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17th September 2015

**Name of Cabinet Member:**

N/A - Ethics Committee

**Director Approving Submission of the report:**

Executive Director of Resources

**Ward(s) affected:**

None

**Title:** Code of Conduct update

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**Is this a key decision?**

No

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**Executive Summary:**

This report updates members of the Ethics Committee on any national issues in relation to the ethical behaviour of elected members and the local position in Coventry with regard to Code of Conduct issues.

**Recommendations:**

The Ethics Committee is recommended to:

1. Note the cases determined under the new regime nationally and request that the the Legal Services Manager, Place and Regulatory Team in consultation with the Chair of the Ethics Committee, shares the case updates with all elected Members; and
2. Note the local position relating to the operation of the Council's Code of Conduct and to delegate any actions arising from these to the Legal Services Manager,

Place and Regulatory Team in consultation with the Chair of the Ethics Committee.

**List of Appendices included:**

None

**Other useful background papers can be found at the following web addresses:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

## **Report title: Code of Conduct update**

### **1. Context (or background)**

1.1 The Council's Ethics Committee agreed that the Monitoring Officer would provide a regular update on cases relating to the Members' Code of Conduct on a national basis. This is to facilitate the Ethics Committee's role in assisting the Council with its duties under section 27 of the Localism Act 2011 to promote and maintain high standards of member conduct.

### **1.2 The national picture**

1.2.1 Since the abolition of the Standards Board for England, national statistics and case reports are no longer collated. Therefore the cases reported are taken from general research.

1.2.2 Cases reviewed cover breaches of the individual Council's Code of Conduct in the following areas;

- failing to value colleagues and staff, not engaging in an appropriate manner and failing to treat colleagues and officers with respect
- failing to act in the public interest, bringing the office of councillor into disrepute and failing to declare disclosable pecuniary interests and other registerable interests
- failing to act in the public interest and bringing the office of councillor into disrepute
- improperly using their position as a councillor and conducting themselves in a manner which is contrary to the duty to promote and maintain high standards of conduct by members.
- Failing to act in accordance with the Code when a matter in which the Subject Member had an interest was debated.

### **1.2.3 Cllr W Ashley: East Hertfordshire District Council**

In this case a complaint was made about a district councillor in connection with planning matters relating to his own property. The councillor was a member of the Development Management Committee of the authority. It was alleged that he used his council email account when pursuing his own applications and that the tone and content of emails were disrespectful towards colleagues and officers.

The Councillor was found to have breached the Council's Code of Conduct. A copy of the minutes of the hearing is attached in the Appendix to this report. The Sub Committee decided to:

- (a) Invite the Council to pass a formal motion of censure against Councillor Ashley;
- (b) Recommend that Councillor Ashley be not appointed to Development Management Committee in 2015/16 and

- (c) Ask the Monitoring Officer to draft a letter of apology on behalf of Councillor Ashley for him to sign and send to all Development Management Committee Members affected by his conduct.

#### **1.2.4 Cllr J Lister: Allerdale Borough Council**

A complaint was made against Cllr Lister that he had addressed the Council's Development Panel in breach of the Code of Conduct and failed to correct an untrue statement by another councillor. What is interesting about this case is that the councillor concerned attended the panel meeting as an applicant and addressed it in the same way any other applicant would do. There was an allegation that in so doing, he had failed to declare a DPI (in the application). However the Standards Committee decided that the councillor was acting in his private capacity when addressing the panel.

The matter has been referred for local resolution without investigation and the Monitoring Officer requested to review the Council's Standards Framework.

A copy of the decision notice is set out in the Appendix.

#### **1.2.5 Cllr M Wood: Allerdale Borough Council**

This complaint arose from the same Development Panel meeting as in paragraph 1.2.4 above in that Cllr Wood was accused of making an over familiar and inappropriate remark to the applicant for planning permission who was Cllr Lister. Cllr Wood was also accused of making an untrue statement during consideration of the application. He was said to have brought his office into disrepute and to have failed to have regard to the public interest.

The matter has also been referred for local resolution and the decision notice is attached at the Appendix. This case and the one previously, show how important it is that members are seen to treat other members in the same way that they would members of the public and that comments may be perceived differently from the way that was intended.

#### **1.2.6 Cllr Lewarne: Penzance Town Council**

A complaint was made against Cllr Lewarne that she had made comments relating to domestic abuse to a radio programme using a Twitter account which identified her as a councillor. The complaint was both about the nature of the comments made and the use of the account name "@Ruthcllr".

The decision was that it had been inappropriate for Cllr Lewarne to tweet under the account name "@Ruthcllr" as it gave the impression that she was acting in her official capacity as a councillor. No breach of the Code was found in connection with the comments that she made. The Councillor was asked to use a different Twitter account name when tweeting in a private capacity.

Extracts from the decision notice are set out in the Appendix to this report.

### 1.2.7 Cllr Moores: Bude-Stratton Town Council

Cllr Moores was alleged, at a meeting of the Council's planning committee (of which she was not a member) to have:

- questioned whether some of the members present had predetermined an application;
- shouted that the complainant should have declared an interest in a matter;
- Stayed in the meeting when a planning application was discussed, despite her family having an interest in the application.

Extracts from the official decision notice are set out in the Appendix.

While Cllr Moores was found not to have breached the Code with regard to the remarks that she was alleged to have made, she was found to have used her position to improperly confer an advantage on herself or caused another person a disadvantage. She did this by remaining in the meeting during a discussion on a planning application in which she had a non-registerable interest and failing to declare that interest. The omission was exacerbated by the fact that, although not a committee member, she sat with the planning committee. This would have caused a member of the public to believe she was a member of the committee.

Cllr Moores was required to attend Code of Conduct training.

## 1.3 The local picture

1.3.1 At its meeting on the 20<sup>th</sup> February 2014, the Ethics Committee requested that the Monitoring Officer report regularly on any complaints received relating to Members of Coventry City Council.

1.3.2 The Monitoring Officer has received two new complaints, since the date of the last Committee meeting:

- (a) a written complaint that a Councillor had used the authority and resources of the Council to promote a view on a planning application. This complaint is being considered and a decision on how to proceed with it will have been made by the date of the meeting.
- (b) a written complaint from 2 individuals that a Councillor had made racist and fascist remarks on Twitter. The complaint was dealt with under Stage 1 of the Complaints Protocol and no further action was taken. It was considered that the Councillor's comments were not beyond the range of how a reasonable reader could have viewed the remarks to which they were responding. Also, political speech is afforded a higher degree of protection under Article 10 of the European Convention of Human Rights (Freedom of Speech).
- (c) a written complaint that a Councillor had made a defamatory comment in a letter published in the local press. The complainant sought a published apology in a particular form of words from the Council and the Councillor concerned. The matter was dealt with under Stage 1 of the Complaints Protocol and the Councillor wrote an apology to the complainant.

1.3.3 Cases (b) and (c) should have been reported to the Committee's meeting in July but were omitted in error.

1.3.4 All complaints are handled in accordance with the agreed Complaints Protocol. No findings have been made by the Local Government Ombudsman in relation members of Coventry City Council. No complaints have been received by the Monitoring Officer in respect of Allesley or Keresley Parish Councils.

## **2. Options considered and recommended proposal**

Members of the Committee are asked to:

- (a) Note the cases determined under the new regime nationally and request that the Legal Services Manager (Place and Regulatory) in consultation with the Chair of the Ethics Committee bring the case summaries to the attention of all elected Members; and
- (b) Note the local position relating to the operation of the Council's Code of Conduct and to delegate any actions arising from these to the Assistant Director, Legal and Democratic Services in consultation with the Chair of the Ethics Committee.

## **3. Results of consultation undertaken**

3.1 There has been no consultation as there is no proposal to implement at this stage which would require a consultation.

## **4. Timetable for implementing this decision**

4.1 The case summaries will be shared with all elected Members as soon as possible and in any event before the next meeting of the Committee.

## **5. Comments from Executive Director, Resources**

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

## **6 Other implications**

None

**6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

Not applicable.

**6.2 How is risk being managed?**

There is no direct risk to the organisation as a result of the contents of this report.

**6.3 What is the impact on the organisation?**

No direct impact at this stage

**6.4 Equalities / EIA**

There are no public sector equality duties which are of relevance at this stage.

**6.5 Implications for (or impact on) the environment**

None

**6.6 Implications for partner organisations?**

None at this stage

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Finance: Kathryn Sutherland		Resources	04.09.15	
Legal: Helen Lynch	Legal Services Manager (Place and Regulatory)	Resources	02.09.15	3.09.15
Director: Helen Lynch on behalf of Chris West		Resources	02.09.15	3.09.15

This report is published on the council's website:  
[www.coventry.gov.uk/councilmeetings](http://www.coventry.gov.uk/councilmeetings)

## Appendix

### 1. CLLR W ASHLEY: EAST HERTFORDSHIRE DISTRICT COUNCIL: EXTRACT FROM MINUTES OF MEETING ON 30<sup>TH</sup> MARCH 2015

The Monitoring Officer submitted a report on the complaint alleging that Councillor William Ashley had breached the Authority's Code of Conduct. He reminded the Sub-Committee that, at its meeting held on 19 February 2015, it had agreed that for those matters where the Investigating Officer had concluded that Councillor Ashley had breached the Authority's Code of Conduct, a hearing meeting be held to determine whether or not that Member had failed to comply with the Code and, if so, what action should be taken as a consequence.

The Chairman outlined the hearing procedure.

The Monitoring Officer reminded the Sub-Committee that the Investigating Officer had concluded that Councillor Ashley's conduct had fallen short of reasonable expectation as to how he should treat his colleagues and that he was using his position as a councillor to pursue correspondence. Accordingly, the Investigating Officer had found Councillor Ashley to be in breach of the Code of Conduct in relation to that correspondence in that he did not value colleagues and staff, did not engage with them in an appropriate manner and failed to treat them with respect. The hearing procedure was duly followed.

The Sub-Committee agreed:

- to issue a formal letter to Councillor Ashley detailing the Sub-Committee's determination that accepted the Investigating Officer's conclusion;
- to invite Council to pass a formal motion of censure against Councillor Ashley;
- that Councillor Ashley should not be appointed to Development Management Committee in the event of seeking re-election (and being re-elected) to the Authority at the May 2015 elections;
- as the meeting was public and a press representative was in attendance, no specific press release be issued on this matter, and
- the Monitoring Officer be requested to draft a letter of apology on behalf of Councillor Ashley for him to sign and send to all Development Management Committee Members affected by his conduct.

RESOLVED – that in relation to the complaint now detailed that Councillor W Ashley had breached the Authority's Code of Conduct:

- (A) a formal letter be issued to the Member detailing the Sub-Committee's determination that it accepted the Investigating Officer's conclusion;
- (B) Council be invited to pass a formal motion of censure against Councillor Ashley;
- (C) Councillor Ashley be not appointed to Development Management Committee in the event of seeking re-election (and being re-elected) to the Authority at the May 2015 elections;
- (D) as the meeting was public and a press representative was in attendance, no specific press release be issued on this matter, and
- (E) the Monitoring Officer be requested to draft a letter of apology on behalf of Councillor Ashley for him to sign and send to all Development Management Committee Members affected by his conduct.



## **2. CLLR JIM LISTER: ALLERDALE BOROUGH COUNCIL: EXTRACT FROM DECISION NOTICE DATED 31 JULY 2015**

### **Complaint**

On 27 July 2015 Allerdale Borough Council's Standards Committee considered a complaint from Mr Ian Wright concerning the alleged conduct of Councillor Jim Lister of Allerdale Borough Council. A general summary of the complaint is set out below:

The Complainant has alleged that when planning application reference 2/2014/0582 was considered by Allerdale Borough Council' Development Panel on 25 November 2015 Councillor Lister was present and addressed the Development Panel in clear breach of the Allerdale Borough Council's Code of Conduct and he made no attempt to correct the untrue statement made by Councillor Wood that no one within 800 metres of the proposed site had objected.

Potential breaches of the Code of Conduct raised by the Complainant are in relation to paragraph 5(1) and (4) and in respect of registering and declaring disclosable pecuniary and other registerable interests:

5 When acting in you capacity as a Member

(1) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or a business carried on by you.

(4) You must not bring your office into disrepute

Registering and declaring disclosable pecuniary and other registerable interests

(5) Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State.

### **Decision**

This matter is to be referred to the Monitoring Officer for Local Resolution; to resolve the complaint informally with the appropriate action without the need for a formal investigation:

- Councillor Lister to attend Code of Conduct Training provided by the Monitoring Officer or an external provider who provides training on the Code of Conduct.
- The Monitoring Officer to review the Standards Framework, including the Code of Conduct, Guidance and Arrangements, in particular in relation to the attendance of Councillors at meetings at which their application (or a member of their family or close associates application) is being considered and report back to the Standards Committee with any recommended changes and or clarification.

The above is to take place within 6 months of the decision notice.

### **Reasons for the Decision**

In assessing this complaint the Standards Committee had regard to;

- the complaint as submitted by the complainant;
- the Council's response in relation to the Ombudsman Complaints in

- respect of this application
- the Council's response to a Judicial Review pre-action protocol letter in relation to this application.

Members considered the fact that paragraph 4 of the Code of Conduct provides that the Code applies whenever a person is acting in his/her capacity as a Member of the Authority's business or acting as a representative of the Authority. Councillor Lister was acting in his private capacity as an Applicant.

Councillor Lister addressed the Panel in accordance with the Public Participation Scheme and did not participate in the discussion or vote.

With regard to the concerns raised and the public perception in relation to these issues, the Committee resolved that the Monitoring Officer review the Standards Framework including the Code of Conduct, Guidance and Arrangements to ensure openness, transparency and accountability.

Members requested that the guidance clearly set out restrictions in relation to the attendance of councillors at Development Panel meetings where their application is being considered.

In reaching this decision the Standards Committee had full regard to the views of the Independent Person, Paul Burns.

### **What happens now?**

This decision notice is sent to the Complainant and the member against whom the allegation was made.

### **3. CLLR MARTIN WOOD, ALLERDALE BOROUGH COUNCIL: EXTRACT FROM DECISION NOTICE DATED 31 JULY 2015**

#### **Complaint**

On 27 July 2015 Allerdale Borough Council's Standards Committee considered a complaint from Mr Ian Wright concerning the alleged conduct of Development Panel Member Councillor Martin Wood of Allerdale Borough Council. A general summary of the complaint is set out below:

The Complainant has alleged that when planning application reference 2/2014/0582 was considered by Allerdale Borough Council's Development Panel on 4 and 25 November 2015, Councillor Wood made an over familiar and totally inappropriate comment to the Applicant who was Councillor Jim Lister in relation to organising a site visit prior to a decision on this application.

The Complainant has also alleged that Councillor Wood made an untrue statement to the Development Panel that nobody within 800m of the proposed site had objected.

Potential breaches of the Code of Conduct raised by the Complainant are in relation to paragraph 5(1) and 5(4):

5 When acting in you capacity as a Member

- (1) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or a business carried on by you
- (4) You must not bring your office into disrepute

#### **Decision**

This matter is to be referred to the Monitoring Officer for Local Resolution; to resolve the complaint informally with the appropriate action without the need for a formal investigation:

- Councillor Wood to attend Code of Conduct Training provided by the Monitoring Officer or an external provider who provides training on the Code of Conduct.
- The Monitoring Officer to review the Standards Framework, including the Code of Conduct, Guidance and Arrangements, in particular in relation to the attendance of Councillors at meetings at which their application (or a member of their family or close associates application) is being considered and report back to the Standards Committee with any recommended changes and or clarification.

The above is to take place within 6 months of the decision notice.

#### **Reasons for the Decision**

In assessing this complaint the Standards Committee had regard to;

- the complaint as submitted by the complainant;
- the subject member's response to the complaint;
- the Council's response in relation to the Ombudsman Complaints in respect of this application
- the Council's response to a Judicial Review pre-action protocol letter in relation to this application.

In assessing this matter Members considered the informal comments made by Councillor Wood at the meeting on 4 November and Councillor Wood's response both to the Monitoring Officer immediately after the meeting and the Corporate Director in response to the Ombudsman complaints.

Councillor Wood has responded to the complaint by saying that it was an innocent remark that he regrets making as he now understands how it could have been perceived. However, he confirmed that the comment in no way affected his objective consideration of the application; he considered the application on its merits. The comment in relation to there being no objectors within 800 metres was a mistake.

Members considered Councillor Wood's comment in relation to there being no objectors within 800 metres of the site and took account of the fact that it was an incorrect statement which unfortunately was not picked up by officers or other members as being so.

Taking into consideration all the circumstances above Members considered that the recommended Local Resolution satisfactorily addressed the issues raised.

In reaching this decision the Standards Committee had full regard to the views of the Independent Person, Mr Paul Burns.

### **What happens now?**

This decision notice is sent to the Complainant and the member against whom the allegation was made.

#### **4. CLLR RUTH LEWARNE, PENZANCE TOWN COUNCIL: EXTRACT FROM DECISION NOTICE DATED 3 MARCH 2015**

##### **Complaint**

On 2 March 2015 the Monitoring Officer considered a complaint from Miss Leanne McLean concerning the alleged conduct of Councillor Ruth Lewarne of Penzance Town Council. A general summary of the complaint is set out below:

That the subject member failed to comply with the Code of Conduct of Penzance Town Council by making comments to Laurence Reed on BBC Radio Cornwall using her Twitter account @Ruthcllr on 9 December 2014 during an item on domestic abuse that demonstrated:

- a belief that female victims of domestic violence are far worse off than male victims of domestic violence; and
- a belief that psychological abuse is somehow less important than physical abuse.

The complainant has suggested that the following paragraphs of the Code of Conduct have been breached:

- failing to treat others with respect
- conducted herself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct
- bringing her office or Council into disrepute

##### **Decision, breaches of the Code found and Sanction**

The subject member has breached the Code of Conduct of Penzance Town Council by:

- improperly using her position as a councillor to confer an advantage on herself; and by so doing
- conducted herself in a manner which is contrary to the duty to promote and maintain high standards of conduct by Members.

The information that has been provided does not disclose any other breaches of the Code of Conduct.

To remedy the breaches found the subject member should amend her Twitter account to make it clear that she is not operating that account in her official capacity as a Member of Penzance Town Council or acknowledge that she operates that account in her official capacity and observe the Code of Conduct each and every time it is used. It might be appropriate for the subject member to run two separate Twitter accounts, one for her private capacity and one for her official capacity.

I do not consider it necessary for the subject member to issue any formal apologies.

##### **Reasons**

In reaching this decision I have had regard to the complaint, the views of the Independent Person, the comments of the subject member as recorded by the Independent Person and the views expressed by Laurence Reed. The subject member has not submitted a written response to the complaint.

The Code of Conduct was clearly engaged, albeit the subject member is noted as denying that she was acting in her official capacity. She denies that the Twitter name '@Ruthcllr' gives the impression to others that she may be acting in her official capacity. That is nonsense as the complainant believes that the subject member was acting in her official capacity. The Code of Conduct is engaged not only when councillors are engaged in official capacity conduct but also when those who are councillors hold themselves out as acting in their official capacity or conduct themselves in such a way that a third party could reasonably conclude that they were acting as a representative of their council. That appears to be what the complainant has concluded and that is a reasonable conclusion to reach and one with which I agree. Using 'cllr', which is a common abbreviation of 'councillor' as part of her Twitter name cannot, in my opinion, be for any other purpose than to identify the subject member as a councillor. I cannot think of any other reason for doing so and the subject member has offered no legitimate explanation to counter this conclusion.

The subject member spoke to the Independent Person engaged in the consideration of this complaint and is noted as saying that if she changed her Twitter name she would lose her 500 followers and have to start again. This is in addition to the denial mentioned above. The subject member is a Penzance Town Councillor and is entitled to identify herself as a councillor when acting in that capacity. However, it is not legitimate to give the impression that a Twitter account is associated with her official capacity when it is not so associated. It appears from the statement the subject member made to the Independent Person that she is content to allow people to think that her Twitter account is associated with her role as councillor whilst at the same time denying that she has used it in her official capacity in relation to the conduct complained about. That creates an irreconcilable tension. Further, any inconvenience or loss of Twitter status there may be for the subject member as a result of changing her profile to ensure it is not linked to her official status provides no justifiable reason for continuing to allow the perception to remain that the subject member tweets in her official capacity using that account. On the basis of the information I have considered I consider it legitimate to conclude that the subject member is improperly using the 'cllr' identifier in her Twitter name.

In relation to the substantive comments to which the complaint relates I cannot find a breach even though the Code of Conduct is engaged. Having regard to the law relating to the freedom of speech it would be inappropriate to find a breach of the Code in relation to the comments made as they appear to have been an expression of the subject member's views as part of a wider debate. The manner in which the views are reported suggest they are inarticulate and less informed than they might otherwise be. It is very easy to understand why the comments might be unpalatable to the complainant. However, they do not give rise to a breach of the Code of Conduct.

I have recorded above the action I consider the subject member should take to remedy the breaches I have found. If the subject member fails to take action to address this issue she runs the risk of further findings of breach of the Code being made in relation to any further statements made using that facility.

### **What happens now?**

This decision notice is sent to the complainant, the member against whom the allegation has been made and the Clerk to Penzance Town Council

## **5. CLLR MOORES, BUDE-STRATTON TOWN COUNCIL : EXTRACT FROM DECISION NOTICE DATED 21 MAY 2015**

### **Complaint**

On 20 May 2015 the Monitoring Officer considered a complaint from Councillor Robert Willingham concerning the alleged conduct of Councillor Lesley Moores of Bude Stratton Town Council. A general summary of the complaint is set out below:

The Complainant has alleged that, at a meeting of Bude Stratton Town Council Planning Committee held on 19 February 2015;

- The Subject Member questioned whether or not some of the members present were predetermined;
- Shouted that the Complainant should have declared an interest in a matter;
- Stayed in the meeting when planning application PA15/00396 (the 'Application') was discussed, despite the Subject Member's family having an interest in the Application.

Potential breaches of the Code of Conduct raised by the Complainant are that the Subject Member;

- Failed to treat other with respect;
- Brought their office or authority into disrepute; and
- Failed to act in accordance with the Code when a matter in which the Subject Member had an interest was debated.

### **Decision and Sanction**

The Subject Member has breached paragraph 2.11 of the Code of Conduct for Bude Stratton Town Council by sitting with a Committee of which she is not a member whilst a matter in which she had an interest was discussed. The Subject Member is considered to have used her position to improperly confer an advantage on herself or caused another person a disadvantage.

As a result of this breach I consider an appropriate sanction is for the Subject Member to attend training on the Code of Conduct within 6 months of the date of this decision.

### **Reasons**

In assessing this complaint I have had regard to the following:

- The complaint;
- The response to the complaint submitted by the Subject Member;
- A response from the chair of the Planning Committee; and
- The views of the Independent Person assigned to this matter.

The Complainant has alleged that, at a meeting of Bude Stratton Town Council Planning Committee held on 19 February 2015;

- The Subject Member questioned whether some of the members present were predetermined;
- Shouted that the Complainant should have declared an interest in a matter;
- Stayed in the meeting when planning application PA15/00396 (the 'Application') was discussed, despite the Subject Member's family having an interest in the Application.

The Complainant has also advised in his complaint that the Subject Member is not a member of the Planning Committee but was allowed to sit at the table with other Committee members.

The Subject Member has responded to the complaint by stating that she did not shout during the debate and was careful not to join in the conversation. The Subject Member has made no reference to the allegation that she should have declared an interest in the matter concerning the Application.

The Chairman to the meeting has advised the Subject Member did raise an issue regarding predetermination, either before or at the start of the meeting, and that there were no declarations of interest. However, the Chair has further stated that the Subject Member did raise the issue of the Complainant having a potential interest in a matter.

With regards to the raising of the issue of predetermination; whether it was right that a member who was not a member of the Committee was able to raise this at the meeting is something which the Chairman of the meeting has discretion over and as such, this is not considered further as part of this assessment.

With regards to the allegation that the Subject Member shouted that the Complainant should have declared an interest.

The Complainant and the Subject Member offer conflicting views on the way in which the matter of the interest was raised, the Complainant alleges that the Subject Member shouted. The Subject Member has stated she never shouts but fails to mention if she did raise the matter of an interest. The Chairman of the meeting has advised that the Subject Member did raise the issue of an interest but in doing so did not raise her voice.

Whilst I am satisfied that the Subject Member did raise the issue of an interest I am not satisfied, on the balance of probabilities, that in doing so she raised her voice and this was done in a manner which was disrespectful. As with the issue of predetermination, whether the Subject Member should have been allowed to raise this is a matter for the Chairman of the meeting. As a result I find no breach of the Code with regards to this part of the allegation.

With regards to the allegation that the Subject Member should have declared an interest when the Application was discussed.

The Complainant has set out that he considers the Subject Member's interest arises due to her ownership of the Lower Wharf Centre and the overall family interest is business on the Lower Wharf.

The Subject Member has opted not to respond to this part of the allegation however, the Independent Person assigned to this matter has advised that in their discussions with the Subject Member, the Subject Member has said she was inclined to leave the room but she was persuaded to stay and in the future she would listen to her own conscience and leave.

I have carefully considered if an interest has arisen due to the business holdings of the Subject Member in relation to the Application and consider that, taking an objective view of the facts; a reasonable member of the public would conclude that an interest arises.

However, I am not sufficiently satisfied that that a Disclosable Pecuniary Interest has arisen. Whilst there may be an impact on the Subject Member's business this is not considered to be so significant that it would affect her judgement. The reason for this is the lack of proximity of the Application to the member's business and other businesses in the area.



I do however, consider that a Non-Registerable Interest under Part 5B of the Code arises; as there is a potential for the Application to affect the wellbeing of the Subject Member or family or other people with whom she has a close association, more than it would others in the area.

In considering what action the Subject Member should have taken it is noted that the Subject Member is not a member of the Planning Committee and therefore would not have been required to declare an interest at the start of the meeting. When the matter arose on the agenda however, the Subject Member should have left the meeting setting out, for the record, her reasons for doing so.

That the Subject Member stayed in the meeting is compounded by the fact that she sat with the Planning Committee and therefore, in the eyes of an independent observer, was part of the Committee itself.

Given the fact the Subject Member had a Non Registerable Interest in the Application I am of the view that a reasonable person would consider that the Subject Member was using her position to her advantage, by sitting with the Planning Committee and then staying in the room when the Committee debated a matter in which she had an interest. I have in considering this taking into account that the Subject Member was allowed to sit with the Committee. This in itself is not a breach of the Code, but the breach arises by staying there once the matter in which she had an interest arose.

I therefore consider that the Subject Member has breached paragraph 2.11 of the Code of Conduct for Bude Stratton Town Council as she is considered to have used her position to improperly confer on herself an advantage or cause another person a disadvantage.

Whilst a breach of the Code has been found in considering a sanction for this breach I have noted that the Subject Member has said she was persuaded to stay in the room, despite having an interest.

As a result I consider an appropriate sanction is for the Subject Member to attend training on the Code of Conduct within 6 months of the date of this decision.

### **What happens now?**

This decision notice is sent to the complainant, the member against whom the allegation has been made and the Clerk to Bude Stratton Town Council.