent case to answer in relation to the emails sent by Mrs Bannerman to Mr Pavey on 12 August and 3 September 2015.

12.12. However, to the extent that this falls wider than those emails (i.e. comments made by Mr Carey in those emails), I would refer to the fact that Mr Pavey accepts he did not specifically raise this as an issue directly with Dr Baxter. It was not raised at the meeting on 18 June 2015 or subsequent (including after an offer by Dr Baxter to approach him with any issues). Dr Baxter presumably expected relevant parties to do so if there was an issue, and in my opinion was not expected in this instances to step in without such a prompt (given he believed this was effectively tit for tat/ “snowball” throwing). I would also refer to the previous Guidance given, and the break down in the relationship between the Sports Association and the Parish Council.

⁷ <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2#leadership>

“..Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect.”

12.13. Given the parties involved and the circumstances I conclude that these emails were part of the conflict between the two groups; they were criticism of the Sports Association practices and as such did not amount to bullying or failing to show respect towards the individuals. If this had been specifically raised with Dr Baxter and he had failed to address it, that may have been another element of consideration; however, it was not specifically raised and I therefore find there is no apparent case to answer.

13. The remedy (ies) sought by the complainant; and any recommendations.

13.1. Remedies sought by Mrs Farmer (and my comments below these):

- **A constitution which is representative of all ages in the village. The places available to members of the public on the committee should have been open to residents to gauge interest rather than three residents appointed to the committee by Cllr Bannerman.**

Comment: In my opinion a constitution would not be legally required for the previously mentioned reasons in the report (namely a requirement on Local Authorities under the Local Government Act 2000). Terms of reference would normally be acceptable for a Committee, and indeed as per the Parish Council Toolkit advisable. Given Dr Baxter prepared some terms of reference that would presumably be sufficient or could be reviewed (as per the Toolkit). I would comment that there is no evidence produced to me that Mrs Bannerman appointed residents to the Pavilion Committee.

- **A budget and spending limitations – neither budget or limitations on spend currently exist and there appears to be no process for ratification**

Comment: this would normally be taken on the advice of the Proper Officer – the Clerk. This can in theory be dealt with as part of the terms of reference or possibly Standing orders. Ratification can and has been dealt with at the Parish Council meetings – and it would be preferable for this to be open for public scrutiny.

- **Full reporting to the MHPC (only one set of minutes has so far been provided to the MHPC)**

Comment: I presume this issue has now been addressed, but I would remark that more information should be made available on the Parish Council's website (for example the minutes of 6 October 2015 or some of the earlier appendices).

- **Terms of reference that are fully discussed by the MHPC and agreed upon**

See comments in report and above regarding terms of reference.

- **Financial reporting to the MHPC to show all the costs of the refurbishment, how these costs are to be funded and a record of the ongoing receipts, donations, payments etc. As far as I am aware there has been no financial reporting to the MHPC to date**

Comment: I understand that this issue has since been reported to the Parish Council.

Transparency in discussions and decision making

Comment: see observations above regarding information to be made available.

- The Buy a Brick fund needs to be looked by the MHPC and the MHPC need to decide how to deal with its spend in the light of my complaint.

Comment: given my conclusions on the case to answer, this is a matter for the Parish Council.

- Questions from the floor during parish council meetings should be answered as fully as possible and with respect and this needs to be supported by the Chair

Comment: this will be a matter for the Parish Council under the time allowed in their Standing Orders (and on the advice of their Proper Officer the Clerk).

- Chair to be objective in his role and act in the best interests of the parishioners rather than supporting those councillors who are his friends when there are breaches of the code of conduct

Comment: given my conclusions I make no further observations in this regard.

- To stop the combative and disrespectful nature of emails
- Confirmation from the councillors that they are aware of their obligations under the Code of Conduct and will abide by them in future.

Comment/ recommendation: It would be preferable for emails dealing with the business of the Council to be kept to a minimum to prevent apparent decision making taking place outside of the Parish Council / Committee forum. To the extent that contact is involved between the parties they should, in my opinion, be formal, brief and only involve group e-mail if absolutely necessary.

The Code of Conduct should also be made available on the Council's website. I reviewed this in December and at the point of finalising the draft. It still says on the website: "**Code of Conduct** Details coming soon...".

13.2 In respect of any other recommendations, I asked the Councillors about training – but given they had resigned and there only appears to be one case to answer, this is no longer of relevance.

Jeanette Thompson,
Senior Lawyer & Deputy Monitoring Officer
NHDC