



Essex County Council

Standards Sub-Committee

10:00	Wednesday, 24 July 2019	Committee Room 6, County Hall, Chelmsford, CM1 1QH
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For information about the meeting please ask for:

Andy Gribben, Senior Democratic Services Officer

Telephone: 033301 34565

Email: democratic.services@essex.gov.uk

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Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

The following items of business have not been published on the grounds that they involve the likely disclosure of exempt information falling within Part I of Schedule 12A of the Local Government Act 1972. Members are asked to consider whether or not the press and public should be excluded during the consideration of these items. If so it will be necessary for the meeting to pass a formal resolution:

That the press and public are excluded from the meeting during the consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information falling within Schedule 12A to the Local Government Act 1972, the specific paragraph(s) of Schedule 12A engaged being set out in the report or appendix relating to that item of business.

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Agenda item 1

Committee: Audit, Governance and Standards Committee Standards Sub-Committee

Enquiries to: Andy Gribben, Senior Democratic Services Officer

Membership, Apologies, Substitutions and Declarations of Interest

Recommendations:

To note

1. The membership of the committee
2. Apologies and substitutions
3. Declarations of interest to be made by Members in accordance with the Members' Code of Conduct

Membership

(Quorum: 3)

Councillor T Cutmore
Councillor P Channer
Councillor A Turrell

Chairman

Agenda item 2
Report to the Standards Sub-Committee
Date of meeting: 24 July 2019
Title of report: Consideration of Issues relating to a Member
Report by: Paul Turner, Director, Legal and Assurance and Monitoring Officer
Enquiries to Paul Turner - 03330 134591 paul.turner@essex.gov.uk

1. Introduction

- 1.1 The Sub-Committee are asked to consider the attached report from Essex County Council's Deputy Monitoring Officer (**Appendix A**). The report sets out an issue of potential non-compliance with the Essex County Council Code of Conduct for Members. The Code of Conduct which applied at the relevant time is at **appendix B**.
- 1.2 The issues have been referred to the sub-committee by Paul Turner, the Monitoring Officer of Essex County Council, following a complaint by Ms Ginette Loach, the Clerk to Little Clacton Parish Council and by Mrs Jacqueline Rowland who is a member of Little Clacton Parish Council. The complaint was investigated by Katie Bray, Deputy Monitoring Officer.
- 1.3 Following investigation, the matter was referred to one of the Council's appointed independent persons, Mr Jonathan Swan, whose comments are attached at **appendix C**.
- 1.4 The Procedure to be followed by the Sub-Committee is set out in the Assessment and Hearings Procedure, an extract from which is attached at **Appendix D**. **Appendix D** also sets out guidance on sanctions which the sub-committee could seek to impose should the sub-committee find a breach of the code. The stages to be followed are set out in appendix D but in summary the Sub-Committee is required to go through the following stages:
 - Introductions
 - Consideration of Preliminary Matters.
 - Decision on disputed facts (if any).
 - Decision on whether there are any breaches of code.
 - Decision on sanction (if breaches of the code are identified).
- 1.5 The Sub-Committee may also want to make recommendations to the Councillor concerned, to the Monitoring Officer or to the Council generally.
- 1.6 The Sub-Committee's principal remit should therefore be focussed on considering the issues relating to an alleged breach of the Code and, if a breach is found, to consider what sanction should be imposed. Should the

Sub-Committee consider that there are wider issues relating to standards that should be considered then it could refer those issues to the Audit, Governance and Standards Committee.

2. Pre-hearing Summary

- 2.1 The Council's hearing procedures require the production of a pre-hearing summary. This is the subject of consultation with the Councillor concerned and will be circulated electronically to members and tabled at the meeting.

3. Recommendations

- 3.1 That the Sub-Committee considers the report at appendix A and make the necessary determinations on the issues in the report in accordance with the Assessment and Hearings Procedure.

List of appendices:

Appendix A –Investigating Officer's Report and appendices A-N of that report.

Appendix B – Essex County Council's Code of Conduct for Councillors as in force in February 2019

Appendix C – Comments of the Independent Person, Mr Jonathan Swan

Appendix D – Extract from Assessment and Hearings Procedure

CODE OF CONDUCT INVESTIGATION CONFIDENTIAL REPORT

DATE: 2 May 2019

INVESTIGATING OFFICER: Katie Bray, Head of Legal, Essex County Council

COMPLAINANTS:

(1) Ms Ginette Loach, Clerk to the Little Clacton Parish Council; and

(2) Parish Councillor Mrs Jacqueline Rowland.

COUNTY COUNCIL MEMBER: Cllr Erskine

1. Introduction

1.1. In March 2019, the Complainants separately made a complaint to Essex County Council's Monitoring Officer. The complaints are set out in Appendix A and Appendix B of this Report. The Complaints were concerned with the behaviour of Cllr Erskine during the meeting of the Little Clacton Parish Council (the "**LC Parish Council**") on 4 February 2019 (the "**February PC Meeting**"). The Complainants both expressed concern about the comments and behaviour of Cllr Erskine at the February PC Meeting as explained further in paragraph 2 below.

1.2. Local authorities are required by the Localism Act 2011 to have in place arrangements to deal with allegations that members have breached the code of conduct. Essex County Council (the "**Authority**") has adopted a Code of Conduct for Members, a link to which is included at Appendix C and which is available for inspection on the Authority's website and on request from Reception at the Civic Offices (the "**Code of Conduct**"). As a member of the Authority, Cllr Erskine is required to comply with the provisions of this Code of Conduct.

1.3. The Authority's Monitoring Officer has concluded that the complaint is within the scope of the Procedure for the Investigation and Hearing of Complaints against Members (a copy of which is appended at Appendix D) and needs to be investigated.

1.4. I have been appointed as the Investigating Officer.

2. Summary of the Complaints

2.1. The complaints raised by the Complainants concern the behaviour and language used by Cllr Erskine when he attended the February PC Meeting.

2.2. Complainant Ms Ginette Loach, Clerk to the LC Parish Council has submitted a complaint on behalf of the LC Parish Council following a meeting of the LC Parish Council held in March 2019 in which the LC Parish Council voted for the Clerk to the LC Parish Council to submit a complaint about Cllr Erskine. Ms Loach refers in her complaint to an extract of the minutes of the February PC Meeting in which it is stated that Cllr Erskine went into a “rant” when asked to contribute to a discussion about speeding and flooding issues. It is alleged that, during this rant, Cllr Erskine stated that all enquiries should be delivered by the Parish Council Clerk and that the LC Parish Council was one of the worst Councils that he had ever encountered. It is also alleged that Cllr Erskine stated that much smaller councils were better run than the LC Parish Council. The minutes then state that members of the public engaged in a “heated argument” with Cllr Erskine which ended when Cllr Erskine left the meeting. Ms Loach’s complaint references an excerpt from the minutes of the February PC Meeting. A full copy of the agreed minutes from the PC Meeting has been downloaded from the LC Parish Council website and is included at Appendix E of this Report.

2.3. Complainant Mrs Jacqueline Rowland has submitted a complaint that at the February PC Meeting, Cllr Erskine, when asked to respond to a question from a member of the public about speeding and a serious accident that had taken place in Harwich Road, went into an “irrational outburst” and yelled at the Chairman saying that all enquiries should be made via the Clerk of the LC Parish Council and not from other Councillors. It is alleged that Cllr Erskine retaliated to a response to this from the Chairman in an “aggressive manner”. It is also alleged that Cllr Erskine went into a “vitriolic diatribe” against the LC Parish Council in general before he left the meeting. During this diatribe it is alleged that Cllr Erskine said that he had dealt with Parish Councils of far fewer members that did far more work. When interjected, by one of the LC Parish Councillors in attendance, it is alleged that Cllr Erskine continued ranting and said that the LC Parish Council had insulted him at meetings he hadn’t attended, that the LC Parish Council was a rubbish Council and led by a Chairman who wouldn’t let Councillors do their jobs. When the Chairman responded, it is alleged that Cllr Erskine ignored him, announced he was going and “stomped” out of the meeting.

3. The Allegations

3.1. It is alleged that there has been a breach of:

- a. Paragraph 24.2.1 of the Code of Conduct which states that “you must treat others with respect”; and
- b. Paragraph 24.2.4 of the Code of Conduct which states that: “you must not behave in a way which would likely to bring the office of Member of the Authority into disrepute”.

3.2. Having reviewed the complaints, I conclude that these are the allegations to be investigated.

4. The Investigation

4.1. On 27 February 2019, I was asked by the Authority's Monitoring Officer by email if I could be the Investigating Officer for this matter. On 28 February, I confirmed my appointment by email.

4.2. On 18 March 2019, I received by email copies of the two complaints from the Authority's Monitoring Officer being: (1) a complaint from LC Parish Councillor Mrs Jacqueline Rowland; and (2) a complaint from the Clerk to the LC Parish Council, Ginette Loach.

4.3. I e-mailed the Complainants individually on 20 March 2019 to request a meeting to discuss the complaint. A meeting date either in person or by telephone was arranged with each of the Complainants.

4.4. On the morning of 26 March, I reviewed the minutes of the February PC Meeting and considered who I should make enquiries of in the investigation of these complaints.

4.5. On the afternoon of 26 March, I telephoned the following LC Parish Councillors who were in attendance at the February PC Meeting as confirmed both by Ms Loach (by email) and the minutes of the February PC Meeting: Cllr Cutting; Cllr Bellamy; Cllr Gray; Cllr Moules; and Cllr Botterell.

4.6. I was unable to reach Cllr Gray by telephone.

4.7. I was able to speak on the telephone to Cllr Moules but she explained that she did not have time to speak to me by way of a telephone conference or to meet me in person.

4.8. I was able to speak to and arrange a time to meet or speak with Cllr Cutting, Cllr Bellamy and Cllr Botterell.

4.9. On 28 March I emailed both Complainants and requested that they let me know of any specific attendees at the February PC Meeting that they considered I should be meeting and to provide contact details. Neither of the complainants responded to this request.

4.10. On 29 March 2019 at 14:30 I held a telephone conference with complainant LC Parish Councillor Jacqueline Rowland. Cllr Rowland's statement was approved Cllr Rowland by email and is included at Appendix I.

- 4.11. On 29 March 2019 at 15:00 I held a telephone conference with LC Parish Councillor Botterell. Cllr Botterell's statement was approved Cllr Botterell by email and is included at Appendix H.
- 4.12. On 29 March I emailed Cllr Erskine to arrange a time to meet with him. The meeting date of 9 April was agreed by email.
- 4.13. On 2 April I e-mailed Cllr Erskine to ask if there were any witnesses he wanted me to speak to in relation to these complaints. Cllr Erskine did not respond to this request.
- 4.14. On the afternoon of 5 April 2019 I attended the LC Parish Council offices to attend individual pre-arranged meetings with Parish Cllr Bellamy, Ms Loach and the Chairman Councillor Cutting. When I arrived at the LC Parish Council offices there were also two residents who had turned up to speak to me. I therefore also met with resident Roy Franklin and resident David Birch on the afternoon of 5 April.
- 4.15. Cllr Bellamy's statement was approved Cllr Bellamy by email after the meeting and is included at Appendix J.
- 4.16. Clerk Ginette Loach's statement was approved Clerk Ginette Loach by email after the meeting and is included at Appendix F.
- 4.17. Cllr Cutting's statement was approved Cllr Cutting by email after the meeting and is included at Appendix G.
- 4.18. Resident Birch's statement was approved by David Birch by email after the meeting and is included at Appendix K.
- 4.19. Resident Franklin's statement was approved by Roy Franklin by email after the meeting and is included at Appendix L.
- 4.20. On 9 April at 13:00 hours I met with Cllr Erskine at Seax House, Victoria Road South, Chelmsford. Cllr Erskine's statement was approved by email by Cllr Erskine and is included at Appendix M.
- 4.21. After considering the complaints, the witness statements and the minutes of the February PC Meeting, I circulated a draft report to the Complainants and Cllr Erskine on 12 April 2019. Clerk Ginette Loach responded to the draft report to state that it was fairly written and summarised the complaint well. I did not receive any other responses to the draft report.

5. Acting as Member of the Authority

- 5.1. I have considered whether Cllr Erskine was acting in his role of Member of the Authority when he attended the February PC Meeting.
- 5.2. Cllr Erskine is invited to the LC Parish Council meetings solely as a result of his role as Essex County Councillor. Cllr Erskine is not a resident of the Parish and does not attend in any other capacity.
- 5.3. When in attendance at these meetings, Cllr Erskine is noted on the minutes of the meetings as Essex County Councillor.
- 5.4. When in attendance at these meetings, Cllr Erskine answers questions relating to his role as Essex County Councillor and often gives a report or a verbal update relating to his role as an Essex County Councillor.
- 5.5. I conclude that Cllr Erskine was acting as a Member of the Authority when he attended the February PC Meeting.

6. Investigation Findings

- 6.1. Following my investigation of the complaints which included a review of the minutes of the February PC Meeting, meetings with the Complainants, meetings with witnesses and a meeting with Cllr Erskine I have come to the findings set out in this paragraph 6.
- 6.2. Cllr Erskine was in attendance at the February PC Meeting but did not stay for the entirety of the meeting. Cllr Erskine left shortly after the meeting began. Cllr Erskine was slightly late to the meeting and upon arrival was introduced to the room by the Chairman.
- 6.3. Cllr Erskine sat at the back of the hall with members of the public/residents. It is likely that he sat at the back of the room because he was slightly late to the meeting however I conclude that he would not have sat at the table with the LC Parish Councillors in any event.
- 6.4. In recent years, Cllr Erskine has moved from sitting with the LC Parish Councillors to sitting elsewhere in the hall when attending LC Parish Council meetings. This move is as a result of a breakdown in the relationship between Cllr Erskine and the LC Parish Council which has occurred over a period of time.
- 6.5. Residents were in attendance at this meeting. The number of residents in attendance was typical for meetings of the LC Parish Council.

- 6.6. Residents were given an opportunity to speak and raise issues at the beginning of the meeting. The issues raised by residents related to highways issues, particularly speeding.
- 6.7. Cllr Erskine had not attended a LC Parish Council meeting for a period of months. It was therefore a surprise to the LC Parish Councillors and to frequent resident attendees when Cllr Erskine arrived at the February PC Meeting.
- 6.8. Shortly after Cllr Erskine's arrival, the resident's questions were directed by the Chairman to Cllr Erskine. The Chairman asked Cllr Erskine if he was able to respond to these questions.
- 6.9. I do not consider that the Chairman asked this question in a way which justified the response from Cllr Erskine. However I do consider it to be the case that the questions Cllr Erskine was asked to respond to were questions that Cllr Erskine had been asked to respond to over a period of many months and possibly years. These were questions that Cllr Erskine considered he had already provided the Chairman with a thorough response to including, most recently, in a telephone conversation with the Chairman a few days prior to the February PC Meeting.
- 6.10. In summary, Cllr Erskine responded to this request from the Chairman by way of a heated outburst directed towards the Chairman and the LC Parish Council as a whole.
- 6.11. Cllr Erskine was standing up at the back of the hall when he spoke. I consider that he was standing up because he was at the back of the room and wouldn't have been seen if he had remained seated rather than to be aggressive.
- 6.12. The LC Parish Councillors did not lose their temper with Cllr Erskine or react angrily when Cllr Erskine responded in this way.
- 6.13. At least one resident in attendance at the meeting lost their temper with Cllr Erskine and responded angrily towards Cllr Erskine because he did not respond directly to their questions.
- 6.14. Although the minutes of the February PC Meeting state that members of the public engaged in a heated argument with Cllr Erskine, I do not consider that Cllr Erskine's outburst was directed at the residents in attendance. Cllr Erskine's response was directed at the Chairman and the LC Parish Council.
- 6.15. Cllr Erskine spoke defensively and angrily during his response. There is general agreement that he said that all queries to him should be directed via the Clerk to the LC Parish Council rather than directly at the meeting or from the Chairman. The most offensive thing he said was that the LC Parish Council was one of the worst Parish Councils he had ever encountered and that other smaller Parish Councils were better run than the LC Parish Council.

6.16. I do not consider that Cllr Erskine was shouting when he made these comments but it was an emotional outburst from Cllr Erskine during which Cllr Erskine acted irrationally. He came across as irate but also upset and defensive.

6.17. I do not consider that Cllr Erskine's outburst lasted for any longer than a couple of minutes.

6.18. Cllr Erskine left the February PC Meeting immediately after this outburst and did not stay for the remainder of the meeting.

7. Mitigating Factors

7.1. My investigation has led me to conclude that the factors set out in paragraphs 7.2 to 7.5 inclusive should be taken into consideration when considering this report.

7.2. It is likely that prior to the February PC Meeting there was a breakdown in the relationship between (1) Cllr Erskine and the LC Parish Council; and (2) Cllr Erskine and the Chairman of the LC Parish Council such that Cllr Erskine considered himself to be put under significant and undue pressure at these meetings. For this reason, Cllr Erskine made the decision to stop attending LC Parish Council meetings until his attendance at the February PC Meeting. Cllr Erskine told me that he wanted to attend this meeting with a 'clean slate' rather than continually dealing with the same issues where he felt he had offered a solution to the LC Parish Council but the LC Parish Council were not acting on his suggestions. This pressure also arises from the fact that the LC Parish Council persistently pursue matters with Cllr Erskine both in LC Parish Council meetings and by phone and email.

7.3. However, as soon as Cllr Erskine arrived he heard the Chairman's report which he felt was inaccurate and where he felt he was being personally criticised. He says that the whole background made him react in the way he did although he accepts that he said what he said in the wrong way.

7.4. During Cllr Erskine's speech there was an angry response from at least one resident at the meeting who was disappointed and angry that Cllr Erskine was not responding to resident's questions. I do not consider that Cllr Erskine responded to this provocation however I do consider that this would have contributed to Cllr Erskine's perception that he felt under attack at this meeting.

7.5. I consider it likely that Cllr Erskine was unwell on the evening of the February PC Meeting and therefore was particularly susceptible to comments and took these personally. As this information is confidential further detail cannot be included as part of this report. This confidential information will be provided to the Authority's Monitoring Officer only in the form set out in Appendix N.

8. Conclusion

8.1. I conclude that there has been a breach of Paragraph 24.2.1 of the Code of Conduct.

8.2. There was a heated outburst from Cllr Erskine directed at the Chairman and the LC Parish Council at the February PC Meeting. The words used by Cllr Erskine in this outburst were disrespectful to the Chairman and to other LC Parish Councillors. This outburst did not form part of a political debate although there is a long standing disagreement between the LC Parish Council and Cllr Erskine as to how highways issues in particular in Little Clacton should be dealt with. It is relevant that the outburst from Cllr Erskine came at the beginning of the meeting when residents were asking questions and therefore does not seem justified in the circumstances. This message, if needed, could have been delivered by Cllr Erskine to the LC Parish Council in a more respectful way.

8.3. I conclude that there has not been a breach of Paragraph 24.2.4 of the Code of Conduct. The outburst was directed at the LC Parish Council, not at residents or members of the public. I conclude that it is unlikely that members of the public or residents in attendance at the February PC Meeting would have held the office of Member of the Authority in low esteem as a result of this outburst.

8.4. I conclude that there are mitigating factors which should be taken into consideration when determining how to deal with the breach of Paragraph 24.2.1 of the Code of Conduct.

Katie Bray

Head of Legal and Investigating Officer

2 May 2019

List of Appendices

Appendix A – Complaint from Ms Ginette Loach

Appendix B – Complaint from Cllr Jacqueline Rowland

Appendix C - The Code of Conduct

Appendix D – Procedure for the Investigation and Hearing of Complaints

Appendix E - Minutes of the PC Meeting that was held on 4 February 2019

Appendix F – Statement of Clerk Loach

Appendix G – Statement of Cllr Cutting (Chairman)

Appendix H – Statement of Cllr Botterell

Appendix I – Statement of Cllr Jacqueline Rowland

Appendix J – Statement of Cllr Bellamy

Appendix K – Statement of Resident Birch

Appendix L – Statement of Resident Franklin

Appendix M – Statement of Cllr Erskine

Appendix N – Confidential Annex

Appendix A

Complaint from Clerk Ginette Loach

ESSEX COUNTY COUNCIL CODE OF CONDUCT FOR MEMBERS COMPLAINT FORM

In accordance with the Localism Act 2011 Essex County Council (**‘the Council’**) has a **Code of Conduct for Members** (**‘the Code’**) and arrangements for dealing with alleged breaches of the Code. Please note that the **Code** only applies to Councillors of Essex County Council when they are acting in that capacity.

Please read the **Code** and the **Council’s** arrangements for dealing with alleged breaches of the Code before filling in this form. If you do not have a copy you can get them from the address below. Once completed the form should be returned to:

Monitoring Officer
Essex County Council
County Hall
Chelmsford
CM1 1QH

Email: Monitoring.Officer@essex.gov.uk

1. YOUR DETAILS

Title:	Clerk to Little Clacton Parish Council
First Name:	Ginette
Last name:	Loach
Address:	Parish Office Youth & Community Building Plough Corner Harwich Road Little Clacton CO16 9ND
Daytime telephone:	01255 863775
Evening telephone:	
Mobile telephone:	
Email address:	Lcpc2@btinternet.com

We will normally tell the following people that you have made this complaint:

- The member(s) you are complaining about.
- The Essex County Council's independent person.
- The Joint Standards Committee.

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete Section 3 below requesting that your identity is kept confidential..

Please indicate which category best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted member of an authority
- ☐ Member of Parliament
- ☐ Local authority monitoring officer
- ☐ Other council officer or authority employee
- ☐ Other (please state)_Parish Clerk on behalf of Little Clacton Parish Council

2. WHO YOUR COMPLAINT IS ABOUT

Please provide us with the name of the member(s) (ie Councillors) you believe have breached the Code of Conduct for Members.

Title	First name	Last name
Cllr	Andrew	Erskine

Please explain in the box below (or on separate sheets) what the member has done that you believe breaches the **Code**. It is important that you identify which part(s) of the Code you believe have been breached and how it is that you think that their behaviour breaches the **Code**. Please note, we can only investigate complaints alleging a breach of the **Code of Conduct**. If your complaint relates to something else then please contact the monitoring officer for advice.

If you are complaining about more than one member you must explain what each individual person has done.

It is important that you provide all the information you think the Monitoring Officer should consider when they are deciding whether to take any action on your complaint. For example:

- You should be specific about exactly what you are alleging the member said or did. For instance, instead of writing that the member 'insulted you', you should state what they said and when they said it.
- You should provide the details of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please state which paragraph(s) of the **Code** you think have been breached. 2.1 and 2.3(ii) and (iii).(a) Also Nolan Principles no.7 (part)
 From the Constitution Code of Conduct:
 24.2.1 , 24.2.4, Nolan Principles – 7 (Part) , 25.2 (ii)

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

At the Parish Meeting dated 4th March 2019, the Council voted for the Clerk to submit a complaint form about Essex County Councillor Andrew Erskine on their behalf to show what happened at the previous meeting on 4th February.

Excerpt from Parish Meeting minutes from February 4th 2019:

'Residents raised issues regarding speeding along Harwich Road and flooding issues. The residents have formed a group to combat this and are training for speed watch. The Chairman offered to write a letter in their support. On listening to the public's concerns The Chairman said that the ECC councillor Andy Erskine may be able to answer some of those questions as he was in the audience.

Councillor Erskine then went into what can only be described as a rant and directed at the Chairman that all enquiries should be delivered via the clerk. He stated that the Chairman should know better, and that this Parish Council was one of the worst Councils that he had encountered. He stated that much smaller councils were better run than this one. The Chairman said that in the many years that Cllr Erskine had attended meetings he had never said that everything needed to come through the Clerk and that he himself had encouraged Councillors to e-mail him with their concerns. Cllr Erskine declined to answer questions put by the public and the Chairman. Members of the public then engaged in what can only be described as a heated argument with Cllr. Erskine, which ended in Cllr. Erskine leaving the room. The Chairman then managed to calm the meeting once Cllr. Erskine had left. '

This describes the behaviour of Essex County Councillor as agreed by the Council in our meeting on 4th March 2019 and published on our website as a true record.

3. REQUEST TO KEEP IDENTITY CONFIDENTIAL (Only complete this section if you are asking us not to tell people that you have made a complaint)

In the interests of fairness, we normally tell members who are complained about the name of the person who has made the complaint. Most complainants are happy with this.

In exceptional cases we may consider withholding your name. We are unlikely to agree to withhold your identity or the details of your complaint unless you have good reason to believe that for example you may be subject to victimisation or harassment.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The monitoring officer will consider the request alongside your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint. Please note the decision of the monitoring officer is final.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

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

Additional Help

Complaints must be submitted in writing. We can accept complaints by email. However, in line with the requirements of the Equality Act 2010, we will make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you need any support in completing this form, please let us know as soon as possible.

What Happens Next?

1. We will acknowledge receipt of your complaint within 5 working days of receipt.
2. The Monitoring Officer will assess your complaint and decide what further action to take.

PLEASE MARK ALL CORRESPONDENCE 'PRIVATE AND CONFIDENTIAL'

Appendix B
Complaint from Ms Jacqueline Rowland



SCAN1453.PDF

Appendix C
Code of Conduct

<https://www.essex.gov.uk/Your-Council/Local-Government-Essex/Documents/Constitution.pdf>

Appendix D

Procedure for the Investigation and Hearing of Complaints

[https://www.essex.gov.uk/Your-Council/Councillors/Documents/Assessment and Hearing Procedure.pdf](https://www.essex.gov.uk/Your-Council/Councillors/Documents/Assessment_and_Hearing_Procedure.pdf)

Appendix E

Minutes of the Little Clacton Parish Council meeting held on 4 February 2019

Please see separate PDF document.

Appendix F

Statement of Clerk Loach

1. I was in attendance at the meeting of the Parish Council on 4 February in my role as Clerk to the Parish Council.
2. For information, the Chairman is married to my mum.
3. This was a typical meeting; there were lots of issues to be discussed and I was busy handing out agendas when Cllr Erskine arrived at the meeting.
4. He was slightly late and arrived at the meeting in a bit of a rush just before it started. I had no time to acknowledge him before the meeting started.
5. I was pleased to see him as hadn't been for a while. He hasn't been in a few months because he has had health issues. I couldn't ask how he was before the meeting started because there was no time.
6. He used to sit at the front of the meetings but at this meeting he sat at the back.
7. He may not have attended our meetings for a while because of a meeting clash.
8. The meeting started, as usual, with residents issues first. This related to a highways problem.
9. Cllr Erskine is head of the highways panel.
10. The Chairman referred to Cllr Erskine for this question and introduced him.
11. Cllr Eskine stood up and the Chairman said this one is for you.
12. The Residents were looking at Cllr Erskine. The question may have been about potholes or drainage I can't recall.
13. Cllr Erskine suddenly switched – he went on the defensive straight away - as though he was looking for a fight.
14. The chairman is bombastic and loud but I didn't think he was asking the question in a provocative way.
15. Residents emotions were high at the meeting as they were asking why things hadn't been done.

16. The Chairman is always busy – he is always being asked questions by residents – and never getting a response from Cllr Erskine. There are always highways issues – flooding on road, potholes, and pavement troubles. These issues may be a different from the highways panel remit.
17. Cllr Erskine used to be really helpful. He would help us where he could and was really genuine.
18. We weren't asking for anything special from him. We haven't heard from him in a long time and there are underlying issues that haven't been resolved.
19. Cllr Erskine went on a rant – he said it was the worst Parish Council he had ever come across and that we were incompetent.
20. It was very out of context for him. He was sitting at the back so it was hard to see if was unwell.
21. He looked dishevelled and he usually looks smarter. He is usually in a suit but I don't think he was on this occasion – he had a coat on though so it was hard to tell.
22. He didn't answer the questions. Residents were open mouthed. The rant was directed at the Chairman and then swept across the Parish Council.
23. Cllr Reed has had an altercation with him before – a couple of months ago.
24. Cllr Erskine has become less and less helpful. We have only seen him twice in the last year.
25. He was standing up when he was talking. He came across as aggressive but it may have been defensive. It looked like he felt under attack. A resident was also standing up moaning and asking him things.
26. After the full rant, he said I am not putting up with this and then he left.
27. It was a normal meeting – there are always issues. Cllr Erskine may have felt like he didn't have control, like he couldn't give an answer.
28. The nature of the beast is that these meetings result in insults and politics between different Councils but it is not personal. Cllr Erskine may have felt it was personal but he gives as good as he gets. He is not unfairly matched.

29. It was as if he came in with something else on his mind. This was just the first item and he didn't address the questions, he just ranted at the Parish Council. Then he stormed out. He was probably only there for 10 minutes. He kept his coat on but so did others as it was cold.

30. I have not spoken to him since this meeting.

31. Once a month I send Cllr Erskine the agenda for the Parish Council meetings but I have not sent him the agenda since this meeting. Usually, I invite him to all Parish Council meetings – sometimes he sends apologies.

32. He is not obliged to come – it is at his discretion but we are always grateful to see him so we encourage him to come.

Clerk Ginette Loach

Appendix G

Statement of Cllr Cutting (Chairman)

1. I am the Chairman of the Little Clacton Parish Council and I was in attendance at the Parish Council meeting on 4 February 2019.
2. I have always got on well with Andy [Cllr Erskine] and found him helpful. We have often met privately for coffee.
3. I sent emails and put in calls to Andy before the Parish Council meeting on the 4 February because I wanted to speak to him about VAS signs – this is because he is on the Local Highways Panel and is aware of the criteria for these. We don't want to be incurring costs for these as a Parish Council if we can't use them.
4. I was emailing and phoning Andy and not getting any answer in the week running up to the 4 February meeting – and indeed I did this before every meeting. He hadn't responded to me at all whereas he would have done previously.
5. Andy hadn't been to a Parish Council meeting for about 6 months; prior to this, he usually attended, was helpful and answered questions. Other Cllrs had asked me why Andy was attending the Weeley meetings but not Little Clacton.
6. I called him from my mobile a week before the meeting (he didn't know the number I think so he possibly picked up for this reason). I said I was phoning because we have a meeting on Monday evening. Andy said he had some personal problems and couldn't make Monday meetings. I said that family, of course, comes first but I wanted to ask a couple of questions. I said that if he couldn't make the meetings, perhaps he could send an apology and an update that could be relayed.
7. I was particularly trying to find out about the pelican crossing at the village hall and the VAS signs. Andy said I was wasting money on VAS signs. He was a little irate about wasting public money on them. I said I wanted to know about the criteria for them. I forgot how the conversation ended but I wished him well and ended the conversation.
8. Andy had come in just before the start and sat at the back of the room. I welcomed everyone including Andy. I then asked for questions from the public.
9. I was surprised when he turned up. He looked agitated when he came in. He didn't look well; he wasn't the normal Andy. He didn't sit at the front like the normal Andy.

10. The public started talking about speeding in Harwich Road; they asked why we can't do something about the speeding. I said that, as luck would have it, we have Andy here who may be able to answer their questions.
11. Andy then stood up at back of room and said you are the worst chairman I have ever encountered. He said I have never known a Chairman as bad as you or a Council as bad as you. He said that we should know that everything must come to him through the Clerk. I was shocked and taken aback. I said that when he came to meetings previously he engaged with me and the audience. He said you are the worst Chairman. He said that he had never known a Council like us and that the Council doesn't do enough. A couple of members of the audience got up and said that this was out of order and asked why he hasn't responded to emails.
12. The residents were vocal at the meeting on 4 February. They were arguing with Andy. The first part of Andy's rant was directed at me and the Parish Council. It was an unjustified response from him about us not doing anything. There was no indication from Andy previously that this was his concern.
13. Two or three of the residents were quite agitated.
14. Most of his rant was directed at me and the Parish Council which I thought was unjustified.
15. He then said I don't have to put up with this, I'm out of here and he left the meeting. I tried to get on with rest of the meeting.
16. I am aware that Andy may have potential health issues but only through what others have said.
17. This was completely out of character for Andy. He insulted the Parish Council in public and this leaves a bad taste in my mouth. He could have explained why he was agitated and left if necessary.
18. He has ranted previously at a meeting I understand although I wasn't in attendance. The rant was about streetlights.
19. From my own personal view, I have never had a problem with Andy. I used to meet him for coffee to discuss issues in the village such as ongoing issues with pavements and keep left signs.
20. I haven't heard from him since that meeting.

Cllr John Cutting

Appendix H

Statement of Cllr Botterell

1. I was in attendance at the Little Clacton Parish Council meeting on 4 February (the "PC Meeting") in my position as Parish Councillor.
2. The meeting started as normal.
3. Cllr Erskine was in attendance at this meeting. He hadn't been there for many of the previous meetings.
4. At the beginning of the meeting, the Chairman commented that it was nice to see Cllr Erskine in the audience.
5. Cllr Erskine is often pressed to answer questions when he attends these meetings. The Chairman is good at pursuing issues on behalf of the Parish Council and this includes ensuring that Cllr Erskine is being proactive and answering resident's questions. Many of the same types of questions are asked repeatedly. The Chairman often pursues matters with Cllr Erskine until they are resolved.
6. When in attendance at Parish Council meetings, Cllr Erskine is asked to prepare an ECC report. At this PC Meeting, Cllr Erskine was asked to respond to questions before it was time to give his ECC report.
7. The questions related to highways, in particular speeding, accident debris at the side of the road and potholes. These were all questions similar to questions that Cllr Erskine is repeatedly asked to respond to at these meetings.
8. Cllr Erskine was abrupt in his response and it escalated into a heated argument between Cllr Erskine and the Chairman.
9. Cllr Erskine was standing up when in full rant.
10. Cllr Erskine stated that the Parish Council don't follow procedures, are not as well run as other Councils and that they don't do anything good.
11. Cllr Erskine was quite irate. He said that he didn't have to be at the meeting and that he wasn't prepared to listen to these comments or take this level of abuse. He said I don't have to be here, I am not obliged to attend your meetings and then left the meeting.
12. Cllr Erskine is often put under pressure at these meetings.

13. Cllr Erskine's behaviour at the PC Meeting was different to his behaviour at other Parish Council meetings.

Cllr Botterell

Appendix I

Statement of Cllr Jacqueline Rowland

1. I was in attendance at the Little Clacton Parish Council meeting on 4 February (the "PC Meeting") in my position as Parish Councillor.
2. This was a scheduled Parish Council meeting and there were a number of residents in attendance.
3. One of the matters being raised by residents related to a serious traffic accident that had occurred in Harwich Road. As this item was being discussed, Cllr Erskine arrived at the PC Meeting and sat down at the back of the hall.
4. When I first became a Parish Councillor, Cllr Erskine used to sit at the table with the Parish Councillors however that stopped circa. 3.5 years ago. Cllr Erskine has since sat in the audience when he attends these meetings.
5. Cllr Erskine receives an invite to the monthly Parish Council meetings. He used to attend all the time but now attends infrequently. He generally doesn't send apologies.
6. The Parish Council Chairman introduced the Cllr on his arrival and asked him to contribute to the discussion about the traffic accident.
7. Cllr Erskine didn't introduce himself but stood up and shouted at the Chairman and informed him that any requests to him needed to be put through the Clerk to the Parish Council. This is the first time that Cllr Erskine has mentioned this in a Parish Council meeting. Cllr Erskine was the only person standing up at this time and was aggressive.
8. Cllr Erskine didn't answer the question. He then said he was going to leave the meeting – but he didn't – he sat back down.
9. A resident then asked a further question at which point Cllr Erskine again stood up and made accusations that the Parish Council were rubbish and that their street lights weren't as good as other Councils.
10. Cllr Erskine was ranting, particularly at the Chairman. After this rant, he left the meeting.
11. He left the meeting within 10-15 minutes of the meeting starting.

12. I am not aware of any context or provocation to this behaviour. I am not aware of any provocation from the Chairman.
13. The question was related to highways which is Cllr Erskine's area.
14. This is not the first time Cllr Erskine has acted like this. I have heard him swear previously.
15. Generally, Cllr Erskine is negative stating that there is no money or that nothing can be done.
16. Cllr Erskine's ranting was specifically directed at the Chairman.

Cllr Jacqueline Rowland

Appendix J

Statement of Cllr Bellamy

1. I was in attendance at the Little Clacton Parish Council meeting on 4 February in my position as Parish Councillor. I have been a Parish Councillor for about 13 years
2. Cllr Erskine arrived a little late as the meeting had just started. Usually, when Cllr Erskine does attend, he arrives early and exchanges pleasantries with the other Councillors. It was unusual for him to be late and to sit at the back of the meeting.
3. I was surprised to see him as he hadn't been to a Parish Council for about 6 months (possibly since August 2018).
4. Cllr Erskine didn't look well. He sat right at the back. No-one in attendance at the meeting made any comments about the fact that he hadn't attended in a while.
5. Residents were asking questions at the beginning of the meeting about highways issues. This is a normal part of the meeting.
6. The Chairman said that the County Councillor is here and is probably best able to deal with these questions. The Chairman's comment was said in a reasonable way.
7. Residents often raise highways issues. These tend to be funnelled through Cllr Erskine because he is on the highways panel.
8. One of the questions from the residents was about speeding on Harwich Road.
9. Previously Cllr Erskine has organised obtaining traffic consensus figures and the questions being asked by the residents related to this issue. Cllr Erskine was therefore being asked for progress on something that he was already dealing with. I think that the Chairman has been sending lots of emails to Cllr Erskine on this matter as the Parish Council wanted guidance on VAR signs. Emails to Cllr Erskine have mainly gone from the Chairman and the Clerk of the Parish Council. I think regular chasing emails were being sent to him because they were not getting answers.
10. When Cllr Erskine responded to this question, he said that emails could only be sent from the Clerk of the Parish Council and not the Chairman or any Councillors. He said that the Chairman should know that. This is completely contrary to what Cllr Erskine has been saying for years. He made no effort to answer the public questions or the Chairman's questions.

11. Cllr Erskine said he could only accept emails if they came from the Clerk. Cllr Erskine has never said his before – he is normally keen to answer questions, in fact, he normally wants questions so he can look into matters for us.
12. I don't think Cllr Erskine ever intended to stay at this meeting; it looked like he wanted to have his say and then go.
13. If Cllr Erskine doesn't attend the Parish Council meetings, he doesn't send a written report for which is disappointing as it is the Parish Council's only link with the County Council.
14. It was a heated and volatile reaction from Cllr Erskine. The Parish Council February minutes are a toned down version of what happened.
15. Cllr Erskine didn't shout. It was almost irrational and strange behaviour – he has never acted like that before. He has disagreed with some issues previously but never reacted in this way.
16. He was standing up the whole time – once he started talking he stayed standing up until the end.
17. There was a very heated discussion as residents tried to raise questions. Cllr Erskine said he wouldn't stay and listen to this. He said we were the worst Parish Council he has ever encountered.
18. I tried to calm the situation by saying that whatever has happened in the past is in the past and can we please move forward.
19. It became quite heated and personal.
20. He then said he was going – and walked out. Everyone was dumbstruck.
21. When Cllr Erskine got up, he didn't look well. He didn't seem his normal self. It may be that he was suffering from health issues but I can't be certain.
22. There may be issues between Cllr Erskine and other members of the Parish Council but nothing that I am particularly aware of or could comment on. He clearly doesn't get on with Chairman but I am not sure why.
23. I know that the Chairman has been in touch with Cllr Erskine about the speeding matter on the telephone.

24. The Parish Council try to do things the right way – we only wanted guidance on the VAR and where they could be located. These were legitimate questions as otherwise we can't give the public answers. We have been trying to implement VAR for months and it is has been frustrating as we haven't had the information from the County Council (via Cllr Erskine) that is needed.
25. If Cllr Erskine had an issue, he should have asked for a meeting in private and not raised these issues in public. It was embarrassing as he is the County Council representative.
26. The Parish Council are isolated from the County Council because Cllr Erskine hasn't been to a meeting in approximately 6 months – we have lost our link with the County Council.
27. The Councillors are volunteers and we have achieved a lot.
28. I can't recall anything happening 6 months ago that meant he stopped coming to meetings. There have been little issues from time to time but never ever before has he acted in this way.
29. I think he arrived at the meeting with an agenda – it wouldn't have mattered what was asked. He bypassed the questions and focussed on having a go at the Parish Council. He suggested previously that he had been slandered by the Parish Council.
30. He had his laptop with him but no written report.
31. I am surprised that he had a go at the Council as a whole and said it was the worst Parish Council he ever encountered. This took us aback. He shouldn't have made that comment with the public there and it didn't reflect well on the County Council. If he had an issue with the Parish Council I think he should have asked for a private meeting with Council members to discuss his concerns.
32. He hasn't behaved like that this before although he can sometimes be short if things are not done in the right way.

Cllr Ray Bellamy

Appendix K

Statement of Resident David Birch

1. I am a resident in Little Clacton and I was in attendance at the Parish Council meeting on 4 February 2019. I frequently attend Parish Council meetings.
2. I admit that I lost my temper with Cllr Erskine on this evening. He hadn't been to Parish Council meetings for at least 6 months.
3. Cllr Erskine and I had been conversing previously about Harwich Road. The Parish Council want to install rubbers in Harwich Road to monitor the traffic (we had installed these previously in 2016). I had been conversing with Cllr Erskine in the summer of 2018 about this issue. Cllr Erskine last emailed me in June 2018 to let me know that the person we should be speaking to about the installation of the rubbers was currently away and so it would be a couple of weeks before I heard from him. I followed this up by replying to his email on 23 August but I never heard anything further from Cllr Erskine. I didn't follow up by email after this.
4. I then heard nothing from Cllr Erskine after June – he didn't attend the Parish Council meetings until February of this year (2019).
5. Cllr Erskine had previously said at meetings that he always answers all emails sent to him.
6. When he attended the meeting in February this year, every other sentence he said indicated that he wasn't staying – he kept saying that he was going. He didn't respond to the rubbers issue at all. He ranted for approximately 10 minutes. It seemed like an easy out for him rather than answering the question.
7. Cllr Erskine's rant went quite easily went from the highways matter to a moan about the rest of the Parish Council – he wanted to change the subject. There was no provocation from the Parish Council members who were very good and I am surprised they didn't lose their temper. I, however, couldn't understand why he would turn up after 6 months and have nothing to say about this issue and I lost my temper with him and I would apologise if I saw him today.
8. I only noticed he was at the meeting when the Chairman announced he was there.
9. As he walked through the door, I could tell he didn't want to stay. He normally sits at the front of the hall and not at the back. He may have sat at the back in the hope that he wasn't asked questions. He was sitting behind me.

10. Cllr Erskine stated that we were the worst Parish Council he has had to deal with
11. He was ploughing into the Parish Councillors – I can't remember the particular issues he was raising as I was getting more and more annoyed.
12. He was quite aggressive when he spoke – in mentioning the rubbers he said you are never going to get them – he was very uptight about it.
13. He then said he was leaving and disappeared.
14. One of the Tendring District Councillors may have gone out to see him.
15. I have seen him in attendance at other meetings – he has picked on a Cllr in relation to lighting issues.
16. I understand that even the Parish Council are not getting responses from him. He has previously given contact details.
17. His behaviour was not unusual. But it was unusual in that he didn't reply to emails. He always replies to his emails – but I hadn't heard from him since August.
18. He also attends Weeley Parish Council meetings but just reports in. It may be easier for him at Weeley Parish Council as there are more issues to address in Little Clacton (highways issues, pavements etc.).
19. For him to turn up after 6 months and behave like this was out of order.

Resident David Birch

Appendix L

Statement of Resident Roy Franklin

1. I am a resident of Little Clacton and I was in attendance at the Parish Council meeting on 4 February 2019.
2. I have been to Parish Council meetings for approximately the last 2 years. I generally listen to and comment on residents issues. There was a typical amount of residents in attendance at this meeting.
3. Cllr Erskine was sitting behind me at this meeting. He usually sits at the side of the meeting with the other Cllrs. I didn't realise he was there until he started speaking after the Chairman introduced him.
4. The Chairman said that Cllr Erskine was in attendance. Cllr Erskine stood up and started talking. He usually remains seated and talks from the front.
5. Cllr Erskine stood up and said to Cllr Cutting that he wasn't doing it right. I wasn't sure what was going on.
6. Cllr Erskine said that the Chairman had to go through the Clerk.
7. Cllr Erskine was emotional saying that we weren't getting rubbers [for the road] and that we pay ridiculously low tax rates. I can't recall everything and he mentioned a few other things as well. These comments were all directed at the Parish Council.
8. The Chairman made a comment that he hasn't been attending our meetings but that he goes to the Weeley meetings
9. In my opinion, as a professional, he should have gone to the Parish Council if he had an issue
10. I am surprised it kicked off. He has never said that we are doing it wrong before.
11. It looked like he was upset for some reason. We were surprised. It was not what we would expect from him. He generally takes notes and answers questions.
12. He said I'm not doing any more of this and then left the meeting.
13. It may just be a one off as I am not aware of him acting like this previously.

Resident Roy Franklin

Appendix M

Statement of Cllr Erskine

1. I was in attendance for part of the Little Clacton Parish Council meeting on 4 February 2019.
2. I came in to the meeting as normal, although slightly late, and sat down next to the two District Councillors. I intended to stay for the whole meeting; I had lots of good news to give them.
3. I have been severely irritated by Little Clacton Parish Council and the lack of progress they make compared to other Parish Councils. For example, in relation to the VAS sign, they have been looking at this for over 3 years despite recent speed surveys showing that no intervention is needed. I have suggested other ideas to them such as a Speedwatch presence but they won't listen to me. I have always said they should look at doing something else e.g. the bridleway that hasn't been cut.
4. I find the Chairman difficult; his views on things are difficult.
5. I used to sit at the top table with the Parish Councillors when I attended meetings but now I sit with the audience as I feel uncomfortable. The Chairman constantly berates me and Essex County Council in a way which I find oppressive. I am not happy attending the meetings and have taken 6 months off attending for this reason. The meetings are too difficult so it is better to not attend and remove the stress. The Parish Council work against me rather than with me, particularly the Chairman and a couple of other Councillors. Their comments are directed at one person - me. I understand that they are angry and have issues but I can't magically fix them.
6. The residents are brilliant and I still want to work for them.
7. I have felt like this for of a couple of years. I don't feel like I can represent the people properly through this Parish Council – there is a disconnect between us. They are constantly poking at me. I have had enough.
8. They take so long to make things to happen but then take it out on me as if I am at fault. It is very much a 'them and us' mentality.
9. I can understand that they were disappointed with me on this evening. I was disappointed in me. I did have an outburst (not a rant) and I am disappointed that I did. It was totally out of character for me.

10. It feels like a constant battle with this Parish Council. The Chairman thinks everything is my fault. If I don't have the answer for them it will be my fault and this means that I can't keep the Parish Council updated effectively as I would others.
11. Within 10 minutes of the meeting started, I realised that the Chairman's report was full of inaccuracies. I challenged the inaccuracies about 3 times. I was standing up because it was a busy meeting. I tried to explain that we couldn't deal with these 3 issues at the moment and the Chairman retaliated. It felt like it was him and me. I either had to accept his berating or stand up to it. I felt like I was being bullied on that evening; I took it personally and reacted. It felt as though the issues being put to me were personal. I felt like I needed to draw a line under what they were saying. I left before I said too much.
12. A female Parish Councillor came out after I left to see if I was ok and to ask what we could do to resolve these issues. I don't know her name.
13. I know I said what I said in the wrong way but I felt it needed to be said.
14. The outburst was between me and the chairman. Other Parish Councils have had better outcomes in the last 5 years.
15. I did ask for everything to go via the Parish Council Clerk and this is because more weight can be given to items if comes through the Parish rather than an individual. I was attempting to achieve consistency across all the Parishes I deal with and this is how other councils do it. I wanted to try this with the larger Parishes. If the whole Parish gets behind issues there is more chance of getting things sorted. It also stimulates discussion and an audit trail. The Clerk wasn't doing this; it was all coming from the Chairman.
16. I have been suffering from health issues and I am prescribed a lot of medication than can affect my mood and behaviour. The Doctor said I was to reduce stress which is why I stopped attending these meetings.
17. I am not aware that the Chairman was aware of my health issues.
18. The medication I am taking may have affected me this night. If I had known that the medication could have affected me in this way, I wouldn't have gone to the meeting. I went intending to make amends for not being there for the last few months. I wanted to try to move things on with a clean slate and to update them on the work I have been doing.

APPENDIX N

CONFIDENTIAL ANNEX

[Monitoring Officer's note – Cllr Erskine has agreed that this report may be published]

This is the Confidential Annex to the confidential report dated 2 May 2019 (the “**Report**”).

In Paragraph 7.4 of the Report, I state that I consider it likely that Cllr Erskine was unwell on the evening of the February PC Meeting. As this information is confidential further detail was not included as part of the Report but has been included as part of this Confidential Annex.

When I spoke to the complainants and witnesses it became apparent that Cllr Erskine may have been unwell on the evening of the February PC Meeting and may have been suffering from longer term health issues.

When I met with Cllr Erskine I asked him if any factors could have impacted his reactions at the February PC Meeting. Cllr Erskine he informed me that he is suffering from Multiple Sclerosis (“MS”) which is a disease that affects the brain, spinal cord, and optic nerve.

Cllr Erskine informed me that as a result of this, he was taking large amounts of medication including medication for depression which is taken to alleviate MS symptoms. At the time of the February PC Meeting, Cllr Erskine had been trying to reduce the amount of anti-depressant medication he was taking to bring it down to what Cllr Erskine considered to be ‘normal levels’. Cllr Erskine also stated that he had recently started a new drug and, in his own words, was taking a “cocktail of drugs”.

I have not spoken to a medical professional but I conclude from the witness evidence and from speaking to Cllr Erskine that it is possible that he was unwell on the evening of the February PC Meeting and that his reactions may have been caused by, or contributed to, by the medication or lack of medication that he was taking.

When I spoke to Cllr Erskine he reflected that he had been having a ‘drop’ at the time of the February PC Meeting. I do not consider that Cllr Erskine was aware of this at the time.

Localism Act 2011

Promoting and Maintaining High Standards of Conduct in Local Government

Code of Conduct for Members

24.1 Introduction and Interpretation

- 24.1.1 This is the Code of Conduct for Members. The Localism Act 2011 requires the Authority to have a code of conduct which is consistent with the 'Nolan Principles' determined by the Committee on Standards in Public Life. These principles are set out in the Appendix to this Code. The Code is consistent with the Nolan Principles but any breach of the principles is not by itself a breach of the Code.
- 24.1.2 As a Member you are a representative of the Authority and the public will view you as such. Your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.
- 24.1.3 When words appear in **bold type** in this code they refer to a term which has been defined in paragraph 24.13.
- 24.1.4 This Code applies to all Members of the Authority including co-opted members of the Authority and its committees (including non-voting members). It is your responsibility to comply with the provisions of this Code.
- 24.1.5 You must comply with this Code whenever you act as a Member of the Authority or when you are representing the Authority – this includes postings to social media which relate to your role as a member.
- 24.1.6 When you act as a representative of the Authority on another body you must, when undertaking your role on that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other code of conduct or legal obligation to which you are subject as part of your role on that other body.

24.2 General Obligations

- 24.2.1 You must treat others with respect.
- 24.2.2 You must uphold the law.
- 24.2.3 You must:
- (i) ensure that your personal behaviour promotes good relations between people with different protected characteristics and is not such as may cause the Authority to discriminate unlawfully against any person under the provisions of the Equality Act 2010 or subsequent equality legislation;
 - (ii) not bully or intimidate or attempt to intimidate any person; or

- (iii) not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

24.2.4 You must not behave in a way which would be likely to bring the office of Member of the Authority into disrepute.

24.3 Confidential Information

24.3.1 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the consent of a person authorised to give it; or
- (ii) you are required by law to do so; or
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice and that third party has, before receiving the information, agreed not to disclose the information to any other person; or
- (iv) the disclosure is-
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Authority.

24.3.2 You must not prevent another person from gaining access to information to which that person is entitled by law.

24.4 Conferring an Advantage or Disadvantage

24.4.1 You must:

- (i) not use or attempt to use your position as a Member improperly to confer on or to secure for yourself or any other person, an advantage or disadvantage - financial or otherwise;
- (ii) when using or authorising the use by others of the resources of the Authority,
 - i. act in accordance with the Authority's reasonable requirements; and
 - ii. ensure that such resources are not used improperly for political purposes (including party political purposes).

24.5 Publicity

24.5. You must have regard to any applicable Code of Practice on Local Authority Publicity made under the Local Government Act 1986.

24.6 Registration of Interests

24.6.1 Subject to 24.7 below you are required to register details of your **Disclosable Pecuniary Interests** and your **Code Interests**, within 28 days of becoming a Member (or being re-elected or reappointed) in the Authority's Register of Members' Interests.

24.6.2 **Code Interests** which fall only within paragraph 24.13.2 (vi) are not registrable.

24.6.2 You must keep your entry in the register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to above within 28 days of the change occurring.

24.7 Publication of the Register of Interests

24.7.1 The Monitoring Officer will arrange for the Register of Interests to be published on the Authority's website.

24.7.2 Where the nature of one or more of your interests is such that you and the Authority's Monitoring Officer consider that disclosure of details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation then copies of the Register available for inspection and any published version of the Register will not include details of the interest but may state that you have an interest, details of which have been withheld in accordance with this Code of Conduct.

24.7.3 You must notify the Authority's Monitoring Officer within 28 days of becoming aware of any change of circumstances which means that information excluded from the register under 24.7.1 is no longer sensitive information.

24.7.4 You must review your entry on the register of interests at least once in every calendar year and notify the Authority's Monitoring Officer of any changes.

24.8 Declaration of Interests at Meetings

24.8.1 For the purposes of this paragraph, a meeting means any meeting of the Authority including the Cabinet, any committee, sub-committee, joint committees, joint sub-committees or area panels.

24.8.2 Where any matter to be considered at a meeting of the Authority at which you are present relates to or may have an impact upon a body or matter in which you have a **Disclosable Pecuniary Interest** or a **Code interest**, you must disclose the existence and nature of that interest to the meeting.

24.8.3 In addition you must withdraw from the room during the consideration of an item of business and must not participate in any debate or vote on that item of business if:

(a) you have a **Disclosable Pecuniary Interest** in that business; or

(b) you have a **Code interest** which is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

24.8.4 Paragraph 24.8.3 does not apply where:

- (a) a member has received a dispensation from the Monitoring Officer or the Audit, Governance and Standards Committee; or
- (b) a meeting is operating to a procedure which would permit a member of the public to address the committee whether on the invitation of the Chairman or otherwise, but this exemption only applies for as long as the Member is either addressing the committee or answering questions asked by any member of the committee.

24.8.5 When declaring an interest at a meeting you need not disclose the nature of the interest if you and the Monitoring Officer have agreed that it ought not appear on the public register of interests, but you must otherwise comply with the rules about declarations of interest.

24.9 Cabinet Member Decisions

24.9.1 Where a report is presented to you and you have an interest which would prevent you from participating in a meeting which was considering it, you must take no action in relation to the report unless you have first obtained a dispensation from the Monitoring Officer or the Audit, Governance and Standards Committee.

24.9.2 If a report is presented to you and you cannot take the decision because you have an interest you must notify the Monitoring Officer of the interest and that you were unable to act. The Monitoring Officer will arrange for this to be recorded with the decision.

24.10 Disclosure of Interests in Discussions and Correspondence

24.10.1 If you have an interest in any matter which you would be required to declare at a meeting, and that matter is raised in any discussion or correspondence, whether in person, by telephone or email or otherwise, with any member, employee, contractor or agent of the Authority you:

- (i) must make a full disclosure of that interest at the outset of any discussions or correspondence, or as soon as the matter is raised; and
- (ii) must not seek improperly to influence a decision about that matter.

24.11 Dispensations

24.11.1 The Authority's Monitoring Officer or the Audit, Governance and Standards Committee may, in the circumstances set out in 24.11.2, grant a dispensation which permits you to

- (i) remain in the room,
- (ii) speak,
- (iii) vote or make a decision

on a matter, notwithstanding that you have an interest in it. Any such dispensation must specify the period for which it has effect, which may not exceed four years.

24.11.2 A dispensation may be granted by the Monitoring Officer or the Audit, Governance and Standards Committee if the person with authority to grant the dispensation:

- (i) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (ii) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (iii) considers that granting the dispensation is in the interests of persons living in the Authority's area,
- (iv) considers that without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive, or
- (v) considers that it is otherwise appropriate to grant a dispensation.

24.12 Register of Gifts and Hospitality

24.12.1 You must, within 28 days of receipt, notify the Authority's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a Member from any person or body other than the Authority.

24.11.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

24.11.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

24.13 Definitions

24.13.1 In this Code the following phrases have the following meanings:

'body controlled by the Authority' means a company or similar organisation where the Authority owns a majority of the shares or the Authority is entitled to nominate a majority of the members or directors or any company owned by such a body.

'body in which the relevant person has a beneficial interest' means a firm in which you or your spouse or partner is a partner or a body corporate of which the relevant person is a director (whether or not remunerated), or in the securities of which you or your spouse or partner have a beneficial interest

‘disclosable pecuniary interest’ is an interest defined as such by the Localism Act 2011 or regulations made thereunder.

24.13.2 You have a **‘Code interest’** in matters falling within any of the descriptions which are not a **disclosable pecuniary interest**:

- (i) Any contract for goods, services or works which has not been fully discharged between you, your spouse or partner or a body in which the relevant person has a beneficial interest and a **body controlled by the Authority**;
- (ii) Any contract with the Authority which has expired within the last 2 years and which was, when it was in force, a **disclosable pecuniary interest**.
- (iii) Any tender, bid or quotation submitted within the last 2 years to the Authority which would, if accepted, have amounted to a **disclosable pecuniary interest**. Tenders, bids or quotations are not required to be registered until 28 days after the last date for the submission of tenders, bids or quotations.
- (iv) Any body of which you are a member or in which you hold a position of general control or management and to which you have been appointed or nominated by the Authority;
- (v) Any other body of which you are a member or in which you hold a position of general control or management -
 - a. which exercises functions of a public nature;
 - b. which is directed to charitable purposes; or
 - c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (vi) Any matter which might reasonably be regarded as affecting the well-being or financial position of:
 - 1. yourself
 - 2. a body in which you have a **Disclosable Pecuniary Interest** or a **Code interest**,
 - 3. a friend, relative or close associate

to a greater extent than the majority of other council tax payers or inhabitants of the electoral division affected by the decision.

24.13.3 Notwithstanding 23.12.4, an interest which is a **Disclosable Pecuniary Interest** is not a **Code interest**.

For guidance the following note summarises the statutory definition at March 2016. The Monitoring Officer will notify all Members and update this part of the code if the law changes.

A member has a Disclosable Pecuniary Interest if they or their partner have an interest of a description set out in paragraphs (1) to (7) below

In this context 'partner' means spouse, civil partner or a person the member is living with as a spouse or civil partner. Members only have to declare interests of their partner to the extent that they know about them.

Disclosable Pecuniary Interests are:

- (1) Any employment, office, trade, profession or vocation carried on for profit or gain;*
- (2) Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous twelve months in respect of any expenses incurred by the member in carrying out duties as a Member, or towards election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;*
- (3) Any contract for goods, services or works which has not been fully discharged between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council;*
- (4) Any beneficial interest in any land in the Council's area;*
- (5) Any licence of any land in the Council's area (alone or jointly with others) to occupy land for a month or longer;*
- (6) Any tenancy where to the Member's knowledge (a) the landlord is the Council and (b) the tenant is a body in which a relevant person has a beneficial interest;*
- (7) Any beneficial interest in securities of a body where:*
 - 1. that body (to the Member's knowledge) has a place of business or land in the area of the Council; and*
 - 2. either:*
 - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*
 - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.*

Note that the Audit, Governance and Standards Committee has a practice of granting dispensations to members with respect to their or their partner's role in another public body.

Code of Conduct for Members - Appendix

The Nolan Principles

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

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

4. Accountability

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.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

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.

Hello Paul,

Thank you both for your replies to my questions yesterday.

It is clear that Cllr. Erskine's health issues had a significant role in his behaviour at the meeting. This was recognised by a number of witnesses, but although it might be considered as mitigation, it does not in itself explain the incident. In reporting to the Head of Democracy and Transparency he appeared aware that his behaviour was likely to provoke a complaint, but he made no effort to apologise to those concerned.

I agree with the conclusion of the report, that Cllr. Erskine breached para 24.2.1 of the Code of Conduct in failing to show respect to the chair and members of the Little Clacton Parish Council.

I also agree that there was no breach of para 24.2.4 of the Code of Conduct.

Please let me know if I can assist further.

Best wishes,

Jonathan

2 At the Hearing

- 2.1 The Sub-committee's quorum is three. Substitute Sub-committee members may be appointed where the original member cannot attend a scheduled Hearing. Sub-committee decisions will be made by simple majority with the Chairman having a casting vote in the case of equality.
- 2.2 The standard of proof to be applied is the balance of probabilities in any findings against the Member.
- 2.3 The Sub-committee may take advice from the Monitoring Officer at any time during the Hearing or while they are considering the outcome. This advice may be taken in private.
- 2.4 The Member may be represented or accompanied by a solicitor, counsel or, with the permission of the Sub-committee, another person.

Commencement of the Hearing

- 2.5 Seats will be reserved for the relevant parties and their witnesses. A separate seat will be provided for a witness when giving evidence.

Delay at start of Hearing

- 2.6 The Hearing shall commence on the date and at the time stipulated in the notice convening the meeting but the start may be delayed by the Chairman for a reasonable period if, having had regard to the advice of the officers present and any representations received from or on behalf of the parties he or she considers such delay to be reasonable in the circumstances. The Chairman will take into account the effect the delay may have on the likelihood of the Hearing being concluded in the one session.

Absent Member

- 2.7 If the Member is not present at the time the Hearing is due to start, the Chairman will ask the Monitoring Officer whether the Member has provided any reasons for his or her non-attendance. If the Sub-committee is satisfied with such reasons, it shall adjourn to another date. If the Sub-committee is satisfied that the Member received adequate notice of the Hearing and either no reasons for the Member's non-attendance were given or the Sub-committee considers the reasons given to be inadequate, then the Sub-Committee shall decide whether to proceed with the Hearing in his or her absence or adjourn to another date.

Chairman to deal with preliminary matters

- 2.8 At the start of the Hearing, the Chairman will deal with the following preliminary matters:
- Introductions of all persons present.
 - Declarations of interest.

- Whether the parties have received a note of the procedure to be followed at the Hearing.
- An explanation of the procedure to be followed (the Chairman may invite the Monitoring Officer to explain the procedure) and whether the procedure that will be followed is different to the procedure described in this Procedure Note (again, the Chairman may invite the Monitoring Officer to address this issue). Any questions on the procedure will also be dealt with.
- Whether there are any outstanding issues or disagreements on the Pre-Hearing Summary and whether they have already been raised by the Member with the Monitoring Officer prior to the Hearing and whether there was any attempt at resolving them.

2.9 The Committee will then determine:

- whether the Member is entitled to be represented by the person nominated by him or her (if not a barrister or solicitor).
- whether all or any part of the Hearing should be conducted in private
- whether, acting reasonably, a limit should be placed on the number of witnesses which the Member or the Investigator will be entitled to call and if so, how many. This may be, for example, if the Sub-committee considers that witnesses will simply repeat earlier evidence or if their evidence is not relevant.

Explanation of Pre-Hearing Summary

- 2.10 The Chairman will ask the Monitoring Officer to present the Pre-Hearing Summary. As a copy would have already been sent to the parties this requirement can be dispensed with if the Sub-committee agrees.

Written Representations

- 2.11 In the event that the Member or the Investigator has submitted written representations prior to the Hearing, then they shall stand as read.

Findings of Fact

- 2.12 The Chairman will ask the Monitoring Officer to explain the findings of fact and those in respect of which the Member has given notice of dispute, if any.
- 2.13 If there is no dispute on the findings of fact the Chairman will, subject to the following paragraphs, move on to address whether there has been a breach of the Code of Conduct and in so doing will move onto the next stage in the process.

- 2.14 If there are any disputes on the findings of fact which have been notified to the Monitoring Officer, the Chairman will invite the Member or his or her representative to briefly outline the findings of fact which he or she disagrees with.
- 2.14 Except in exceptional circumstances, and except with the permission of the Sub-committee, the Member will not be entitled to raise any disputes on any findings of fact other than those in respect of which notice has already been given to the Monitoring Officer in response to the Questionnaire. If the Sub-committee do give permission, then it may be necessary to adjourn the hearing.
- 2.15 Once the Member or his or her representative has briefly outlined the findings of fact with which the Member disagrees, the Investigator will be invited to make submissions to support the relevant finding(s) of fact in the report which are disagreed and may, with the Sub-committee's permission, call any necessary supporting witnesses to give evidence.
- 2.16 The Chairman may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigator. All challenges will be put through the Chairman of the Sub-Committee.
- 2.17 The Chairman will then give the Member an opportunity to make submissions to support his or her version of the facts and, with the Chairman's permission, to call witnesses to give relevant evidence.
- 2.18 The Chairman may give the Investigator an opportunity to challenge any of the evidence put forward by the Member or witnesses called by the Member or his representative. All challenges will be put through the Chairman of the Sub-Committee
- 2.19 At any time the members of the Sub-Committee and the Monitoring Officer may, with the permission of the Chairman, question any of the people involved or any of the witnesses.

Deliberations on Findings of Fact

- 3.1 The Sub-Committee will retire to deliberate in private with assistance from the Monitoring Officer or other officer in order to decide on the findings of fact.
- 3.2 The Sub-Committee will then reconvene and the Chairman will announce the Sub-committee's findings of fact.

Deliberations on whether there was a Breach of the Code of Conduct

- 4.1 Once the Chairman has announced the findings of fact, the Sub-Committee will go on to consider whether or not, based on the facts, the Member has breached the Code of Conduct.
- 4.2 The Chairman will invite the Member to make submissions on the reasons why, if any, he or she does not consider there to have been a breach of the Code of Conduct.

- 4.3 The Chairman will then invite the Investigator to respond to the Member's submission, and to identify which sections of the code, they consider that the Member has breached.
- 4.4 Members of the Sub-committee and the Monitoring Officer may at any time, but with permission of the Chairman, question anyone involved on any point raised in their submissions.
- 4.5 The Chairman will then invite the Member to make any final relevant points.
- 4.6 The Sub-committee will then retire to consider the submissions in private with assistance from the Monitoring Officer.
- 4.7 Once the Sub-committee has made its decision, the Sub-Committee will reconvene and the Chairman will announce the Sub-Committee's decision as to whether or not the Member has breached the Code of Conduct.
- 4.8 In reaching its decision the Sub-committee shall make one of the following findings:
- (a) that the Member had not failed to comply with the Code of Conduct;
 - (b) that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters which were considered by the Sub-Committee;
 - (c) that the Member had failed to comply with the Code of Conduct and that a sanction should be imposed.

Finding of No Breach of Code or No Further Action

- 4.9 If the Sub-committee finds no evidence of any breach of the Code of Conduct or if it finds that there is a breach but no further action is required to be taken, then no further action shall be taken save that the Chairman may set out any recommendations which the Sub-Committee considers should be made to the authority or to all or any of its members with a view to promoting high standards of conduct. The Chairman will seek the views of the Member, the Investigator and the Monitoring Officer before the Sub-committee makes any such recommendations.
- 4.10 Where there is a finding that the Member has not failed to comply with the code of conduct, the Chairman will if the Member is present ask him whether he wishes the decision of the Sub-committee to be published in the local paper and, if not, then no notice shall be published.

Deliberations following Finding of Breach of Code

- 4.11 If the Sub-committee finds that the Member did breach the Code of Conduct, the Chairman will invite the Monitoring Officer to explain to those present what sanctions are available to the Sub-committee. The Monitoring Officer may where appropriate describe what sanctions have been imposed by Sub-committees at previous Hearings and any sanctions imposed specifically in relation to the Member concerned. The sanctions which are available to the Sub-committee are set out below.

The sanctions (all or any of the following):

- (a) Censuring or reprimanding the member or recommending the Council to do so;
- (b) Reporting its findings to Council;
- (c) Recommending to the Member that he or she make an apology to the complainant if they have not already done so.
- (d) Recommending to the appropriate person or body that the member be removed from any or all Committees or Sub-Committees of the Council or the Cabinet;
- (e) Requesting the Monitoring Officer to arrange training for the Member;
- (f) Recommending to the appropriate person or body that the Member be removed from all outside appointments to which the member has been appointed or nominated by the Authority;
- (g) Withdrawing facilities provided to the Member by the Council e.g. photocopying facilities if that facility was previously abused by the member concerned;
- (h) Excluding the member from the Councils offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- (i) recommending to the appropriate person or body that a Member's membership of one or more committees or other bodies should be suspended such time as he or she submits a written apology in a form specified by the Sub-Committee;
- (j) a recommending to the appropriate person or body that a Member's membership of one or more committees or other bodies should be suspended for a period up to a maximum of six months or until such time as he or she undertakes such training or conciliation as the Sub-Committee may specify;

'the appropriate person' includes, where relevant, the Leader of the Member's political group.

- 4.12 The Chairman may invite the Investigator to make any submissions that they wish to make about the sanction that he or she considers would be reasonable to impose and the date when it should take effect.
- 4.13 The Chairman will invite the Member to respond to the comments from the Investigator (if any) and to make submissions on the sanction to be imposed,

the time when it should run from and any mitigating circumstances he or she believes may exist.

- 4.14 The Sub-Committee shall then retire once more to decide in private with assistance from the Monitoring Officer or Legal Adviser:
- i whether to impose a sanction
 - ii where a sanction is to be imposed -
 - (a) what that sanction should be; and
 - (b) when that sanction should commence, how long it should be for, whether the sanction should be suspended and, if so, in what circumstances; and
 - iii. any recommendations the Sub-committee considers it should make to the authority or any other person or body.
- 4.15 In determining the sanction to be imposed, the Sub-committee should consider all relevant information, including the factors listed in the following section of this guidance.
- 4.16 A sanction will normally commence forthwith but the Sub-Committee can direct or recommend that it commence on any date within a period of six months after the imposition of the sanction. For example, if there are no meetings which the Member would otherwise attend in the next few months the imposition of an immediate sanction would in practice have little impact and it may therefore be appropriate for the Sub-Committee to delay the imposition of the sanction.

Written decision of Findings

- 4.17 The Monitoring Officer shall in conjunction with the Chairman prepare a short written notice of the decision and the reasons for that decision and he or she shall send a copy to the Member, the Complainant and the members of the Sub-committee as soon as possible after the close of the Hearing. In the case of a suspended sanction, it will include an explanation of the steps which need to be taken by the Member if he or she is to avoid the sanction coming into effect.
- 4.18 Within two weeks after the close of the Hearing, the Monitoring Officer shall prepare a full written decision of the Sub-committee and shall send it to the following people:
- the Member
 - the Investigator.

- the members of the Sub-committee
 - the Audit, Governance and Standards Committee (or equivalent) of any other authority involved
 - the person(s) who made the allegation.
- 4.19 Where the Sub-committee finds that there has not been a failure to comply with the Code of Conduct then the full report shall state that fact and shall state the reasons for that finding.
- 4.20 Where the Sub-committee finds that there has been a failure to comply with the Code of Conduct but that no action needs to be taken in respect of that failure then the full report shall state that fact and shall also state the details of the failure and the reasons for the Sub-committee's finding.
- 4.21 Where the Sub-committee finds that there has been a failure to comply with the Code of Conduct then the full report shall state that fact and shall also state the details of the failure, the reasons for the Sub-committee's finding and the sanction to be imposed.
- 4.22 The Monitoring Officer shall arrange for the decision to be published on the Council's website unless there has been no breach, in which case the decision shall only be published by the Monitoring Officer if the Member concerned wishes the decision to be published.

Annex 3

Guidance on Appropriate Sanctions

1. When deciding what sanction to impose, the Sub-committee should make sure that it is reasonable and in proportion to the Member's behaviour. Before deciding what penalty to set, the Sub-committee should consider the following issues:
 - What were the consequences of the failure to follow the Code of Conduct for the Member, the Council and others?
 - How serious was the incident?
 - Did the Member know (or should reasonably have known) that he or she was failing to follow the Code of Conduct?
 - Did the Member get advice from officers before the incident? Was that advice acted upon in good faith?
 - Has there been a breach of trust?
 - Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
 - Does the Member accept he or she was at fault?
 - Did the Member apologise to the relevant people?
 - Did the Member agree to attend conciliation or training?
 - Has the Member previously been warned or reprimanded for similar misconduct and/or been found to be in breach of the Code on a previous occasion?
 - Is the Member likely to do the same thing again?
 - Are there any other factors that need to be considered?
 - Are there any cost implications for the Council e.g. the cost of arranging training or conciliation?
 - What is fair, reasonable and proportionate in all the circumstances?