

To: Members of the Standards Committee

Councillors Hayfield, Barnett, Clews, Guilmant, Jackson, Jarvis, Jenns, Humphreys, H Phillips, Ridley, Singh, Turley, Whapples and A Wright

The Independent Persons appointed under the Localism Act 2011

For general enquiries please contact Democratic Services on 01827 719221/719226/719237 or via email – democraticservices@northwarks.gov.uk

For enquiries about specific reports please contact the officer named in the reports.

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STANDARDS COMMITTEE

18 AUGUST 2025

The Standards Committee will meet on Monday, 18 August 2025 at 6.30 pm in The Council Chamber, Council House, South Street, Atherstone, Warks, CV9 1DE.

AGENDA

- 1 Evacuation Procedure**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

The contact officer for this report is Sofia Ali.

4 Exclusion of the Public and Press

To consider, in accordance with Section 100A(4) of the Local Government Act 1972, whether it is in the public interest that the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

The Report and Appendices to this item are not published as they contain exempt information. The Committee is asked to decide as a preliminary issue whether the Report and the Appendices should be made public

5 To consider the Report about Standards Complaints investigations

STEVE MAXEY
Chief Executive

Agenda Item No 4

Standards Committee

18 August 2025

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 5

Standards Complaints investigation – Report of the Monitoring Officer

Paragraph 1 – By reason of the report containing information relating to an individual.

In relation to the item listed above members should only exclude the public if the public interest in doing so outweighs the public interest in disclosing the information, giving their reasons as to why that is the case.

The Contact Officer for this report is Julie Holland (719237).

NOT FOR PUBLICATION

by virtue of paragraph 1
of Part 1 of Schedule 12A to the
Local Government Act 1972

Agenda Item No 5

Standards Committee

Date 18 August 2025

Report of the Monitoring Officer

**Standards Complaints
investigation**

1 Summary

- 1.1 This report relates to the outcome of investigations into complaints about members of Water Orton Parish Council. The report recommends to members to agree to take no further action on the appended reports except for appropriate reporting, under the Council's approved "Arrangements for dealing with standards allegations under the Localism Act 2011" (the Arrangements). My report explains the context and reasons for the recommendations.

Recommendation to the Committee

- 1 To receive and note this report and appendices;**
- 2 To agree to send the reports for information to the Parish Council; and**
- 3 To agree to take no further action on the complaints.**

2 Consultation

- 2.1 The final reports included in the Appendices have been shared with the complainants and those councillors who are the subject of the complaints (Parties). The Parties have been told that the matters will be reported to this Committee with a recommendation of no further action. The Parties were invited to make comments on the draft reports before they were finalised and we incorporated those comments into the final reports. The Parties were also invited to make comments if they wished on the final reports for this Committee. Comments were received from former Councillor Bevan only. He said:

Dear Standards Committee,

This email is formal confirmation that I accept the reports (in a pack from the NWBC Head Of Legal Services under a covering letter dated 13 May 2025) along with their findings and conclusions in relation to the matters concerning the operation of Water Orton Parish Council in 2022, specifically the actions of Cllr Robinson and Cllr O'Meara.

I would also like to formally record my sincere thanks to Wilkin Chapman and specifically to Gill Thompson and Demi Frecklington for their professionalism and sensitivity throughout this process. Their diligence has been greatly appreciated.

My objectives throughout this whole process have been consistently focused on bringing information about the operation of the Parish Council in 2022 into the open. For the avoidance of doubt, this includes making the Wilkin Chapman reports publicly available and I authorise publication of my evidence pack. I support the proposal in the letter of 13 May 2025 to hold the June Standards Committee in public.

I note the initial view of the Monitoring Officer (dated 17 April 2023), which recommended that *"Water Orton Parish Council formally acknowledge this finding in a public meeting so that Councillor Bevan's conduct as an elected member in relation to these matters can be seen to be beyond reproach. In any event, this Council will issue a press release to that effect."* I am currently unclear as to whom the Monitoring Officer refers to as "this Council" in the context of issuing the press release.

Therefore, I respectfully request that the Standards Committee consider releasing the aforementioned press release. Alternatively, if the Standards Committee deems it more appropriate, I would appreciate it if you would strongly recommend that Water Orton Parish Council do so; I believe the current Parish Council are prepared to make the press release but are awaiting the outcome of the Standards Committee investigations before doing so.

Furthermore, I would be grateful if the Standards Committee would write to Water Orton Parish Council with copies of the Wilkin Chapman reports. Alongside this, I request a recommendation that these reports are raised at the next feasible Parish Council meeting and effectively read into the Parish Council minutes and records.

Thank you for your time and consideration of these requests.

Sincerely,
Neil Bevan

- 2.2 Members should be advised that, as Mr Robinson and Ms O'Meara are no longer councillors, formal findings of a breach of the Code of Conduct cannot be made against them and therefore sanctions, which might include a formal press release or recommendations of action to the Parish Council, cannot be imposed on them. The possible actions which the Committee can take are set out in the Recommendations at paragraph 1.1 of this report.

3 Introduction

- 3.1 All but one of the complaints were referred to Wilkin Chapman LLP by a previous Monitoring Officer for investigation on 23 March 2023. The

Monitoring Officer referred Councillor Bevan's second complaint to Wilkin Chapman LLP to include in the investigation on 28 June 2023. Members should note that the firm's name changed to Wilkin Chapman Rollits with effect from 1 April 2025. Councillor O'Meara and Councillor Robinson resigned from the Parish Council either before or during the investigations. However, at a meeting of this Committee on 6 September 2023, the Committee decided to continue with the investigations. Item 3 of the Minutes states:

"That having regard to the views of the Independent Persons present, in accordance with the Localism Act 2011, the investigation into the allegations should continue since there is significant public interest in ascertaining whether correct procedures were followed in relation to spending public funds, whether Councillors A and B declared their interests in the matters concerned and whether their treatment of other members of the Council was in accordance with the Code of Conduct."

4 The Investigation Findings

4.1 Report 1 – Councillor Neil Bevan's complaints against Councillor Belinda O'Meara

Councillor Bevan and Councillor O'Meara are former Water Orton Parish Councillors. Councillor Bevan raised two complaints against Councillor O'Meara:

Complaint 1

Councillor O'Meara's handling of two issues: a complaint by Councillor Bevan about the Clerk and a grievance raised by the Clerk against Councillor Bevan;

Complaint 2

Councillor O'Meara's handling of a settlement agreement in relation to the former Clerk.

Councillor O'Meara resigned from the Parish Council prior to the matter being referred for investigation. The Monitoring Officer in post at the time was unaware of her resignation.

Findings

In respect of Complaints 1 and 2, the investigator concluded that, if Councillor O'Meara had still been a councillor, she would have been in breach of paragraph 1 of the Parish Council's Code of Conduct (Respect).

The investigator found that, if Councillor O'Meara had still been a councillor, she would not have been in breach of paragraph 2 of the Parish Council's Code of Conduct (Bullying).

4.2 **Report 2 – Complaints by Councillor Neil Bevan against Councillor Philip Robinson**

At the time of the complaint, Councillor Robinson was Chair of the Parish Council. He resigned during the course of the investigation. The complaints were similar to Councillor Bevan's complaints against Councillor O'Meara. However, Councillor Robinson was Chair of the Parish Council and there is also a family relationship between him and the former Clerk. The complaints were about the following issues:

Complaint 1

Councillor Robinson's handling of two issues: a complaint by Councillor Bevan about the Clerk and a grievance raised by the Clerk against Councillor Bevan;

Complaint 2

Councillor Robinson's handling of a settlement agreement in relation to the former Clerk.

Findings

In respect of Complaints 1 and 2, the investigator concluded that, if Councillor Robinson had still been a councillor, he would have been in breach of:

paragraph 1 of the Parish Council's Code of Conduct (Respect) and;
paragraph 3 of the Parish Council's Code of Conduct (Seeking to improperly confer an advantage on any person).

In respect of Complaint 2, the investigator concluded that, if Councillor Robinson had still been a councillor, he would have been in breach of: paragraph 13 of the Parish Council's Code of Conduct (Other Interests).

In respect of Complaints 1 and 2, the investigator found that, if Councillor Robinson had still been a councillor, he would not have been in breach of paragraph 2 of the Parish Council's Code of Conduct (Bullying).

4.3 **Report 3 – Complaints by Mr Steve Stuart against Councillor Philip Robinson**

Mr Stuart had been a parish councillor but, at the time of his complaints, his term of office had expired, and he chose not to stand again. He raised his complaints as a member of the public. His complaints are summarised as follows:

Complaint 1- Environmental Policy

Mr Stuart complained about how the Parish Council handled the implementation of a revised Environmental Policy which he had drafted and proposed for adoption shortly before he left the Parish Council. Mr Stuart

complained both about the communications from the former Clerk and the fact that a different version of the Environmental Policy eventually appeared on the Parish Council's website, and his proposed version was not publicised.

Complaint 2 – the Dog Inn

While on the Parish Council, Mr Stuart had been involved in steps to register the Dog Inn as an Asset of Community Value. An application was submitted to the Borough Council. Mr Stuart complained that, following his emails to the Clerk about progress of the application, the Clerk confirmed that she knew nothing about the application, and the application subsequently disappeared from the Borough Council's website.

Complaint 3 - Liaison personnel between the school and parish council, the EGM & GM of November 2021 & subsequent complaint.

During his time as parish councillor, Mr Stuart was co-opted onto the local school's Board of Governors. After his time as parish councillor ended, another parish councillor took on the role but later resigned from the Board of Governors. Mr Stuart offered to take on the role as liaison person between the Parish Council and the school. The Parish Council did not take up this offer. Mr Stuart subsequently emailed the Parish Council on 30 December 2021 to raise a formal complaint about the Clerk's behaviour towards him in communications about the issue and in the Parish Council Meeting of 25 November. He also complained about Councillor Robinson's failure to deal with his attempts to resolve the matter informally.

Findings

In respect of Complaints 1 and 3, the investigator concluded that, if Councillor Robinson had still been a councillor, he would have been in breach of paragraph 1 of the Parish Council's Code of Conduct (Respect)

In respect of Complaint 3, the investigator concluded that, if Councillor Robinson had still been a councillor, he would have been in breach of paragraph 3 of the Parish Council's Code of Conduct (Seeking to improperly confer an advantage on any person).

In respect of Complaint 2, the investigator concluded that, if Councillor Robinson had still been a councillor, he would not have been in breach of paragraph 1 of the Parish Council's Code of Conduct (Respect) and that there was insufficient evidence to make any finding on paragraph 3 (Seeking to improperly confer an advantage on any person)

5 Report Implications

5.1 Finance and Value for Money Implications

- 5.1.1 To date the Council has spent approximately £29,281.00 (excluding VAT) on the external investigators. These costs are met from existing budgets.

5.2 Safer Communities Implications

- 5.2.1 There are no Safer Communities implications in relation to the proposals in this report.

5.3 Legal, Data Protection and Human Rights Implications

- 5.3.1 The complaints and investigation have been managed in accordance with the Localism Act 2011 and the Council's Arrangements. Relevant third party and other relevant personal data has been redacted within the reports as necessary. However, in the interests of transparency and accountability, it is appropriate that this report and the appendices are dealt with in a public meeting.

5.4 Environment, Sustainability and Health Implications

- 5.4.1 There are no Environmental and Sustainability implications to the proposals in this report.

5.5 Human Resources Implications

- 5.5.1 There are no Human Resources implications to the proposals in this report.

5.6 Risk Management Implications

- 5.6.1 There are no Risk Management implications to the proposals in this report.

5.7. Equalities Implications

- 5.7.1 There are no Equalities implications in relation to the proposals in this report.

The Contact Officer for this report is Sofia Ali, Monitoring Officer.

Appendices

- A The Council's Arrangements.
- B Report into complaints by Councillor Neil Bevan against Councillor Belinda O'Meara.
- C Report in complaints by Councillor Neil Bevan against Councillor Philip Robinson.
- D Report into complaints by Mr Steve Stuart against Councillor Philip Robinson.

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority or of a parish council within North Warwickshire has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a Committee or Sub-Committee of the authority, or of a parish council within the authority’s area has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member or a member or co-opted member of a parish council against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council’s Offices.

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council or request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write to:

Sofia Ali
Monitoring Officer
North Warwickshire Borough Council
Council Offices
South Street
Atherstone
Warwickshire
CV9 1DE

Or email: sofiaali@northwarks.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the One Stop Shop at the Council's Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person and the Group Spokespersons on the Standards Committee, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

If the complainant is not happy with that decision, the matter will be reported to the Standards Committee for Councillors to review that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and/or offering an apology, or other remedial action by the authority. Where the member or the authority makes a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix Two to these arrangements.

If the Monitoring Officer or Standards Committee decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

The Monitoring Officer, in consultation with the Group Spokesperson, may still report the findings of the Investigating Officer to the Standards Committee.

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person and Group Spokespersons on the Standards Committee, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person, Group Spokespersons on the Standards Committee and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and/or offering an apology, and/or other remedial action by the

authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may:

- 8.1 Censure or reprimand the member;
- 8.2 Publish its findings in respect of the member's conduct;
- 8.3 Report its findings to Council or to the Parish Council for information;

- 8.4 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the member be removed from particular responsibilities;
- 8.6 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
- 8.7 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.8 Withdraw or recommend to the Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.9 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member and to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Hearings Panel?

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Council, including members drawn from at least two different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be “independent” if he/she:

- 11.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;
- 11.2 Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority’s area, or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means:
 - 11.3.1 Spouse or civil partner;
 - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 Grandparent of the other person;
 - 11.3.4 A lineal descendant of a grandparent of the other person;
 - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

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

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

CONFIDENTIAL REPORT



North Warwickshire
Borough Council

PRIVATE AND CONFIDENTIAL

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for North Warwickshire Borough Council, into allegations concerning Councillor Belinda O'Meara of Water Orton Parish Council.

Dated: 13 June 2024

VOLUME 1 REPORT

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CONFIDENTIAL REPORT

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CONFIDENTIAL REPORT

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Appendix A Schedule of evidence taken into account and list of unused material

CONFIDENTIAL REPORT

1. Executive Summary

- 1.1 Councillor Belinda O'Meara is a former member of Water Orton Parish Council (the Parish Council).
- 1.2 At the time of the alleged conduct Councillor O'Meara was Vice Chair of the Parish Council and Chair of the HR Committee. She will be referred to throughout the report as Councillor O'Meara.
- 1.3 At the time of the alleged conduct Neil Bevan was a member of the Parish Council and will be referred to throughout the report as Councillor Bevan.
- 1.4 At the time of the alleged conduct Councillor Robinson was Chair of the Parish Council. He will be referred to throughout the report as Councillor Robinson.
- 1.5 The former Clerk is Councillor Robinson's sister-in-law.

Complaint 1 – Councillor Bevan's complaint against the Clerk

- 1.6 On 26 June 2022 Councillor Bevan made a complaint against the Clerk.
- 1.7 Councillor Bevan received no formal acknowledgement of his complaint although Councillor O'Meara confirmed in person that she was investigating his complaint.
- 1.8 On 28 June 2022 Councillor O'Meara wrote to Councillor Bevan to say that his complaint had been discussed at a HR Committee meeting and the findings would be presented to the Parish Council meeting on 30 June 2022.
- 1.9 Councillor O'Meara reported to the Parish Council meeting on 30 June 2022, but Councillor Bevan does not believe the report addressed all parts of his complaint. Councillor Bevan confirmed he was unhappy with the report and the way the Clerk was operating. The meeting became heated and the Chair of the Parish Council (the Clerk's brother-in-law) said he intended to call an Extraordinary General Meeting (EGM) to deal with the complaint.
- 1.10 On 18 July 2022 Councillor Bevan requested an update. Councillor O'Meara told Councillor Bevan that at the closed session of the Parish Council meeting on 30 June 2022 Councillor Bevan had confirmed he was happy with the responses received and that a meeting was organised for 21 July 2022 to discuss an outstanding point.
- 1.11 The EGM arranged on 21 July 2022 was cancelled and Councillor O'Meara informed Councillor Bevan they were awaiting a briefing from Warwickshire & West Midlands Association of Local Councils (WALC).
- 1.12 Councillor Bevan has not received a written response to his complaint.
- 1.13 On 28 June 2022 Councillor O'Meara notified Councillor Bevan that a grievance had been lodged against him. Councillor O'Meara informed him that the HR Committee would contact him to attend a meeting at which the grievance would be discussed.
- 1.14 Councillor Bevan requested a copy of the grievance but Councillor O'Meara refused this request on the basis the grievance was a confidential document.

CONFIDENTIAL REPORT

- 1.15 On 30 June 2022 Councillor O'Meara invited Councillor Bevan to an informal meeting with the HR Committee. This meeting was to be held on 4 July 2022 at the cricket club.
- 1.16 Councillor Bevan asked whether he would be provided with a copy of the grievance at the meeting, again, this was refused on the basis that it is a confidential document.
- 1.17 Councillor Bevan considered the meeting was not properly constituted and therefore declined to attend. He does not believe the meeting took place.

Complaint 2 – Negotiation and Terms of Settlement Agreement

- 1.18 In his complaint Councillor Bevan refers to a Non Disclosure Agreement (NDA). In employment disputes generally, and in the case referred to in this complaint, this document is called a Settlement Agreement. Within Councillor Bevan's and others' comments we have left in the acronym "NDA", to show how they referred to the document, but in our assessment, we have referred to it as a "Settlement Agreement".
- 1.19 Councillor O'Meara led the negotiation of a Settlement Agreement for the former Clerk.
- 1.20 Councillor O'Meara was part of a group formed to negotiate the terms of the Settlement Agreement but the group was not the HR Committee and was not a properly constituted committee of the Parish Council.
- 1.21 Councillor O'Meara allowed Councillor Bevan and another Parish Council member to be personally named in the Settlement Agreement without their consent. Councillor Bevan believes that the Settlement Agreement contains restrictions on him personally about his activities.
- 1.22 Councillor Bevan is unaware of any legislation which will allow any local authority to impose limitations on any person.
- 1.23 Councillor Bevan is unaware of the reason for personally naming him in the Settlement Agreement.
- 1.24 The allegations are that Councillor O'Meara has:
 - (a) failed to treat Councillor Bevan with respect; and
 - (b) displayed bullying conduct towards Councillor Bevan.
- 1.25 We have concluded that there has been a breach of the Code of Conduct concerned because Councillor O'Meara failed to treat Councillor Bevan with respect.
- 1.26 We have concluded that Councillor O'Meara did not bully Councillor Bevan.

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2. Official details

- 2.1 Councillor O'Meara is a former member of Water Orton Parish Council.
- 2.2 At the time of the alleged conduct Councillor O'Meara was Vice Chair of the Parish Council and Chair of the HR Committee.
- 2.3 We have been unable to ascertain whether Councillor O'Meara received Code of Conduct training whilst serving on Water Orton Parish Council.

3. Relevant legislation and protocols

- 3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.
- 3.2 Section 28 (1) of the Act provides that the Council must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:
- (a) Selflessness;
 - (b) Integrity;
 - (c) Objectivity;
 - (d) Accountability;
 - (e) Openness;
 - (f) Honesty;
 - (g) Leadership.
- 3.3 The Council adopted a Code of Conduct (attached at WC 1) which includes the following:

“General obligations

In addition to the General Principles of Public Life, when a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. *He/she shall behave in such a way that a reasonable person would regard as respectful.*
2. *He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.”*

4. Evidence and facts

Our appointment

- 4.1 North Warwickshire Borough Council's (the Borough Council) arrangements for dealing with standards complaints state that the Monitoring Officer of the Borough Council (MO) in consultation with the Independent Person (IP) together with the Chair and Spokesperson of the Borough Council's Standards Committee, having applied the legal jurisdiction criteria test, shall decide whether or not the complaint should be referred for investigation.
- 4.2 Clive Tobin, the MO, decided to refer the first complaint (Complaint 1) for investigation and instructed Wilkin Chapman LLP on 11 April 2023 to carry out that investigation.
- 4.3 The MO decided to refer the second complaint (Complaint 2) for investigation and instructed Wilkin Chapman LLP on 28 June 2023 to undertake that investigation.
- 4.4 After taking the decision to refer the matter for investigation, the MO was informed that Councillor O'Meara had resigned her position as a Councillor in December 2022. Accordingly, the MO further reviewed this matter taking account of the decision in *Hussain v Sandwell Council [2017] EWHC 1641 (Admin)*. That case confirmed that it is within a local authority's power to conduct investigations outside the standards arrangements and so, if it was clearly understood there could be no possibility of some form of sanction resulting from an investigation of a former member's conduct, then this might be possible if it was in the interests of the general good governance of a local authority and the wider public interest.
- 4.5 On 30 June 2023 the MO confirmed that it was lawful and appropriate for the Council to conclude the investigation process to assist in the discharge of its functions as a relevant authority in respect of parish councils in its area.
- 4.6 The Borough Council's Standards Committee subsequently learned of Councillor O'Meara's ill health and reconsidered whether the investigation should continue on 6 September 2023.
- 4.7 The Standards Committee decided that the investigation should continue.
- 4.8 Wilkin Chapman LLP is a firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Jonathan Goolden, Estelle Culligan, Gill Thompson and Kelsey Jerrard.

The investigation

- 4.9 During the investigation Councillor Bevan provided two signed statements.
- 4.10 We wrote to Councillor O'Meara on 21 April and 10 May 2023. Councillor O'Meara responded to us on 10 May. She told us:

"I am unavailable, I won't be participating in such a charade."

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Please don't contact me again, I resigned from the council due to bullying and harassment from other councillors and suffer from extreme bouts of non epileptic seizures.

Belinda"

- 4.11 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence at Appendix A.
- 4.12 We wish to record our thanks for the co-operation and courtesy shown to us by the parties and wish to express our sympathy towards Councillor O'Meara in respect of her health situation.

Complaint 1 – Councillor Bevan's complaint against the Clerk

- 4.13 Councillor Bevan submitted a self-referral to the MO of the Borough Council (copy attached at WC 2). He stated:

"Dear Sir,

I wish to refer my self to the NWBC monitoring officer to investigate a number of points. I attach three pdf files that detail pertinent email traffic but I am willing to share my whole email account with the independent investigator. The three files attached are listed below with a brief summary of their contents.

- 1. *Grievance – a note explaining that I have had a written notice to the Paris Council about my behaviour.*
- 2. *Confidential – a confidential note, from me, complaining about the behaviour of the Parish Clerk (I would appreciate that this remains confidential to those investigating my referral but I understand if this is not possible)*
- 3. *Complaint – a note from the chair of the HR Committee explaining the progress of my complaint described in the pdf file 'Confidential'*

At this stage, I shall not attempt to justify my behaviour as I see this as part of the investigation process.

I request that the following issues be addressed:

- 1. *I would like a formal investigation into the complaint made against me as indicated in the file 'Grievance'*
 - *I should also like, if possible, a comment on the fact that the written complaint has not been shared with me and if the independent investigator considers that the informal meeting invitation was the constitutional method to address the issue*
- 2. *I would like a statement made regarding my behaviour in raising the complaint detailed in the files 'Confidential' and 'Complaint'*
 - *I suspect that the clerk believes that this complaint is vexatious in nature and I believe that an independent view and comment is required to judge my conduct*
 - *If it is within your remit, I would also like a view on the operation of the Parish Council HR Committee process. I specifically requested a written response to my complaint and it appears that a verbal response is all that will be given*

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- *A comment from the independent investigator specifically about the phrase in my opening paragraph of the file 'Confidential' where I write 'I undertake to keep the contents of this note confidential to only those members and discuss the issue with no one else'. Clearly, by sharing the file with you I have not kept to my word*

I believe that it is the 'role of the Monitoring Officer to:

- *report on matters they believe to be illegal or amount to maladministration*
- *to be responsible for matters relating to the conduct of councillors and officers and*
- *to be responsible for the operation of the council's constitution.'*

I believe that during the process of investigating my behaviour, you may identify cases of maladministration by the clerk and possibly the Parish Council. The Parish Council is committed to continuous improvement and, I believe, would welcome any suggestions for change.

4.14 We interviewed Councillor Bevan on 26 April 2023 and he provided a signed statement on 31 May 2023 (copy attached at WC 3). He stated that:

- (a) he was a councillor for Water Orton Parish Council (the Council) from May 2018 to May 2023;
- (b) he believed there were two processes in place dealing with complaints. Which process should be followed in the handling of a complaint would depend on who the complaint was against;
- (c) he believed that complaints made against councillors, including himself, should be dealt with by the Monitoring Officer of North Warwickshire Borough Council. The current Monitoring Officer was Clive Tobin;
- (d) although a complaint against a councillor might initially go through to the HR Committee, they should only forward the complaint to the Monitoring Officer. They should not conduct an analysis or investigation of the complaint unless requested for information by the Monitoring Officer;
- (e) that was not the procedure followed by Councillor Robinson or Councillor O'Meara in their handling of a grievance raised against him. How that grievance was handled formed the first part of his complaint;
- (f) on 28 June 2022 Councillor O'Meara emailed him and informed him that a grievance had been lodged against him. In that email Councillor O'Meara informed him that the HR Committee would be in touch to attend a meeting when the grievance would be discussed;
- (g) he believed it to have been either at the Annual Council Committee meeting in May or the Annual Parish Meeting where members of the HR Committee were elected. He believed other Councillors could attend HR Committee meetings but that would be in their capacity as members of the public. He had not attended any HR Committee meetings;

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- (h) he was not aware of a standard policy or procedure for dealing with a grievance raised with the HR Committee at that time, including whether copies of grievances should be made available prior to or at the meeting to discuss such grievance. It was on that basis that he emailed Councillor O'Meara on 28 June 2022 and requested a copy of the grievance procedure;
- (i) in his email of 28 June 2022 at 19:36 he also referred to the Council's Standing Orders. Standing Order 14 stated:

"14 CODE OF CONDUCT COMPLAINTS

- a *Upon notification by the District or Unitary Council that it is dealing with a complaint that a councillor with voting rights has breached the Council's code of conduct, the Property Officer shall, subject to standing order 11, report this to the Council.*
- b *Where the notification in standing order 14(a) relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chairman of Council of this fact, and the Chairman shall nominate another staff member to assume the duties of the Proper Officer in relation to the complaint until it has been determined and the Council has agreed what action, if any, to take in accordance with standing order 14(d).*
- c *The Council may:*
 - i. *provide information or evidence where such disclosure is necessary to investigate the complaint or is a legal requirement;*
 - ii. *seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter;*
- d ***Upon notification by the District or Unitary Council that a councillor or non-councillor with voting rights has breached the Council's code of conduct, the Council shall consider what, if any, action to take against him. Such action excludes disqualification or suspension from office."***

- (j) Councillor O'Meara responded the same day and provided him with a copy of the HR Committee Terms of Reference;
- (k) The HR Committee Terms of Reference stated:

"(c) Functions

The Committee will be responsible, in conjunction with the Clerk to the Council for:-

- ...
- *Operation of the Council disciplinary, grievance, grading and appeal procedures"*

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- (l) he believed the Terms of Reference was the only document governing the HR Committee. It stated that the Committee would be responsible, in conjunction with the Clerk to the Council for:

“ ...

Operation of the Council disciplinary, grievance, grading an appeal procedures”

- (m) however, there was no mention about how a grievance would be dealt with and there was no Grievance Policy;
- (n) on 30 June 2022 he was invited to attend an informal meeting with the HR Committee on 4 July 2022 to discuss the grievance;
- (o) he emailed Councillor O'Meara on the same day requesting a copy of the grievance ahead of the meeting. Councillor O'Meara responded refusing his request on the basis that the grievance was a confidential document;
- (p) he then requested confirmation that he would be provided with a copy of the grievance at the meeting. Councillor O'Meara confirmed he would not be entitled to see a copy of the grievance at all, again on the basis of it being a confidential document and that that was standard policy. He was not aware of any standard policy regarding the procedure the Council followed when handling a grievance;
- (q) he responded to Councillor O'Meara informing her that following clarification that it was an informal meeting with no agenda with a group of non-constituted individuals and no material to study ahead of the meeting that he would not be attending. It was his belief that that meeting had not gone ahead;
- (r) to that day he had not been provided with details of the grievance lodged against him. He questioned whether the grievance even existed due to the lack of contact or formal action taken on the matter by Councillor Robinson and/or Councillor O'Meara;
- (s) Councillor Robinson and Councillor O'Meara should not have referred the complaint against him to the HR Committee. They should not have convened a closed session informal meeting to discuss such a matter, it should have been referred straight to the Monitoring Officer. It was also incorrect for him to be refused a copy of the grievance when there was no policy stating that;
- (t) the second part of his complaint was regarding how his complaints against the former Clerk, were handled. One complaint was dated 26 June 2022 and concerned the Clerk's failure to adhere to operating procedures as laid down in Standing Orders and Financial Regulations. A copy of the complaint was attached to his statement marked NB1;
- (u) he had not received formal written acknowledgement of the complaint lodged. However, Councillor O'Meara confirmed with him in person that she was investigating his complaint. It was for that reason that he

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believed his complaint against the Clerk was referred to the HR Committee;

- (v) on 28 June 2022 Councillor O'Meara emailed him confirming his complaint had been discussed by the HR Committee in a separate meeting and that the findings were to be presented to the full Council on 30 June 2022;
- (w) he believed that it was correct that his complaint against the Clerk was handled by the HR Committee as she was an employee of the Council. He replied to Councillor O'Meara the same day to say that he looked forward to receiving the minutes with the findings;
- (x) at the full Council meeting on 30 June 2022 Councillor O'Meara gave him a verbal report that skipped so many issues and did not address all parts of his complaint. He confirmed he was not happy with the report and the way the Clerk had operated. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked him to write a motion. He did not do that as email correspondence later insinuated the matter had been dealt with. That was when letters from the Clerk's solicitors started. He did not have copies of the letters. They had been read out by Councillor O'Meara in the closed session of a full Council meeting. He never saw hard copies of the letters to confirm who they had come from and whether they were on headed notepaper;
- (y) on 18 July 2022 he requested an update on his complaint from Councillor O'Meara;
- (z) Councillor O'Meara responded on 19 July 2022 confirming that at the closed session of the 30 June 2022 Council meeting he had confirmed he had been happy with the responses received and that a meeting was then organised for 21 July 2022 to discuss an outstanding point of his complaint;
- (aa) he had been asked if the verbal report Councillor O'Meara had given answered his points. He said, "no". That was the reason an EGM was called on 21 July 2022 albeit it was later cancelled and Councillor O'Meara informed him they were waiting for a briefing by Warwickshire & West Midlands Association of Local Councils (WALC);
- (bb) he did not believe there had been a meeting between the Council and WALC. The only communication between WALC and the Council was through Councillor Robinson. He did not think Councillor O'Meara was involved in those conversations, but could not say for certain as he had not been there himself;
- (cc) he contacted the Borough Council to ask if there was anything they could do to use the Borough Council's mechanisms to get advice. Their Borough Councillor, Dave Reilly, arranged for a meeting with Ja'Neen Day, Chief Executive of WALC. In the meeting were Ja'Neen, Councillor Freeman and himself. He had given that for completeness to confirm a meeting had been held aside from the meeting scheduled between WALC, Councillor Robinson and Councillor O'Meara;

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- (dd) to that day he had not received a written response to his complaint, despite that being requested both by email and in person;
 - (ee) on 12 October 2022 he emailed Councillor O'Meara with a Freedom of Information Request (FOI) for any information that may be held by the Council with regards to any complaint made against him;
 - (ff) on 28 October 2022 he received an email response from Councillor O'Meara, the Chair of the HR Committee, denying his request. No reasons for the refusal were provided. A copy of that email was annexed to his statement marked NB2;
 - (gg) with no formal response to his FOI being received from the Council, he emailed the current Clerk, Kate Clover, (the Clerk) on 22 November 2022 requesting that to be actioned as soon as possible. The Clerk responded the same day informing him that he should have received a response within 20 working days and that it would be looked into as a matter of urgency;
 - (hh) a formal response to his request for information was received from the Council on 23 November 2022. It was confirmed his request had been refused as Section 40(1) of the Freedom of Information Act 2000 exempts public authorities from the requirement to make available any information which is also the requester's own personal data. The Parish Council also relied on Section 40 (5A) that provided the duty to confirm or deny did not arise in relation to information which was (or if it were held by public authority would be) exempt information by virtue of (1);
 - (ii) it was confirmed his request would therefore be treated as a Subject Access Request made under the Data Protection Act 2018 and that under Schedule 2 Part 3 Paragraph 16(1) of that Act they were unable to provide him with the information for the following reasons:
 - The information requested would require disclosing information that would identify other individuals and it is not possible to remove third-party information and comply with my request;
 - It is not considered appropriate for third parties to know that I as the requester have made a Subject Access Request in order to ask for their consent to disclose the information;
 - Even if I consented to third parties knowing that I have made a Subject Access Request, it is considered reasonably likely that the third party would refuse their consent to disclose this information;
 - Water Orton Parish Council owe a duty of confidentiality to the third parties and do not consider it reasonable to disclose the information regarding these individuals without consent; and
 - A duty of confidence arises where an individual discloses genuinely 'confidential' information to the Parish Council, with the expectation that it remains confidential.
- A copy of that letter was attached to his statement marked NB3.
- (jj) The above demonstrated the degree he went to, to establish the facts.

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Complaint 2 – Negotiation and Terms of Settlement Agreement

- 4.15 Councillor Bevan submitted a second complaint to the MO of the Borough Council on 6 February 2022 (copy attached at WC 4). He stated:

"I write to you to bring certain matters to your attention in the role of monitoring officer for NWBC as I believe that Water Orton Parish Council has exceeded its jurisdiction and potentially acted outside the law. I believe this may be true of the council as a whole (of which I am a member) and of individual councillors. I am referring this matter to you in my role as parish Councillor (not as an individual).

You are aware that there have been issues with the former Parish Clerk for the past year and this led to a departure of ways before Christmas of last year. The mechanism of the departure resulted in the signing of a non-disclosure agreement between the former clerk and the Parish Council.

This non-disclosure agreement included limitations on named individuals and this is one of my fundamental complaints as I do not believe that any Parish Council may lay any limitations on the free speech of any citizen of the U.K. I have a supplementary complaint that the chairman of the council did not declare any personal interest and that he was active in the negotiation of the exit terms with the clerk (the chairman of the council and the former Parish Clerk are brother and sister-in-law).

The details of my referral to you are laid out in the paragraphs below. I am conscious that some of this information may not be in the public domain and thus I request that you verify the public data before any publication of your findings. I write this in the belief that the reporting of the claimed wrongdoing is in the public interest and the actions of the Parish Council do not demonstrate the Parish Council operates as an open and transparent public body in the interest of the residents of Water Orton.

In June of 2022, there was discussion within the Parish Council regarding a council owned tractor and the potential purchase of a replacement van. There was some conversation by email amongst the councils and former clerk that turned 'nasty' for (what I saw as) no good reason. These emails can be made available during your investigation if you believe they will help but I only mention the subject to give context to what happened next.

On 26 June, I raised a formal complaint against the former clerk regarding her behaviour in the afore mentioned email conversation. On 30 June, I was informed that a grievance had been raised against me. I do not believe that this grievance has been passed to you as the monitoring officer and my request to see the grievance has been refused on the grounds that "the information requested would require disclosing information that would identify other individuals and it is not possible to remove the third-party information and comply with your request". Based on the fact that I have not seen the grievance, nor been approached by you in your capacity as 'investigating officer', I can only assume that the grievance was not put in writing or it does not exist. In any case, I have not received any information that may be attributable to any grievance raised by the former clerk. The former clerk was then

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declared unfit for work at the end of July 2022 and shortly after the council received a solicitors letter on behalf of the former clerk claiming constructive dismissal. During August, there were several meetings between councillors and the former clerk's nominated solicitors. The councillors involved in these discussions were Cllr B O'Meara, Cllr C O'Meara, Cllr Rees and Cllr Robinson. This group of councillors were never mandated by the full council to act on its behalf and was therefore unconstitutional; the minutes of the Annual Parish Council Meeting held on Thurs 12th May 2022 under item 22.7 resolves that the HR Committee is Cllrs Rees, Freeman, B O'Meara & C O'Meara. I have requested the Parish Council records that relate to the lead up to the signing of the NDA and I have been informed that the summons list for Committee meetings will be all Committee members, since this group was not formally constituted, there are no formal agendas or minutes. The group of councillors reported to full council at the following meetings:

- 1. Agenda dated 24.06.22 for a meeting on 30th June (Staffing Matters item 22.42)*
- 2. Agenda dated 23.09.22 for a meeting on 29th September (Staffing Matters item 22.57)*
- 3. Agenda dated 05.10.22 for a meeting on 12th October (staffing matters item 22.60)*
- 4. Agenda dated 21.10.22 for a meeting on 27th October (Staffing matters item 22.72)*
- 5. Agenda dated 25.11.22 for a HR Committee meeting on 1st December (HR22/14 Legal Agreement)*
- 6. Agenda dated 25.11.22 for a meeting on 1st December (staffing matters item 22/83b))*

There are formal minutes for the six meetings listed above and three sets of confidential notes alongside minutes for 29th September, 12th October and 27th October. I have not seen the confidential notes (even as my role as a Parish Councillor) and thus I contest that these notes are irrelevant as a formal record of Council activity. It has been claimed that Cllr B O'Meara and Cllr Robinson carried out some administrative work usually done by the Clerk in order to present the options available to the Council in the first instance and once it was agreed to reach a settlement to liaise with ACAS to find a draft agreement to present to the Council for approval. I am informed that a group of councillors met on 1st December, reviewed the legal agreement and made the recommendation to full council to sign this agreement (this group of councillors was not the HR committee). The agreement was also reviewed in detail by councillors acting in the administrative role of Clerk (namely Cllr B O'Meara and Cllr Robinson). I do not recall any such agreement at a council meeting but if this is correct, there is an obvious conflict of interest between Cllr Robinson and the former clerk and that, at no time, did Cllr Robinson declare an interest in the ex gratia cash payment of Council funds to his sister-in-law as part of her departure from the role of Parish Clerk. I wish to raise a complaint against Cllr Robinson based on this fact.

I have asked for the full council meeting(s) that received the minutes of any subcommittee with delegated negotiating powers and I have been informed that there was no subcommittee with delegated negotiating powers and so no minutes to receive.

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The NDA which the Parish Council signed was a result of early conciliation measures on the basis of what the Parish Council were able to agree to as a corporate body. I have been informed that I am named as a specific individual within this document (along with a former councillor) that restricts my activities. I am also informed that, although I have been named within the agreement, this document is confidential and will not be available for my, nor public, inspection and would be excluded from an FOI request as it would be a breach of the agreement for this to be shared.

I believe that it is my right and obligation to justify how the council is using public funds and this I see that, by specifically naming me in the NDA, I am being censored into not being able to carry out my duty. I therefore seek your view in both your monitoring Officer role but also as your role of Borough Council Solicitor.

I believe that Water Orton Parish Council can not take any sanction against members of the council nor members of public and thus I am seeking your opinion ahead of my publicizing the conditions of the clerk's departure.

It sometimes helps to resort to colloquial language to make a summarizing point: a group of councillors met as a cabal to resolve a problem that was not adequately communicated to those involved in the problem and consorted to force the council to sign a document that is illegal. In so doing, funds were diverted from public funds directly to a family member of one of the councillors.

I believe that the Parish Council has acted outside of its powers and I shall write a similar email to this one to the Parish Council auditors and potentially seek a judicial review.

Please acknowledge receipt of this email and indicate your anticipated timescales to report."

4.16 We interviewed Councillor Bevan in relation to the second complaint on 18 July 2023 and he provided a signed statement on 28 July 2023 (copy attached at WC 5). He stated that:

- (a) the mechanism of the departure of the former Clerk resulted in the signing of an NDA between the former Clerk and the Council. The terms of the NDA placed specific limitations on named individuals, of which he was one;
- (b) he believed he was personally named in the NDA because he raised a formal complaint on 26 June 2022 against the Clerk at that time;
- (c) at the Annual Parish Council Meeting on 12 May 2022 the HR Committee was appointed. Councillors appointed to the HR Committee were; Councillor Rees, Councillor Freeman, Councillor B O'Meara and Councillor C O'Meara;
- (d) the councillors involved in the discussions regarding the NDA were; Councillor B O'Meara, Councillor C O'Meara, Councillor Rees and Councillor Robinson. As those councillors were never formally

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mandated by the Council to act on its behalf, he considered their action was unconstitutional;

- (e) in an email of 2 February 2023 the Clerk at the time told him:

“No delegated authority has been given with regards to resolving this complaint. All decisions regarding this matter were taken at Council meetings as noted in the minutes and confidential reports above.”

- (f) the Clerk also told him that the NDA was discussed at the following meetings:

- 30 June 2022 (Staffing matters, agenda item 22.42);
- 29 September 2022 (Staffing matters, agenda item 22.57);
- 12 October 2022 (Staffing matters, agenda item 22.60);
- 27 October 2022 (Staffing matters, agenda item 22.72);
- 1 December 2022 HR Committee meeting (agenda item HR22/14); and
- 1 December 2022 (Staffing matters, agenda item 22/83 (b)).

- (g) he had seen no record that agreed to the negotiating detail of the NDA in the minutes of the above meetings, nor any record of the NDA being discussed in the Council minutes prior to it being signed;

- (h) he requested the full Council meeting(s) that received the minutes of any subcommittee with delegated negotiating powers. He had been told:

“no subcommittee with delegated negotiating powers and so no minutes to receive.”

- (i) he had seen a ‘confidential note’ relating to agenda item 22.57 (29 September 2022 meeting). Although the note mentioned the NDA, he did not recall the notes being distributed to councillors and could find no record of them being entered into Council minutes and agreed as a true record;

- (j) the same confidential note suggested that the grievance (raised by the Clerk against him) ‘should have gone to the Monitoring Officer’. The MO had confirmed to him that he has received no complaint against him;

- (k) Warwickshire Association of Local Councils (WALC) was also referred to in the confidential note suggesting that the WALC guidelines were being followed. However, based on a conversation he had had with the CEO of WALC, he would be surprised if WALC guidelines had been followed;

- (l) he felt strongly that the notes were not made at the time but had been written more recently. By way of example, the note referred to the signing of a letter written to the former Clerk’s solicitor and that the matter was ‘resolved unanimously’. He did not recall agreeing to the signature of such a letter at the meeting on 29 September 2022;

- (m) he understood that councillors acting in the administrative role of Clerk (Councillors B O’Meara and Councillor Robinson) also reviewed the NDA in detail;

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- (n) whilst he did not recall any such agreement at a Council meeting, if there was such an agreement then there was an obvious conflict of interest between Councillor Robinson and the former Clerk who were brother and sister-in-law. At no time had Councillor Robinson declared an other interest when involving himself in the negotiation of the NDA;
- (o) although he had not seen the NDA, the Clerk had provided him with the wording of the paragraphs within which he was named:

“the Respondent agrees that it will not authorise the disclosure of any details about the fact and terms of this agreement, matters relating to the Claim and the circumstances leading up to the termination of the Claimant’s employment; except as may be required for the performance of this agreement or required by law, to HMRC or any other regulatory body, or to its professional advisors. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 7.

The Respondent shall not make and shall not authorise the making of any adverse or derogatory comments or statements about the Claimant whether verbally or in writing and, if in writing, in any form whatsoever, including, but not limited to, on social media or the internet. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 9.”

- (p) he had no idea what Clause 7 and Clause 9 referred to;
- (q) the powers granted to a parish council were defined in legislation . The legislation did not grant the Council unilateral authority to impose obligations on individuals without their explicit consent;
- (r) he did not believe that any parish council could place any limitations on the free speech of any citizen of the UK;
- (s) he asked the Council to confirm the precise legal statute under which it was authorised to restrict the activities of an individual. Their response was:

“the Parish Council is able to enter into employment contracts with individuals that would enable it to carry out its functions. Therefore, it follows that the council can enter into arrangements that terminate these contracts as well. It is under these powers that the council entered into the agreement to which you refer This agreement requires the council to commit to certain actions which relate to all of its membership whether they were named or not. All council members are obliged during and following any term of office or service to continue to consider any matters relating to staffing and disciplinary matters as confidential unless instruction is received to release such information for governance or legal purposes.”

- (t) he believed that he had been discriminated against, specifically victimisation, by being personally named in the NDA under the Discrimination and the Equality Act 2010;

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- (u) his consent was not sought nor obtained with respect to his name being placed in the NDA;
- (v) it was illogical for the Council to sign a document which specifically named individual councillors to then deny those parties sight of a document limiting their actions;
- (w) the minutes of the 1 December 2022 Council meeting recorded:

“b) It was noted that the agreement is ready for signature, wording has been agreed between parties and payment should be made within 28 days. Cllr B O’Meara proposed and it was seconded by Cllr W. Rees to approve the agreement. Cllr S Stuart proposed an amendment to not sign this document before 5th December 2022. The Council voted against this amendment. Cllr Freeman left the meeting.

The original proposal was moved to a vote, and it was RESOLVED to approve the agreement by majority. Cllr Stuart & Cllr Bevan voted against this proposal. Agreement to be signed by Cllr P. Robinson as Chair of the Parish Council.”

- (x) he recalled one meeting where the exit of the former clerk was discussed. His recollection was that there was a vote which was split 3 for, 3 against and 3 abstentions. Under standing orders that then went to the Chairman’s casting vote and the motion was passed;
- (y) he could not state the date of the specific meeting and he had no formal minutes to support his accusation. The public minutes did not record the event;
- (z) he believed as the former Clerk’s brother-in-law, Councillor Robinson should have declared an interest and recused himself (or at least abstained). He therefore considered Councillor Robinson used his position improperly in using his casting vote;
- (aa) had Councillor Robinson declared an interest and not used his casting vote, he believed the Council would have acted differently with regard to the NDA;
- (bb) he therefore believed Councillor Robinson acted against the public interest in involving himself in the negotiations for a cash settlement for his sister-in-law;
- (cc) whilst he believed he would be bound by the constraints of the NDA as a former councillor, he wished for his name to be removed from that document.

Councillor Belinda O’Meara

- 4.17 We wrote to Councillor O’Meara on 21 April and 10 May 2023 seeking her availability to speak with us.
- 4.18 Councillor O’Meara responded on 10 May 2023 (attached at WC 6). She told us:

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"I am unavailable, I won't be participating in such a charade.

Please don't contact me again, I resigned from the council due to bullying and harassment from other councillors and [REDACTED]

Belinda"

5. Summary of the material facts

- 5.1 Councillor Belinda O'Meara was Vice Chair of the Parish Council and Chair of the HR Committee until her resignation from the Parish Council in 2022.

Complaint 1 - Councillor Bevan's complaint against the Clerk

- 5.2 The issues to consider include whether the Parish Council dealt with the former Clerk's grievance against Councillor Bevan correctly and Councillor O'Meara's role in that process.
- 5.3 On 26 June 2022 Councillor Bevan made a complaint against the former Clerk, about "the Clerk's failure to adhere to operating procedures as laid down in Standing Orders and Financial Regulations."
- 5.4 On 28 June 2022 Councillor Bevan was notified that a grievance had been lodged against him. He believed the former Clerk raised the grievance as a direct result of his complaint about her. He was told that the HR Committee would contact him to attend a meeting at which the grievance would be discussed.
- 5.5 On 30 June 2022 Councillor O'Meara emailed Councillor Bevan to invite him to an "informal meeting" on 4 July to be held at the cricket club. Councillor O'Meara was the Chair of the HR Committee, but the councillors copied in to the email included Councillor Robinson, who was not a member of the HR Committee, but did not include Councillor Felicitas Freeman, who was a member.
- 5.6 Councillor Bevan requested a copy of the grievance but his request was refused by Councillor O'Meara on the basis the grievance was a confidential document. Councillor O'Meara emailed him on 30 June as follows:

"Unfortunately we won't be able to send you a copy as it's a confidential document".

- 5.7 Councillor Bevan asked whether he would be provided with a copy of the grievance at the meeting. Again, this was refused on the basis that it was a confidential document.
- 5.8 Councillor Bevan considered the meeting was not properly constituted and therefore declined to attend. He does not believe the meeting took place.
- 5.9 The question arises as to the status of this "informal meeting". Was it a meeting of the HR Committee? If so, why was it not referred to as such and why was Councillor Robinson included in the email chain?
- 5.10 Another issue to consider is, if the informal meeting was a meeting of the HR Committee, was that the correct forum for discussing a grievance raised by the former Clerk against Councillor Bevan? Councillor Bevan does not think this was the correct process and that a referral should have been made to the MO under the Code of Conduct. He states:

"Councillor Robinson and Councillor O'Meara should not have referred the complaint against me to the HR Committee. They should not have convened a closed session informal meeting to discuss such a matter,

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it should have been referred straight to the Monitoring Officer. It was also incorrect for me to be refused a copy of the grievance when there is no policy stating this."

- 5.11 Part of the consideration includes how the Parish Council dealt with Councillor Bevan's complaint against the former Clerk, and Councillor O'Meara's role in that process.
- 5.12 Following his complaint against the Clerk on 26 June 2022, Councillor Bevan received no formal acknowledgement of his complaint although Councillor O'Meara confirmed in person that she was investigating his complaint.
- 5.13 On 28 June 2022 Councillor O'Meara emailed Councillor Bevan to notify him that his complaint had been discussed at an HR Committee meeting and the findings would be presented to the Parish Council meeting on 30 June 2022.
- 5.14 Councillor O'Meara reported to the Parish Council meeting on 30 June 2022. Although Councillor Bevan states that he believes the Parish Council was correct to refer his complaint to the HR Committee, he was not happy with how the matter was reported to the Parish Council meeting on 30 June. He states:

"At the full Council meeting on 30 June 2022 Councillor O'Meara gave me a verbal report that skipped so many issues and did not address all parts of my complaint. I confirmed I was not happy with the report and the way the Clerk was operating. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked me to write a motion. I did not do this as email correspondence later insinuated the matter had been dealt with. This is when letters from the Clerk's solicitors started. I don't have copies of the letters. They were read out by Councillor O'Meara in the closed session of a full Council meeting. I never saw hard copies of the letters to confirm who they had come from and whether they were on headed notepaper."

- 5.15 On 18 July 2022 Councillor Bevan requested an update about the progress of his complaint from Councillor O'Meara. She stated that the matter had been dealt with at the Parish Council meeting and that he had confirmed then that he was happy with the response and that a meeting was organised for 21 July 2022 to discuss an outstanding point.
- 5.16 Councillor Bevan was unhappy that he felt his complaint was not being dealt with properly. He states:

"I was asked if the verbal report Councillor O'Meara had given answered my points. I said, "no". That was the reason an EGM was called on 21 July 2022 albeit it was later cancelled and Councillor O'Meara informed me they were waiting for a briefing by Warwickshire & West Midlands Association of Local Councils (WALC).

I do not believe there has been a meeting between the Council and WALC. The only communication between WALC and the Council was through Councillor Robinson. I do not think Councillor O'Meara was involved in those conversations, but could not say for certain as I was not there myself."

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Complaint 2 – Negotiation and Terms of Settlement Agreement

5.17 The issues to consider include whether the Parish Council dealt with the Settlement Agreement for the former Clerk correctly and Councillor O'Meara's role in that process.

5.18 Councillor Bevan states that the group formed to negotiate the Settlement Agreement was not a properly constituted committee. It comprised Councillor B O'Meara, Councillor C O'Meara, Councillor Rees and Councillor Robinson.

5.19 Councillor Bevan states:

"As these councillors were never formally mandated by the Council to act on its behalf, I consider their action was unconstitutional."

5.20 As Chair of the HR Committee, Councillor O'Meara would seem to be the appropriate individual to lead the negotiations of the Settlement Agreement, but we question again how she was authorised to undertake this role, if the group involved was not a properly constituted group.

5.21 It is clear that Councillor O'Meara took a leading role. ACAS emailed her on 31 October 2022 to notify her of their involvement and to offer their assistance. We have seen the case notes of the communication leading up to the agreed terms of the Settlement Agreement and all the communication is directly with Councillor O'Meara.

5.22 In response to ACAS' email on 25 November 2022 with draft final terms for the Settlement Agreement, Councillor O'Meara emails:

"Hi (Redacted)

*We accept the terms, can you please issue to all parties for completion.
Many thanks*

Belinda "

5.23 Another issue to consider is how Councillor O'Meara treated Councillor Bevan unfairly in respect of his being named within the Settlement Agreement?

5.24 Councillor Bevan became aware that he was named in the Settlement Agreement. He states that:

"Although I have not seen the NDA, the Clerk has provided me the wording of the paragraphs:

"the Respondent agrees that it will not authorise the disclosure of any details about the fact and terms of this agreement, matters relating to the Claim and the circumstances leading up to the termination of the Claimant's employment; except as may be required for the performance of this agreement or required by law, to HMRC or any other regulatory body, or to its professional advisors. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 7.

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The Respondent shall not make and shall not authorise the making of any adverse or derogatory comments or statements about the Claimant whether verbally or in writing and, if in writing, in any form whatsoever, including, but not limited to, on social media or the internet. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 9.”

- 5.25 We understand that Councillor Bevan obtained this information from the Clerk, in early 2023, after the Settlement Agreement was signed. However, he states that he had not seen these clauses before the Settlement Agreement was signed and states that he did not understand the context. He states:

“I have no idea what Clause 7 and Clause 9 refer to”.

- 5.26 Councillor Bevan queried with the Parish Council the relevant legislation under which it could impose limitations on him without his consent. He states:

“The powers granted to a parish council are defined in legislation.... The legislation does not grant the Council unilateral authority to impose obligations on individuals without their explicit consent.

I do not believe that any parish council can place any limitations on the free speech of any citizen of the UK.

I asked the Council to confirm the precise legal statute under which it was authorised to restrict the activities of an individual. Their response was:

“the Parish Council is able to enter into employment contracts with individuals that would enable it to carry out its functions. Therefore, it follows that the council can enter into arrangements that terminate these contracts as well. It is under these powers that the council entered into the agreement to which you refer This agreement requires the council to commit to certain actions which relate to all of its membership whether they were named or not. All council members are obliged during and following any term of office or service to continue to consider any matters relating to staffing and disciplinary matters as confidential unless instruction is received to release such information for governance or legal purposes.”

6. Additional submissions received from Councillor Bevan and Councillor O'Meara

6.1 The following comments were received from Councillor Bevan on the draft version of this report:

"I have read the report regarding Cllr Robinson that was originally sent to me on 1 March 2024 by NWBC (the file name was Pre-Draft Report Bevan v Robinson v2) and it generally agrees with my views. There are a few detail points: the main one relates to the issue of "bullying". I don't think that I have ever used the term in relation to Cllr Robinson and I believe that it was Clive Tobin who first mentioned the term on page 6 of his initial view: "Furthermore, Councillor Robinson's overall conduct toward both Councillor XXX and Councillor Bevan has a quality of bullying toward them and appears to breach the requirements of the Code ...". Wilkin-Chapman report states that they have not been able to ascertain the effect of any bullying has on me, this is because my personality is strong enough for me to rise above it - that may not be so for everyone!"

Response to Comments

We should clarify that, in our investigation, it is open to us to consider any section of the Code of Conduct that we feel is appropriate. We accept that Councillor Bevan did not raise the issue of bullying but that Mr Tobin did mention it. We considered it because we thought it was relevant to our investigation. In our conclusions, for the reasons stated, we did not find evidence of bullying.

"I claim that Cllr Robinson discriminated against me and I claim "victimisation, by being personally named in the NDA under the Discrimination and the Equality Act 2010". I feel that I need to clarify two points here: Firstly, the report correctly states that I do not have any "protective characteristics" but secondly, I take my lead from the acas website (<https://www.acas.org.uk/discrimination-and-the-law/victimisation>) where they quote "Victimisation is when someone is treated less favourably as a result of being involved with a discrimination or harassment complaint.

Ways someone could be victimised include:

- being labelled a troublemaker*
- being left out*
- not being allowed to do something*

Victimisation is a specific type of discrimination under the law (Equality Act 2010)". I believe that this does apply to the way that I was treated."

Response to Comments

The main point to reiterate is that the issue of discrimination does not form part of the Code of Conduct. This may be an issue that the Parish Council wishes to consider adding into a future revision of the Code of Conduct.

Because Councillor Bevan told us that he believed he had been discriminated against, we briefly considered the issue and found that Councillor Bevan did not have relevant protected characteristics under the Equality Act 2010. We have considered his comments about victimisation and the ACAS guidance. This states:

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"The law says victimisation means 'suffering a detriment' because you've done or intend to do a 'protected act'. A 'protected act' means taking action related to discrimination law. This includes:

- making a complaint of discrimination or harassment*
- supporting someone else's complaint*
- gathering information that might lead to a complaint*
- acting as a witness in a complaint*
- saying something or giving evidence that does not support someone else's complaint*

'Detriment' means someone experiences one or both of the following:

- being treated worse than before*
- having their situation made worse"*

The incidents cited in his complaint did not arise because Councillor Bevan had claimed that he was being discriminated against and he was not supporting anyone else's claim of discrimination. Therefore, the definition of victimisation under the Equality Act 2010 does not apply to Councillor Bevan's situation.

"The final point that I should make relates to the time that I was informed about the paragraphs relating me to the NDA. The report states that I first heard of the conditions "early in 2023". I have a feeling that I knew at the end of 2022 but I defer to Wilkin-Chapman as I copied all the emails to them without editing. I do not challenge the content of the report and only offer the above as "supplementary information".

Many thanks,

Neil"

Response to comments

We have reviewed the evidence and there is an email from Councillor Bevan to the current Clerk dated 20 December 2022 in which he quotes the relevant paragraphs from the Settlement Agreement. He was therefore aware of them on at least that date. We have amended the relevant paragraphs below.

- 6.2 No comments were received from Councillor O'Meara on the draft version of this report:-

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7. Reasoning as to whether there have been failures

Official Capacity

- 7.1 The relevant sections of the Code which fall to be considered are set out in Section 3 above.
- 7.2 Section 27(2) of the Localism Act 2011 requires the Authority to adopt a code of conduct dealing with the conduct that is expected of members of the Council *“when they are acting in that capacity”*.
- 7.3 The Parish Council’s Code of Conduct reflects the requirement of section 27(2) of the Localism Act.
- 7.4 The Local Government Association Guidance 2020 on the Model Code of Conduct (The LGA Guidance) states that:

“The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor*
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.*
- This means it applies when you are carrying out your official duties, for example when you are considering or discussing local authority business, either as a councillor or representing the local authority on an outside body.*

The code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction, including:

- at face-to-face meetings*
- at online or telephone meetings*
- in written communication*
- in verbal communication*
- in non-verbal communications*
- in electronic and social media communication, posts, statements, and comments.*

This includes interactions with the public as well as with fellow councillors and local authority officers.”

- 7.5 The complaint relates to a complaint against the Clerk and the manner in which a grievance against Councillor Bevan was dealt with. These are clearly matters of Council business.
- 7.6 Councillor O’Meara was Chair of the HR Committee. Our view is therefore that Councillor O’Meara was conducting the business of the Parish Council.
- 7.7 We have concluded that Councillor O’Meara was acting in an official capacity and was subject to the Code of Conduct.

Respect

7.8 Paragraph 1 of the Parish Council's Code of Conduct states:-

“General obligations

1. *He/she shall behave in such a way that a reasonable person would regard as respectful.”*

7.9 The requirement to treat others with respect must be viewed objectively. Account should be taken of the member's intent and how their behaviour would reasonably be perceived.

7.10 When describing 'Disrespectful Behaviour' the LGA Guidance:

“Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

Disrespectful behaviour can be harmful to both you and to others. It can lower the public's expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure.”

Complaint 1 – Councillor Bevan's complaint against the Clerk

The Grievance

7.11 The first notification that Councillor Bevan received about a grievance against him was a short email from Councillor O'Meara, Chair of the HR Committee, on 28 June 2022. She states:

*“Hi Neil,
We have today received a formal grievance regarding yourself. The HR committee will be in touch with you soon, to attend a meeting to discuss further.
Kind regards
Belinda”*

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7.12 Despite repeated requests, Councillor O'Meara did not give Councillor Bevan any details or summary of the grievance against him. Neither did she provide him with a copy of the Grievance Policy. Instead, she provided him only with the terms of reference of the HR Committee.

7.13 He is abruptly told by Councillor O'Meara, on 30 June:

*"Hi Neil,
No you don't get a copy of the letter at all, standard policy. They are a confidential document.
Belinda"*

7.14 Most of the emails are from Councillor O'Meara, with no-one else copied in. However, the first invite to the "informal meeting" on 30 June 2022 was copied to Councillors Chris O'Meara, Wendy Rees and Phillip Robinson.

7.15 It is not clear what committee this is. Councillor Bevan states:

"At the Annual Parish Council Meeting on 12 May 2022 the HR Committee was appointed. Councillors appointed to the HR Committee were; Councillor Rees, Councillor Freeman, Councillor B O'Meara and Councillor C O'Meara."

7.16 Following Councillor Bevan's email to Councillor O'Meara on 30 June 2022 confirming that, as the meeting was not properly constituted he would not attend, there appears to have been no response and no further action on the grievance. Councillor Bevan copied his email to Councillors Chris O'Meara, Wendy Rees and Philip Robinson.

7.17 Grievance procedures are usually raised by an employee against its employer. It is not clear, because Councillor Bevan was not shown a copy of the grievance, whether the former Clerk's grievance was against the Parish Council as her employer, with Councillor Bevan simply named as one individual; or whether the grievance was aimed directly at Councillor Bevan. It appears from Councillor O'Meara's language that the grievance was aimed directly at Councillor Bevan.

7.18 The case of *R. (on the application of Harvey) v Ledbury Town Council (2018)*, involved a complaint of bullying made by staff against a councillor, which the Town Council dealt with through a grievance procedure. The Town Council found the councillor guilty in her absence and imposed certain restrictions on her. The councillor brought judicial review proceedings against the Town Council's decision and the court confirmed that such a complaint against councillors should not be dealt with through the grievance procedure, but through the Code of Conduct. The court held that:

"...there was no general power to run a grievance procedure in tandem with, or as an alternative to, the Code of Conduct process envisaged by the 2011 (Localism) Act, as to do so would be contrary to Parliament's intention"

7.19 The case also criticised the procedure used, in that it did not adequately allow for the councillor's participation in the hearing and the allegations were not properly put to her.

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- 7.20 We find that Ledbury is analogous to Councillor Bevan's situation. The former Clerk's grievance against him should not have been heard by the HR Committee, nor by any other committee of councillors. It should not have been dealt with through the grievance process and should have been referred to the Monitoring Officer to deal with under the Code of Conduct.
- 7.21 Even if the process was correct (which it was not), we also find that it was wrong of the Parish Council not to give Councillor Bevan sufficient details of the grievance so that he understood it and could respond.
- 7.22 We note that the Parish Council did not have a Grievance Policy in place at the time. In those circumstances, the Advisory, Conciliation and Arbitration Service (ACAS) states that:

"Your organisation should have its own grievance procedure. Otherwise you must follow the steps in this guide and the Acas Code of Practice on disciplinary and grievance procedures."

- 7.23 In respect of informing the subject person about the grievance, ACAS states:

"Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made."

- 7.24 In respect of fairness in investigations, generally, the case of *R. (on the application of Greenslade) v Devon CC (2019)* states:

"a fair procedure is one in which the person who is accused of whatever it may be is entitled to know the gist of the case against him and to make representations on his own behalf."

- 7.25 We find that, in pursuing the wrong process against Councillor Bevan and, in not informing him of the relevant issues within the grievance that applied to him, and not allowing him the opportunity to respond, the Parish Council treated Councillor Bevan unfairly and with a lack of respect.

- 7.26 The communication with Councillor Bevan was led by Councillor O'Meara. She appears very abrupt and even rude in her emails with him. She appears to have led the four members who formed the group dealing with the grievance and before whom Councillor Bevan was summonsed to an "informal meeting" to discuss the grievance.

- 7.27 The case of *Boughton, Dartmouth Town Council (2009) APE 0419*, was a case dealt with under the previous Standards regime. However, its findings on the threshold for respect are relevant. The case tribunal described a failure to treat with respect as follows:

"A failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour including the place, who observed it, the character and relationship of the people involved will all be relevant in assessing whether the behaviour was disrespectful."

- 7.28 In *Buchanan, Somerset County Council (2009) APE 0409*, in relation to a complaint by a chief executive the Tribunal said at paragraph 51:

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“In the Tribunal’s view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect.”

- 7.29 The key elements of finding a failure to treat others with respect are that the conduct is unreasonable, demeaning and directed.
- 7.30 In the handling of the grievance against Councillor Bevan, there was a clear failure in procedure, an abruptness and rudeness in communicating with him which was inappropriate in the circumstances of such a serious issue and which went way beyond bad manners. There was also a complete lack of fairness in the process. As Chair of the HR Committee, Councillor O’Meara managed these processes and therefore we find that she failed to treat Councillor Bevan with respect.

Complaint 1 - Councillor Bevan’s Complaint against the Clerk

- 7.31 The process by which the Parish Council dealt with this matter also appears to have been shrouded in secrecy. There was a meeting of the HR Committee held some time before 28 June 2022, on which date Councillor O’Meara informed Councillor Bevan that the matter would be discussed at a meeting of the Parish Council on 30 June 2022.
- 7.32 It appears that the meeting was called without the requisite three days’ notice. We have seen a copy of an email from the former Clerk sent to the members of the HR Committee which contains a summons to the meeting on the 23 June. It is dated 21 June. That meeting must have been instigated by Councillor O’Meara, as Chair of the HR Committee, and we can see no reason why it was not publicised in the normal way. Councillor Bevan was clearly not aware of it until after it had taken place. It is also wrong that the former Clerk was issuing the summons to a meeting, and corresponding with councillors about that meeting, to discuss a complaint about her.
- 7.33 In respect of the Council meeting on 30 June 2022, Councillor Bevan states:

“At the full Council meeting on 30 June 2022 Councillor O’Meara gave me a verbal report that skipped so many issues and did not address all parts of my complaint. I confirmed I was not happy with the report and the way the Clerk was operating. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked me to write a motion. I did not do this as email correspondence later insinuated the matter had been dealt with. This is when letters from the Clerk’s solicitors started. I don’t have copies of the letters. They were read out by Councillor O’Meara in the closed session of a full Council meeting. I never saw hard copies of the letters to confirm who they had come from and whether they were on headed notepaper.

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On 18 July 2022 I requested an update on my complaint from Councillor O'Meara.

Councillor O'Meara responded on 19 July 2022 confirming that at the closed session of the 30 June 2022 Council meeting I had confirmed I was happy with the responses received and that a meeting was then organised for 21 July 2022 to discuss an outstanding point of my complaint.

I was asked if the verbal report Councillor O'Meara had given answered my points. I said, "no". That was the reason an EGM was called on 21 July 2022 albeit it was later cancelled and Councillor O'Meara informed me they were waiting for a briefing by Warwickshire & West Midlands Association of Local Councils (WALC).

I do not believe there has been a meeting between the Council and WALC..."

- 7.34 It is not clear why, if Councillor Robinson proposed holding a further EGM to discuss outstanding issues about the complaint, that meeting did not go ahead. If it had been cancelled in order to take further advice from WALC, we ask when that meeting took place and why Councillor Bevan was not given further information about it. Councillor O'Meara had a completely different view of what happened at the meeting on 30 June and Councillor Bevan clearly did not feel that his complaint had been addressed properly.
- 7.35 There is also a lack of clarity about how this matter was handled. The matter was referred correctly to the HR Committee, but Councillor Bevan was only told about that after the event. It was then discussed at the Parish Council meeting on 30 June. However, there was confusion about the outcome. Councillor O'Meara believed the matter was resolved and Councillor Bevan was happy, but Councillor Bevan was clearly not happy.
- 7.36 As Chair, Councillor Robinson should not have first called an EGM to discuss outstanding issues and then cancelled it without telling Councillor Bevan. There is also no evidence as to what the advice was from WALC, whether it ever arrived and what happened to that advice. The whole matter seems to have been dealt with secretly, without giving Councillor Bevan the correct and clear information about the progress of his complaint, that he was entitled to.
- 7.37 Again, we find that the Parish Council, and Councillor O'Meara, as Chair of the HR Committee, treated Councillor Bevan with a lack of respect and did not appear to take his complaint seriously.

Complaint 2, Negotiations and Terms of the Settlement Agreement

- 7.38 Councillor Bevan was named in the Settlement Agreement without his consent. The only information he received was two short extracts sent to him by the Clerk, as set out in paragraphs 4.22 (yy) and 5.21 above. The extracts state that the Parish Council:

"will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 7."

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7.39 A similar commitment in relation to Councillor Bevan and one other councillor is given in relation to clause 9.

7.40 Councillor Bevan states that he was not consulted about the terms of the Settlement Agreement. He was sent the wording of the relevant clauses by the Clerk, as set out in paragraph 5.21 above, in early 2023, after the Settlement Agreement was signed. It seems that Councillor Bevan was told of at least the obligations under the Settlement Agreement at some time before 7 December, as, in her email to ACAS on 7 December, the Clerk states:

“Individual councillors have been made aware of their obligations under this agreement and this afternoon, I will reiterate the general data protection duties they should already adhere to as part of the corporate body and on an individual basis as data processors.”

7.41 The paragraphs relate to the Parish Council using *“their best endeavours”* to ensure that no members, specifically Councillor Bevan and one other councillor, do not make public the fact of the Settlement Agreement or make any public derogatory comments about the Clerk.

7.42 Although it is unusual for individual councillors to be mentioned in such a clause, and although Councillor Bevan was not aware of the specific terms of the Settlement Agreement, the terms of the two clauses are clear enough. We do not see how he could be personally liable to the former Clerk for any breach. He should have been told that he would be named in the agreement and given the terms of the two clauses, before the agreement was finalised. We query how possible it would be to enforce those clauses against Councillor Bevan, particularly when he was not made aware of them. The Clerk also states, in an email to him dated 26 April 2023:

“The agreement states that Water Orton Parish Council (WOPC) will not authorise the disclosure of any details about the fact and terms of the agreement, matters relating to the claim and the circumstances leading up to the termination of employment. WOPC are also agreeing to use its best endeavours to ensure employees, worker, officers, directors, and councillors comply with this. WOPC can not take any sanction against members, our best endeavour is to report any breaches of the agreement to the Monitoring Officer should this occur. Therefore there is no mention in the agreement of restraining the activities of any individual councillors as WOPC does not have the legal powers to enforce this.”

7.43 If this is the case, we do wonder why the Parish Council included Councillor Bevan's name in the clause at all. However, a non-disclosure clause is standard in such agreements and, the fact that there might have been errors in the process of negotiating the Settlement Agreement, does not necessarily make it invalid.

7.44 In respect of the process, Councillor Bevan was aware that four members of the Council were negotiating a Settlement Agreement with the former Clerk. Those four members were Councillor B O'Meara, Councillor C O'Meara, Councillor Rees and Councillor Robinson. He states:

“As these councillors were never formally mandated by the Council to act on its behalf, I consider their action was unconstitutional”

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7.45 There is some evidence that the Settlement Agreement was discussed in Council meetings. Councillor Bevan states:

“The Clerk also told me that the NDA was discussed at the following meetings, the minutes of which are attached at NB2:

- 30 June 2022 (Staffing matters, agenda item 22.42);*
- 29 September 2022 (Staffing matters, agenda item 22.57);*
- 12 October 2022 (Staffing matters, agenda item 22.60);*
- 27 October 2022 (Staffing matters, agenda item 22.72);*
- 1 December 2022 HR Committee meeting (agenda item HR22/14); and*
- 1 December 2022 (Staffing matters, agenda item 22/83 (b)).”*

7.46 However, Councillor Bevan states:

“There are formal minutes for the six meetings listed above and three sets of confidential notes alongside minutes for 29th September, 12th October and 27th October. I have not seen the confidential notes (even as my role as a Parish Councillor) and thus I contest that these notes are irrelevant as a formal record of Council activity.”

7.47 He also states:

“I have seen no record that agrees to the negotiating detail of the NDA in the minutes of the above meetings, nor any record of the NDA being discussed in the Council minutes prior to it being signed.

...

I have seen a ‘confidential note’ relating to agenda item 22.57 (29 September 2022 meeting). Although the note mentions the NDA, I do not recall the notes being distributed to councillors and can find no record of them being entered into Council minutes and agreed as a true record.

The same confidential note suggests that the grievance ‘should have gone to the Monitoring Officer’. The MO has confirmed to me that he has received no complaint against me.

Warwickshire Association of Local Councils (WALC) is also referred to in the confidential note suggesting that the WALC guidelines were being followed. However, based on a conversation I had with the CEO of WALC, I would be surprised if WALC guidelines were being followed.

I feel strongly that the notes were not made at the time but were written more recently. By way of example, the note refers to the signing of a letter written to the former Clerk’s solicitor and that the matter was ‘resolved unanimously’. I do not recall agreeing to the signature of such a letter at the meeting on 29 September 2022.”

7.48 There is reference to the progress of a Settlement Agreement with the former Clerk in the above agendas and minutes, all of which are referred to as taking place within closed sessions. Councillor Bevan was present at many of these

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meetings and voted. However, all councillors present should have been given a copy of any confidential reports and notes, so that they could make a fully informed decision on agreeing the Settlement Agreement with the former Clerk. The discussions were held in closed sessions and the usual purpose of such sessions is to allow councillors to see and discuss confidential information.

- 7.49 We find that this was a failure in the proper procedure and, as Chair of the HR Committee, Councillor O'Meara failed to show respect to Councillor Bevan as a member of the Parish Council.
- 7.50 Other failures in the procedure include the fact that four councillors, Councillor O'Meara, Councillor C O'Meara, Councillor Rees and Councillor Robinson, were negotiating the Settlement Agreement with the former Clerk's solicitors, without being properly mandated by the Council. We wondered if they were a sub-committee of the HR Committee, but Councillor Robinson did not sit on that committee.
- 7.51 An additional issue is that, in the emails we have seen with ACAS, Councillor O'Meara leads the negotiations, speaks on behalf of the Parish Council and confirms, on the 25 November 2022, that the terms of the agreement are agreed, before the matter is considered by the Parish Council on 1 December 2022.
- 7.52 Councillor Bevan is correct that the Parish Council should have given proper delegated authority, either to the full HR Committee, or to a separate group, to negotiate the agreement with the former Clerk, with specific authority given to Councillor O'Meara, to lead the negotiation. However, we do not find that this failure specifically affects Councillor Bevan and therefore, we do not find that this contributed to a failing under the issue of respect.

Conclusion

- 7.53 We consider that, Councillor O'Meara's conduct in respect of Councillor Bevan's complaint against the Clerk and in the treatment of Councillor Bevan following the raising of the Clerk's grievance, did fail to treat Councillor Bevan with respect.
- 7.54 We consider that Councillor O'Meara's conduct in respect of the negotiation and agreement of the Settlement Agreement did fail to treat Councillor Bevan with respect. This is in relation to the inclusion of Councillor Bevan's name in paragraphs 7 and 9 without informing him before the Settlement Agreement was finalised.
- 7.55 We have therefore concluded that, if Councillor O'Meara had still been a parish councillor, she would have been in breach of paragraph 1 of the Code of Conduct.

Bullying

- 7.56 Paragraph 2 of the Parish Council's Code of Conduct states:

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

- 7.57 We have considered whether anything in Councillor O'Meara's behaviour in these matters would qualify as bullying under the Code of Conduct.

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- 7.58 The term bullying is not defined within the Code of Conduct, however the LGA guidance states:

“Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Bullying may be obvious or be hidden or insidious. Such conduct is usually part of a pattern of behaviour which attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

Bullying can take the form of physical, verbal and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person, by telephone or in writing, including emails, texts or online communications such as social media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

Bullying can affect anyone, in any career, at any time, at any level and within any workplace. Such behaviour can take the form of easily noticed, physically threatening or intimidatory conduct with immediate impact, or it can take place behind closed doors or be much more subtle or camouflaged and difficult to identify, at least at first. It can start, for example, with what appear to be minor instances, such as routine ‘nit-picking’ or fault-finding, but which become cumulative or develop into more serious behaviour over time, enabling the perpetrator to isolate and control the person.”

- 7.59 The definition of bullying used by the Arbitration, Conciliation and Advice Service (ACAS) is:

“Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.” (Advice leaflet - Bullying and harassment at work: Guidance for employees, ACAS March 2014)

- 7.60 Both definitions have some similarities and refer to offensive, intimidating, malicious, insulting or humiliating behaviour associated with a relationship between the two individuals where the bully is in a position of influence or authority.
- 7.61 Councillor Bevan has not mentioned the effect on him of Councillor O'Meara's behaviour. In addition, because Councillor O'Meara has refused to engage in the investigation, we have been unable to understand her views on the issues.
- 7.62 In *H v Isle of Wight Council (unreported)*, 23 February 2001, (High Court), Wright J held that:

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"The criterion of what does or does not amount to bullying in any given circumstances is not to be judged solely by the subjective perception of the victim himself ... but involves an objective assessment of the observed behaviour, taken in conjunction with any apparent vulnerability in the target of the behaviour complained of."

- 7.63 In *Green v DB Group Services (UK) Ltd [2006] EWHC 1898 (QB)*, the High Court found that Ms Green had been subjected to *"a relentless campaign of mean and spiteful behaviour designed to cause her distress. ... [T]he behaviour amounted to a deliberate and concerted campaign of bullying within the ordinary meaning of that term."* In deciding whether behaviour amounted to bullying, the cumulative effect of the alleged conduct had to be considered, rather than the individual incidents relied on.
- 7.64 Conversely, In *Mullen v Accenture Services Ltd [2010] EWHC 2336 (QB)*, the High Court found that the circumstances of Green provided an instructive example of what may constitute bullying within the ordinary meaning of the term and was *"a useful yardstick"*. Mr Mullen claimed that he had been bullied by his line manager who humiliated him in front of other members of staff, regularly shouted and swore at him, put him under immense pressure to solve any problems and who, despite Mr Mullen working long hours and losing sleep, was never satisfied by anything he did.
- 7.65 His employer was described by the judge as a performance driven company at which employees were expected to work long hours under pressure to achieve results, in return for which they received impressive salaries. On the basis of the evidence, the High Court held that while there might have been *"blunt language and inappropriate banter"* this had been the result of wishing to drive the work forward, rather than being directed at Mr Mullen. While *"there may sometimes be a fine line between strong management and bullying"*, the line had not been crossed in this case as Mr Mullen had not been at the receiving end of *"genuinely offensive and unacceptable behaviour"*.
- 7.66 We have considered these cases as guidance in the issues between Councillor O'Meara and Councillor Bevan. Although we have found failures in procedure in dealing with the issues and a lack of respect towards Councillor Bevan, we have not seen anything which would indicate either that Councillor O'Meara treated him in a malicious and spiteful way, or that Councillor Bevan was particularly affected, beyond his obvious feeling that he was treated unfairly in his complaint and that Councillor O'Meara was not following the correct procedures.
- 7.67 There is one incident of relevance, which is the meeting of 30 June 2022, at which Councillor Bevan's complaint against the former Clerk was discussed. Councillor Bevan states:

"At the full Council meeting on 30 June 2022 Councillor O'Meara gave me a verbal report that skipped so many issues and did not address all parts of my complaint. I confirmed I was not happy with the report and the way the Clerk was operating. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked me to write a motion. I did not do this as email correspondence later insinuated the matter had been dealt with."

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- 7.68 Although Councillor Bevan states that the meeting became “heated”, we do not have any further details of that. From his follow up correspondence with Councillor O’Meara, it is clear that he was frustrated and angry with what he saw as the Council avoiding its duty to investigate his complaint properly, but there is no clear evidence of whether he felt bullied by Councillor O’Meara.

Conclusion

- 7.69 We have concluded that we do not believe that Councillor O’Meara was guilty of behaving towards Councillor Bevan in a bullying manner.
- 7.70 We therefore find that, if Councillor O’Meara had still been a councillor, she would not be in breach of paragraph 2 of the Code of Conduct

Equality

- 7.71 We have briefly considered this issue, although the issue of equality is not included in the Code of Conduct.
- 7.72 Councillor Bevan told us:

“I believe that I have been discriminated against, specifically victimisation, by being personally named in the NDA under the Discrimination and the Equality Act 2010.”

- 7.73 The definition of discrimination is set out in the Equality Act 2010 (the Act). It states:

*“13 Direct discrimination
(2) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.”*

- 7.74 The protected characteristics are listed in Section 4 of the Act, as follows:

- *age*
- *disability*
- *gender reassignment*
- *marriage and civil partnership*
- *pregnancy and maternity*
- *race*
- *religion or belief*
- *sex sexual orientation*

- 7.75 We are unaware of any protected characteristic of Councillor Bevan, therefore we do not see that his treatment by being named within the Settlement Agreement amounts to discrimination.

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8. Finding

- 8.1 Our finding is that, if Councillor O'Meara had still been a Parish Councillor, she would have been in breach of paragraphs 1 of the Code of Conduct.

13 June 2024

Wilkin Chapman LLP
Investigating Solicitors

CONFIDENTIAL REPORT



North Warwickshire
Borough Council

PRIVATE AND CONFIDENTIAL

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for North Warwickshire Borough Council, into allegations concerning Councillor Phillip Robinson of Water Orton Parish Council.

Dated: 13 June 2024

VOLUME 1 REPORT

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Appendix A Schedule of evidence taken into account and list of unused material

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1. Executive Summary

- 1.1 Councillor Phillip Robinson is a former member of Water Orton Parish Council (the Parish Council) having resigned on 29 June 2023.
- 1.2 At the time of the alleged conduct Councillor Robinson was Chair of the Parish Council. He will be referred to throughout the report as Councillor Robinson.
- 1.3 At the time of the alleged conduct Councillor Belinda O'Meara was Chair of the HR Committee and will be referred to throughout the report as Councillor O'Meara.
- 1.4 At the time of the alleged conduct Neil Bevan was a member of the Parish Council and will be referred to throughout the report as Councillor Bevan.
- 1.5 The former Clerk is Councillor Robinson's sister-in-law.

Complaint 1 - Councillor Bevan's complaint against the Clerk

- 1.6 On 26 June 2022 Councillor Bevan made a complaint against the former Clerk in relation to her actions in the proposal to purchase a van by the Parish Council.
- 1.7 On 28 June 2022 Councillor O'Meara emailed Councillor Bevan to notify him that a grievance had been lodged against him. She told him that the HR Committee would contact him to attend a meeting at which the grievance would be discussed.
- 1.8 On the same day, Councillor O'Meara told him that most of his complaints (against the former Clerk) had already been discussed at a meeting of the HR Committee and that the findings would be presented to the Parish Council meeting on 30 June 2022.
- 1.9 On 30 June 2022 Councillor O'Meara emailed Councillor Bevan to invite him to an informal meeting with the HR Committee on 4 July 2022, to discuss a grievance raised by the former Clerk.
- 1.10 Councillor Bevan requested a copy of the grievance but his request was refused by Councillor O'Meara on the basis that the grievance was a confidential document.
- 1.11 Councillor Bevan considered the meeting was not properly constituted and therefore declined to attend.
- 1.12 Councillor O'Meara reported to the Parish Council meeting on 30 June 2022 about Councillor Bevan's complaints against the Clerk. During an exchange with Councillor O'Meara in mid-July, he confirmed that he was unhappy that he felt not all of his points had been addressed in the meeting, although Councillor O'Meara stated that he had said at the meeting that he was happy with the Parish Council's response.
- 1.13 Councillor O'Meara informed Councillor Bevan that the Extraordinary General Meeting arranged on 21 July 2022 was cancelled to await a briefing from Warwickshire & West Midlands Association of Local Councils (WALC).

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Complaint 2 – Negotiation and Terms of Settlement Agreement

- 1.14 In his complaint Councillor Bevan refers to a Non Disclosure Agreement (NDA). In employment disputes generally, and in the case referred to in this complaint, this document is called a Settlement Agreement. Within Councillor Bevan's and others' comments we have left in the acronym "NDA", to show how they referred to the document, but in our assessment, we have referred to it as a "Settlement Agreement"..
- 1.15 Councillor Robinson took part in the negotiation of a Settlement Agreement for the former Clerk.
- 1.16 Councillor Robinson was part of a group formed to negotiate the terms of the Settlement Agreement but the group was not the HR Committee and was not a properly constituted committee of the Parish Council.
- 1.17 Councillor Robinson did not declare an interest during any meetings in which the Settlement Agreement was discussed.
- 1.18 Whilst the terms of the Settlement Agreement were discussed at several meetings, Councillor Bevan has found no record of the discussions ahead of the signing of the Agreement.
- 1.19 Councillor Robinson allowed Councillor Bevan and another Parish Council member to be personally named in the Settlement Agreement without their consent. Councillor Bevan believes that the Settlement Agreement contains restrictions on him personally about his activities.
- 1.20 Councillor Bevan is unaware of any legislation which will allow any local authority to impose limitations on any person.
- 1.21 Councillor Bevan is unaware of the reason for personally naming him in the Settlement Agreement.
- 1.22 The allegations are that Councillor Robinson has failed to comply with the Parish Council's Code of Conduct (the Code of Conduct) by:
 - (a) failing to treat Councillor Bevan with respect;
 - (b) bullying Councillor Bevan;
 - (c) improperly using his position in order to confer an advantage on the former Clerk;
 - (d) failing to declare an 'other interest'.
- 1.23 We have concluded that, if Councillor Robinson had still been a parish councillor, he would have been in breach of the Code of Conduct because:
 - (a) Councillor Robinson did fail to treat Councillor Bevan with respect;
 - (b) Councillor Robinson did seek to improperly confer an advantage on the former Clerk.;
 - (c) Councillor Robinson did fail to declare an other interest.

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1.24 We have concluded that Councillor Robinson did not bully Councillor Bevan.

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2. Official details

- 2.1 Councillor Robinson is a former member of Water Orton Parish Council, serving on the Parish Council, resigning on 29 June 2023.
- 2.2 At the time of the alleged conduct Councillor Robinson was Chair of the Parish Council.
- 2.3 We have been unable to ascertain whether Councillor Robinson received Code of Conduct training whilst serving on Water Orton Parish Council.

3. Relevant legislation and protocols

- 3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Parish Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.
- 3.2 Section 28 (1) of the Act provides that the Parish Council must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-
- (a) Selflessness;
 - (b) Integrity;
 - (c) Objectivity;
 - (d) Accountability;
 - (e) Openness;
 - (f) Honesty;
 - (g) Leadership.
- 3.3 The Parish Council has adopted a Code of Conduct (attached at WC 1) which is consistent with the principles set out in 3.2 above. It also contains the following obligations:

“...

General obligations

In addition to the General Principles of Public Life, when a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. *He/she shall behave in such a way that a reasonable person would regard as respectful.*
2. *He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.*
3. *He/she shall not seek to improperly confer an advantage or disadvantage on any person.*

Other Interests

13. *In accordance with the General Principles of Public Life enshrined within the Code of Conduct, (in particular the principles of Honesty and Openness) elected and co-opted members are required to declare at any meeting any personal interest (other than and in addition to any Disclosable Pecuniary Interest) (whether it be an interest in any land, contract, proposed contract, business, membership of any club or body*

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that is considered to be relevant to any matters under discussion). The member will then wish to consider whether any person who was in full knowledge of the facts would consider that interest as likely to prejudice their judgement of the public interest, and if he/she so concludes, shall not take part in the discussion or vote on the matter. As per Water Orton Parish Council Standing Order 3. u.

...

15. *Members are advised to seek advice and clarification from the Monitoring Officer in cases of doubt."*

- 3.4 The Council adopted Standing Orders on 31 July 2019 (attached at WC 2). Standing Order 3. u. states:

"u A councillor or a non-councillor with voting rights who has a disclosable pecuniary interest or another interest as set out in the Council's code of conduct in a matter being considered at a meeting is subject to statutory limitations or restrictions under the code on his right to participate and vote on that matter."

4. Evidence and facts

Our appointment

- 4.1 North Warwickshire Borough Council's (the Borough Council) arrangements for dealing with standards complaints state that the Monitoring Officer (MO) of the Borough Council in consultation with the Independent Person (IP) together with the Chair and Spokesperson of the Borough Council's Standards Committee, having applied the legal jurisdiction criteria test, shall decide whether or not the complaint should be referred for investigation.
- 4.2 Clive Tobin, the MO of the Borough Council, decided to refer the first complaint (Complaint 1) for investigation and instructed Wilkin Chapman LLP on 11 April 2023 to undertake that investigation..
- 4.3 The MO decided to refer the second complaint (Complaint 2) for investigation and instructed Wilkin Chapman LLP on 28 June 2023 to undertake that investigation.
- 4.4 Councillor Robinson resigned on 29 June 2023.
- 4.5 In *Hussain v Sandwell Council* [2017] EWHC 1641 (Admin) it was held that it is within the powers of a local authority to conduct investigations outside the standards arrangements. Therefore, if it was clearly understood there could be no possibility of any sanction resulting from an investigation of a former member's conduct, this would possible if it was in the interests of the general good governance of a local authority and the wider public interest.
- 4.6 On 30 June 2023 the MO confirmed that, based on the decision made in *Hussain v Sandwell* he wished the investigation to continue.
- 4.7 The Borough Council's Standards Committee subsequently [REDACTED] [REDACTED] reconsidered whether the investigation should continue on 6 September 2023.
- 4.8 The Standards Committee decided that the investigation should continue.
- 4.9 Wilkin Chapman LLP is a firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Jonathan Goolden, Estelle Culligan, Gill Thompson and Kelsey Jerrard.

The investigation

- 4.10 During the investigation, Councillor Bevan provided two signed statements.
- 4.11 We wrote to Councillor Robinson on 21 April in respect of the complaints, inviting him to speak with us.
- 4.12 On the same day Councillor Robinson responded and told us:

"Confirming that your email has been received, I am prepared to have a face to face meeting in Water Orton at your convenience. I also like you to prepare any questions in advance so that I can be fully prepared."

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4.13 After discussions with the MO we suggested that Councillor Robinson may prefer to respond to written questions.

4.14 On 26 April 2023, Councillor Robinson told us:

"... I am in agreement with the approach you have suggested. I am and remain surprised that this matter has progressed this far with out any similar correspondence from the monitoring officer to obtain a balanced view on the incidences quoted in the information provided. I am hopeful that your questions will be subjective and in no way just attempting to prove a point.

In your correspondence you quite correctly state that this part of the process should remain completely confidential, however once investigation is complete I reserve the right to go public on the matter and make the council fully aware of what has been suggested particularly the fact that it is being suggested that I am in someway a bully. I will let my fellow councillors be the judge of my conduct because they are fully aware by their presence at council meeting of the full and unbiased truth of the various issues raised.

I look forward to receiving your questions in due course."

4.15 We sent written questions to Councillor Robinson on 15 June 2023.

4.16 Councillor Robinson responded the same day. He stated:

"I have no interest in spending hours trawling through the questions I therefore offer a no comment at this to all of the questions raised"

4.17 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence at Appendix A.

4.18 We wish to record our thanks for the co-operation and courtesy shown to us by both parties [REDACTED]

Complaint 1 - Councillor Bevan's complaint against the Clerk

4.19 Councillor Bevan submitted a self-referral to the MO of the Borough Council (copy attached at WC 3). He stated:

"Dear Sir,

I wish to refer my self to the NWBC monitoring officer to investigate a number of points. I attach three pdf files that detail pertinent email traffic but I am willing to share my whole email account with the independent investigator. The three files attached are listed below with a brief summary of their contents.

- 1. Grievance – a note explaining that I have had a written notice to the Parish Council about my behaviour.*
- 2. Confidential – a confidential note, from me, complaining about the behaviour of the Parish Clerk (I would appreciate that this remains confidential to those investigating my referral but I understand if this is not possible)*
- 3. Complaint – a note from the chair of the HR Committee explaining the progress of my complaint described in the pdf file 'Confidential'*

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At this stage, I shall not attempt to justify my behaviour as I see this as part of the investigation process.

I request that the following issues be addressed:

- 1. I would like a formal investigation into the complaint made against me as indicated in the file 'Grievance'*
 - o I should also like, if possible, a comment on the fact that the written complaint has not been shared with me and if the independent investigator considers that the informal meeting invitation was the constitutional method to address the issue*
- 2. I would like a statement made regarding my behaviour in raising the complaint detailed in the files 'Confidential' and 'Complaint'*
 - o I suspect that the clerk believes that this complaint is vexatious in nature and I believe that an independent view and comment is required to judge my conduct*
 - o If it is within your remit, I would also like a view on the operation of the Parish Council HR Committee process. I specifically requested a written response to my complaint and it appears that a verbal response is all that will be given*
 - o A comment from the independent investigator specifically about the phrase in my opening paragraph of the file 'Confidential' where I write 'I undertake to keep the contents of this note confidential to only those members and discuss the issue with no one else'. Clearly, by sharing the file with you I have not kept to my word*

I believe that it is the 'role of the Monitoring Officer to:

- report on matters they believe to be illegal or amount to maladministration*
- to be responsible for matters relating to the conduct of councillors and officers and*
- to be responsible for the operation of the council's constitution.'*

I believe that during the process of investigating my behaviour, you may identify cases of maladministration by the clerk and possibly the Parish Council. The Parish Council is committed to continuous improvement and, I believe, would welcome any suggestions for change.

4.20 We interviewed Councillor Bevan on 26 April 2023 and he provided a signed statement on 31 May 2023 (copy attached at WC 4). He stated that:

- (a) he was a councillor for Water Orton Parish Council (the Council) from May 2018 to May 2023;
- (b) he believed there were two processes in place dealing with complaints. Which process should be followed in the handling of a complaint would depend on who the complaint was against;
- (c) he believed that complaints made against councillors, including himself, should be dealt with by the Monitoring Officer, Clive Tobin, of North Warwickshire Borough Council.

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- (d) although a complaint against a councillor might initially go through to the HR Committee, they should only forward the complaint to the Monitoring Officer. They should not conduct an analysis or investigation of the complaint unless requested for information by the Monitoring Officer;
- (e) that was not the procedure followed by Councillor Robinson in their handling of a grievance raised against him. How that grievance was handled formed the first part of his complaint;
- (f) on 28 June 2022 the Chair of the HR Committee emailed him and informed him that a grievance had been lodged against him. In that email the Chair of the HR Committee informed him that the HR Committee would be in touch to attend a meeting when the grievance would be discussed;
- (g) he believed it to have been either at the Annual Council Committee meeting in May or the Annual Parish Meeting where members of the HR Committee were elected. He believed other Councillors could attend HR Committee meetings but that would be in their capacity as members of the public. He had not attended any HR Committee meetings;
- (h) he was not aware of a standard policy or procedure for dealing with a grievance raised with the HR Committee at that time, including whether copies of grievances should be made available prior to or at the meeting to discuss such grievance. It was on that basis that he emailed the Chair of the HR Committee on 28 June 2022 and requested a copy of the grievance procedure;
- (i) in his email of 28 June 2022 at 19:36 he also referred to the Council's Standing Orders. Standing Order 14 stated:

"14 CODE OF CONDUCT COMPLAINTS

- a Upon notification by the District or Unitary Council that it is dealing with a complaint that a councillor with voting rights has breached the Council's code of conduct, the Proper Officer shall, subject to standing order 11, report this to the Council.*
- b Where the notification in standing order 14(a) relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chairman of Council of this fact, and the Chairman shall nominate another staff member to assume the duties of the Proper Officer in relation to the complaint until it has been determined and the Council has agreed what action, if any, to take in accordance with standing order 14(d).*
- c The Council may:*
 - i. provide information or evidence where such disclosure is necessary to investigate the complaint or is a legal requirement;*
 - ii. seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter;*

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d Upon notification by the District or Unitary Council that a councillor or non-councillor with voting rights has breached the Council's code of conduct, the Council shall consider what, if any, action to take against him. Such action excludes disqualification or suspension from office."

(j) the Chair of the HR Committee responded the same day and provided him with a copy of the HR Committee Terms of Reference;

(k) The HR Committee Terms of Reference stated:

"(c) Functions

The Committee will be responsible, in conjunction with the Clerk to the Council for:-

- ...
- *Operation of the Council disciplinary, grievance, grading and appeal procedures"*

(l) he believed the Terms of Reference was the only document governing the HR Committee;

(m) however, there was no mention about how a grievance would be dealt with and there was no Grievance Policy;

(n) on 30 June 2022 he was invited to attend an informal meeting with the HR Committee on 4 July 2022 to discuss the grievance;

(o) he emailed the Chair of the HR Committee on the same day requesting a copy of the grievance ahead of the meeting. The Chair of the HR Committee responded refusing his request on the basis that the grievance was a confidential document;

(p) he then requested confirmation that he would be provided with a copy of the grievance at the meeting. The Chair of the HR Committee confirmed he would not be entitled to see a copy of the grievance at all, again on the basis of it being a confidential document and that that was standard policy. He was not aware of any standard policy regarding the procedure the Council followed when handling a grievance;

(q) he responded to the Chair of the HR Committee informing her that following clarification that it was an informal meeting with no agenda with a group of non-constituted individuals and no material to study ahead of the meeting that he would not be attending. It was his belief that that meeting had not gone ahead;

(r) to that day he had not been provided with details of the grievance lodged against him. He questioned whether the grievance even existed due to the lack of contact or formal action taken on the matter by Councillor Robinson and/or the Chair of the HR Committee;

(s) Councillor Robinson and the Chair of the HR Committee should not have referred the complaint against him to the HR Committee. They should not have convened a closed session informal meeting to discuss

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such a matter, it should have been referred straight to the Monitoring Officer. It was also incorrect for him to be refused a copy of the grievance when there was no policy stating that;

- (t) the second part of his complaint was regarding how his complaints against the former Clerk, were handled. One complaint was dated 26 June 2022 and concerned the Clerk's failure to adhere to operating procedures as laid down in Standing Orders and Financial Regulations. A copy of the complaint was attached to his statement marked NB1;
- (u) he had not received formal written acknowledgement of the complaint lodged. However, the Chair of the HR Committee confirmed with him in person that she was investigating his complaint. It was for that reason that he believed his complaint against the former Clerk was referred to the HR Committee;
- (v) on 28 June 2022 the Chair of the HR Committee emailed him confirming his complaint had been discussed by the HR Committee in a separate meeting and that the findings were to be presented to the full Council on 30 June 2022;
- (w) he believed that it was correct that his complaint against the former Clerk was handled by the HR Committee as she was an employee of the Council. He replied to the Chair of the HR Committee the same day to say that he looked forward to receiving the minutes with the findings;
- (x) at the full Council meeting on 30 June 2022 the Chair of the HR Committee gave him a verbal report that skipped so many issues and did not address all parts of his complaint. He confirmed he was not happy with the report and the way the former Clerk had operated. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked him to write a motion. He did not do that as email correspondence later insinuated the matter had been dealt with. That was when letters from the former Clerk's solicitors started. He did not have copies of the letters. They had been read out by the Chair of the HR Committee in the closed session of a full Council meeting. He never saw hard copies of the letters to confirm who they had come from and whether they were on headed notepaper;
- (y) on 18 July 2022 he requested an update on his complaint from the Chair of the HR Committee;
- (z) the Chair of the HR Committee responded on 19 July 2022 confirming that at the closed session of the 30 June 2022 Council meeting he had confirmed he had been happy with the responses received and that a meeting was then organised for 21 July 2022 to discuss an outstanding point of his complaint;
- (aa) he had been asked if the verbal report the Chair of the HR Committee had given answered his points. He said, "no". That was the reason an EGM was called on 21 July 2022 albeit it was later cancelled and the Chair of the HR Committee informed him they were waiting for a briefing by Warwickshire & West Midlands Association of Local Councils (WALC);

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- (bb) he did not believe there had been a meeting between the Council and WALC. The only communication between WALC and the Council was through Councillor Robinson. He did not think the Chair of the HR Committee was involved in those conversations, but could not say for certain as he had not been there himself;
- (cc) he contacted the Borough Council to ask if there was anything they could do to use the Borough Council's mechanisms to get advice. Their Borough Councillor, Dave Reilly, arranged for a meeting with Ja'Neen Day, Chief Executive of WALC. In the meeting were Ja'Neen, another Councillor and himself. This information is provided to confirm a meeting was held with WALC other than that referred to by Councillor O'Meara.
- (dd) to that day he had not received a written response to his complaint, despite that being requested both by email and in person;
- (ee) on 12 October 2022 he emailed the Chair of the HR Committee with a Freedom of Information Request (FOI) for any information that may be held by the Council with regards to any complaint made against him;
- (ff) on 28 October 2022 he received an email response from the Chair of the HR Committee, denying his request. No reasons for the refusal were provided. A copy of that email was annexed to his statement marked NB2;
- (gg) with no formal response to his FOI being received from the Council, he emailed the current Clerk, Kate Clover (the Clerk), on 22 November 2022 requesting that to be actioned as soon as possible. The Clerk responded the same day informing him that he should have received a response within 20 working days and that it would be looked into as a matter of urgency;
- (hh) a formal response to his request for information was received from the Council on 23 November 2022. It was confirmed his request had been refused as Section 40(1) of the Freedom of Information Act 2000 exempts public authorities from the requirement to make available any information which is also the requester's own personal data. The Parish Council also relied on Section 40 (5A) that provided the duty to confirm or deny did not arise in relation to information which was (or if it were held by public authority would be) exempt information by virtue of (1);
- (ii) it was confirmed his request would therefore be treated as a Subject Access Request made under the Data Protection Act 2018 and that under Schedule 2 Part 3 Paragraph 16(1) of that Act they were unable to provide him with the information for the following reasons:
 - *"The information requested would require disclosing information that would identify other individuals and it is not possible to remove third-party information and comply with my request;*
 - *It is not considered appropriate for third parties to know that I as the requester have made a Subject Access Request in order to ask for their consent to disclose the information;*
 - *Even if I consented to third parties knowing that I have made a Subject Access Request, it is considered reasonably likely that*

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the third party would refuse their consent to disclose this information;

- *Water Orton Parish Council owe a duty of confidentiality to the third parties and do not consider it reasonable to disclose the information regarding these individuals without consent; and*
- *A duty of confidence arises where an individual discloses genuinely 'confidential' information to the Parish Council, with the expectation that it remains confidential."*

A copy of that letter was attached to his statement marked NB3.

- (jj) The above demonstrated the degree he went to, to establish the facts.

Complaint 2 – Negotiation and Terms of Non-Disclosure Agreement

- 4.21 Councillor Bevan submitted a second complaint to the MO on 6 February 2022 (copy attached at WC 5). He stated:

"I write to you to bring certain matters to your attention in the role of monitoring officer for NWBC as I believe that Water Orton Parish Council has exceeded its jurisdiction and potentially acted outside the law. I believe this may be true of the council as a whole (of which I am a member) and of individual councillors. I am referring this matter to you in my role as parish Councillor (not as an individual).

You are aware that there have been issues with the former Parish Clerk for the past year and this led to a departure of ways before Christmas of last year. The mechanism of the departure resulted in the signing of a non-disclosure agreement between the former clerk and the Parish Council.

This non-disclosure agreement included limitations on named individuals and this is one of my fundamental complaints as I do not believe that any Parish Council may lay any limitations on the free speech of any citizen of the U.K. I have a supplementary complaint that the chairman of the council did not declare any personal interest and that he was active in the negotiation of the exit terms with the clerk (the chairman of the council and the former Parish Clerk are brother and sister-in-law).

The details of my referral to you are laid out in the paragraphs below. I am conscious that some of this information may not be in the public domain and thus I request that you verify the public data before any publication of your findings. I write this in the belief that the reporting of the claimed wrongdoing is in the public interest and the actions of the Parish Council do not demonstrate the Parish Council operates as an open and transparent public body in the interest of the residents of Water Orton.

In June of 2022, there was discussion within the Parish Council regarding a council owned tractor and the potential purchase of a replacement van. There was some conversation by email amongst the councils and former clerk that turned 'nasty' for (what I saw as) no good reason. These emails can be made available during your investigation if you believe they will help but I only mention the subject to give context to what happened next.

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On 26 June, I raised a formal complaint against the former clerk regarding her behaviour in the afore mentioned email conversation. On 30 June, I was informed that a grievance had been raised against me. I do not believe that this grievance has been passed to you as the monitoring officer and my request to see the grievance has been refused on the grounds that "the information requested would require disclosing information that would identify other individuals and it is not possible to remove the third-party information and comply with your request". Based on the fact that I have not seen the grievance, nor been approached by you in your capacity as 'investigating officer', I can only assume that the grievance was not put in writing or it does not exist. In any case, I have not received any information that may be attributable to any grievance raised by the former clerk. The former clerk was then declared unfit for work at the end of July 2022 and shortly after the council received a solicitors letter on behalf of the former clerk claiming constructive dismissal. During August, there were several meetings between councillors and the former clerk's nominated solicitors. The councillors involved in these discussions were Cllr B O'Meara, Cllr C O'Meara, Cllr Rees and Cllr Robinson. This group of councillors were never mandated by the full council to act on its behalf and was therefore unconstitutional; the minutes of the Annual Parish Council Meeting held on Thurs 12th May 2022 under item 22.7 resolves that the HR Committee is Cllrs Rees, Freeman, B O'Meara & C O'Meara. I have requested the Parish Council records that relate to the lead up to the signing of the NDA and I have been informed that the summons list for Committee meetings will be all Committee members, since this group was not formally constituted, there are no formal agendas or minutes. The group of councillors reported to full council at the following meetings:

1. Agenda dated 24.06.22 for a meeting on 30th June (Staffing Matters item 22.42)
2. Agenda dated 23.09.22 for a meeting on 29th September (Staffing Matters item 22.57)
3. Agenda dated 05.10.22 for a meeting on 12th October (staffing matters item 22.60)
4. Agenda dated 21.10.22 for a meeting on 27th October (Staffing matters item 22.72)
5. Agenda dated 25.11.22 for a HR Committee meeting on 1st December (HR22/14 Legal Agreement)
6. Agenda dated 25.11.22 for a meeting on 1st December (staffing matters item 22/83b))

There are formal minutes for the six meetings listed above and three sets of confidential notes alongside minutes for 29th September, 12th October and 27th October. I have not seen the confidential notes (even as my role as a Parish Councillor) and thus I contest that these notes are irrelevant as a formal record of Council activity. It has been claimed that Cllr B O'Meara and Cllr Robinson carried out some administrative work usually done by the Clerk in order to present the options available to the Council in the first instance and once it was agreed to reach a settlement to liaise with ACAS to find a draft agreement to present to the Council for approval. I am informed that a group of councillors met on 1st December, reviewed the legal agreement and made the recommendation to full council to sign this agreement (this group of councillors was not the HR committee). The agreement was also

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reviewed in detail by councillors acting in the administrative role of Clerk (namely Cllr B O'Meara and Cllr Robinson). I do not recall any such agreement at a council meeting but if this is correct, there is an obvious conflict of interest between Cllr Robinson and the former clerk and that, at no time, did Cllr Robinson declare an interest in the ex gratia cash payment of Council funds to his sister-in-law as part of her departure from the role of Parish Clerk. I wish to raise a complaint against Cllr Robison based on this fact.

I have asked for the full council meeting(s) that received the minutes of any subcommittee with delegated negotiating powers and I have been informed that there was no subcommittee with delegated negotiating powers and so no minutes to receive.

The NDA which the Parish Council signed was a result of early conciliation measures on the basis of what the Parish Council were able to agree to as a corporate body. I have been informed that I am named as a specific individual within this document (along with a former councillor) that restricts my activities. I am also informed that, although I have been named within the agreement, this document is confidential and will not be available for my, nor public, inspection and would be excluded from an FOI request as it would be a breach of the agreement for this to be shared.

I believe that it is my right and obligation to justify how the council is using public funds and this I see that, by specifically naming me in the NDA, I am being censored into not being able to carry out my duty. I therefore seek your view in both your monitoring Officer role but also as your role of Borough Council Solicitor.

I believe that Water Orton Parish Council can not take any sanction against members of the council nor members of public and thus I am seeking your opinion ahead of my publicizing the conditions of the clerk's departure.

It sometimes helps to resort to colloquial language to make a summarizing point: a group of councillors met as a cabal to resolve a problem that was not adequately communicated to those involved in the problem and consorted to force the council to sign a document that is illegal. In so doing, funds were diverted from public funds directly to a family member of one of the councillors.

I believe that the Parish Council has acted outside of its powers and I shall write a similar email to this one to the Parish Council auditors and potentially seek a judicial review.

Please acknowledge receipt of this email and indicate your anticipated timescales to report."

4.22 We interviewed Councillor Bevan in relation to the second complaint on 18 July 2023 and he provided a signed statement on 28 July 2023 (copy attached at WC 6). He stated that:

- (a) the mechanism of the departure of the former Clerk resulted in the signing of an NDA between the former Clerk and the Council. The terms of the NDA placed specific limitations on named individuals, of which he was one;

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- (b) he believed he was personally named in the NDA because he raised a formal complaint on 26 June 2022 against the Clerk at that time;
- (c) at the Annual Parish Council Meeting on 12 May 2022 the HR Committee was appointed. Councillors appointed to the HR Committee were; Councillor Rees, Councillor Freeman, Councillor B O'Meara and Councillor C O'Meara;
- (d) the councillors involved in the discussions regarding the NDA were; Councillor B O'Meara, Councillor C O'Meara, Councillor Rees and Councillor Robinson. As those councillors were never formally mandated by the Council to act on its behalf, he considered their action was unconstitutional;
- (e) in an email of 2 February 2023 the Clerk told him:
- "No delegated authority has been given with regards to resolving this complaint. All decisions regarding this matter were taken at Council meetings as noted in the minutes and confidential reports above."*
- (f) the Clerk also told him that the NDA was discussed at the following meetings:
- 30 June 2022 (Staffing matters, agenda item 22.42);
 - 29 September 2022 (Staffing matters, agenda item 22.57);
 - 12 October 2022 (Staffing matters, agenda item 22.60);
 - 27 October 2022 (Staffing matters, agenda item 22.72);
 - 1 December 2022 HR Committee meeting (agenda item HR22/14); and
 - 1 December 2022 (Staffing matters, agenda item 22/83 (b)).
- (g) he had seen no record that agreed to the negotiating detail of the NDA in the minutes of the above meetings, nor any record of the NDA being discussed in the Council minutes prior to it being signed;
- (h) he requested the full Council meeting(s) that received the minutes of any subcommittee with delegated negotiating powers. He had been told:
- "no subcommittee with delegated negotiating powers and so no minutes to receive."*
- (i) he had seen a 'confidential note' relating to agenda item 22.57 (29 September 2022 meeting). Although the note mentioned the NDA, he did not recall the notes being distributed to councillors and could find no record of them being entered into Council minutes and agreed as a true record;
- (j) the same confidential note suggested that the grievance (raised by the Clerk against him) 'should have gone to the Monitoring Officer'. The MO had confirmed to him that he has received no complaint against him;
- (k) Warwickshire Association of Local Councils (WALC) was also referred to in the confidential note suggesting that the WALC guidelines were being followed. However, based on a conversation he had had with the

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CEO of WALC, he would be surprised if WALC guidelines had been followed;

- (l) he felt strongly that the notes were not made at the time but had been written more recently. By way of example, the note referred to the signing of a letter written to the former Clerk's solicitor and that the matter was 'resolved unanimously'. He did not recall agreeing to the signature of such a letter at the meeting on 29 September 2022;
- (m) he understood that councillors acting in the administrative role of Clerk (Councillors B O'Meara and Councillor Robinson) also reviewed the NDA in detail;
- (n) whilst he did not recall any such agreement at a Council meeting, if there was such an agreement then there was an obvious conflict of interest between Councillor Robinson and the former Clerk who were brother and sister-in-law. At no time had Councillor Robinson declared an other interest when involving himself in the negotiation of the NDA;
- (o) although he had not seen the NDA, the Clerk had provided him with the wording of the paragraphs within which he was named:

"the Respondent agrees that it will not authorise the disclosure of any details about the fact and terms of this agreement, matters relating to the Claim and the circumstances leading up to the termination of the Claimant's employment; except as may be required for the performance of this agreement or required by law, to HMRC or any other regulatory body, or to its professional advisors. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 7.

The Respondent shall not make and shall not authorise the making of any adverse or derogatory comments or statements about the Claimant whether verbally or in writing and, if in writing, in any form whatsoever, including, but not limited to, on social media or the internet. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 9."

- (p) he had no idea what Clause 7 and Clause 9 referred to;
- (q) the powers granted to a parish council were defined in legislation. The legislation did not grant the Council unilateral authority to impose obligations on individuals without their explicit consent;
- (r) he did not believe that any parish council could place any limitations on the free speech of any citizen of the UK;
- (s) he asked the Council to confirm the precise legal statute under which it was authorised to restrict the activities of an individual. Their response was:

"the Parish Council is able to enter into employment contracts with individuals that would enable it to carry out its functions. Therefore, it follows that the council can enter into arrangements that terminate these

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contracts as well. It is under these powers that the council entered into the agreement to which you refer This agreement requires the council to commit to certain actions which relate to all of its membership whether they were named or not. All council members are obliged during and following any term of office or service to continue to consider any matters relating to staffing and disciplinary matters as confidential unless instruction is received to release such information for governance or legal purposes.”

- (t) he believed that he had been discriminated against, specifically victimisation, by being personally named in the NDA under the Discrimination and the Equality Act 2010;
- (u) his consent was not sought nor obtained with respect to his name being placed in the NDA;
- (v) it was illogical for the Council to sign a document which specifically named individual councillors to then deny those parties sight of a document limiting their actions;
- (w) the minutes of the 1 December 2022 Council meeting recorded:

“b) It was noted that the agreement is ready for signature, wording has been agreed between parties and payment should be made within 28 days. Cllr B O’Meara proposed and it was seconded by Cllr W. Rees to approve the agreement. Cllr S Stuart proposed an amendment to not sign this document before 5th December 2022. The Council voted against this amendment. Cllr Freeman left the meeting.

The original proposal was m^{ov}ed to a vote, and it was RESOLVED to approve the agreement by majority. Cllr Stuart & Cllr Bevan voted against this proposal. Agreement to be signed by Cllr P. Robinson as Chair of the Parish Council.”

- (x) he recalled one meeting where the exit of the former clerk was discussed. His recollection was that there was a vote which was split 3 for, 3 against and 3 abstentions. Under standing orders that then went to the Chairman’s casting vote and the motion was passed;
- (y) he could not state the date of the specific meeting and he had no formal minutes to support his accusation. The public minutes did not record the event;
- (z) he believed as the former Clerk’s brother-in-law, Councillor Robinson should have declared an interest and recused himself (or at least abstained). He therefore considered Councillor Robinson used his position improperly in using his casting vote;
- (aa) had Councillor Robinson declared an interest and not used his casting vote, he believed the Council would have acted differently with regard to the NDA;
- (bb) he therefore believed Councillor Robinson acted against the public interest in involving himself in the negotiations for a cash settlement for his sister-in-law;

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- (cc) whilst he believed he would be bound by the constraints of the NDA as a former councillor, he wished for his name to be removed from that document.

Councillor Phillip Robinson

- 4.23 Councillor Robinson does not wish to be interviewed or answer written questions about these complaints. Our attempts to contact him are summarised in paragraphs 4.11 to 4.16 above and are attached at WC 7. A copy of the written questions is attached at WC 8.
- 4.24 We have therefore been unable to ascertain Councillor Robinson's response to the complaints.

5. Summary of the material facts

- 5.1 Councillor Belinda O'Meara was Vice Chair of the Parish Council and Chair of the HR Committee until her resignation from the Parish Council in 2022.

Complaint 1 - Councillor Bevan's complaint against the former Clerk

- 5.2 The issues to consider are whether the Parish Council dealt with the former Clerk's grievance against Councillor Bevan correctly and Councillor Robinson's role in that process.
- 5.3 On 26 June 2022 Councillor Bevan made a complaint against the former Clerk, about *"the Clerk's failure to adhere to operating procedures as laid down in Standing Orders and Financial Regulations."*
- 5.4 On 28 June 2022 Councillor Bevan was notified that a grievance had been lodged against him. He believed the former Clerk raised the grievance as a direct result of his complaint about her. He was told that the HR Committee would contact him to attend a meeting at which the grievance would be discussed.
- 5.5 On 30 June 2022 Councillor O'Meara emailed Councillor Bevan to invite him to an *"informal meeting"* on 4 July to be held at the cricket club. Councillor O'Meara was the Chair of the HR Committee, but the councillors copied in to the email included Councillor Robinson, who was not a member of the HR Committee, but did not include Councillor Freeman, who was a member.
- 5.6 Councillor Bevan requested a copy of the grievance but his request was refused by the Chair of the HR Committee on the basis the grievance was a confidential document. Councillor O'Meara emailed him on 30 June as follows:
- "Unfortunately we won't be able to send you a copy as it's a confidential document"*.
- 5.7 Councillor Bevan asked whether he would be provided with a copy of the grievance at the meeting. Again, this was refused on the basis that it was a confidential document.
- 5.8 Councillor Bevan considered the meeting was not properly constituted and therefore declined to attend. He does not believe the meeting took place.
- 5.9 The question arises as to the status of this *"informal meeting"*. Was it a meeting of the HR Committee? If so, why was it not referred to as such and why was Councillor Robinson included in the email chain.
- 5.10 Another issue to consider is, if the informal meeting was a meeting of the HR Committee, was that the correct forum for discussing a grievance raised by the former Clerk against Councillor Bevan? Councillor Bevan does not think this was the correct process and that a referral should have been made to the MO under the Code of Conduct. He states:

"Councillor Robinson and Councillor O'Meara should not have referred the complaint against me to the HR Committee. They should not have convened a closed session informal meeting to discuss such a matter, it should have been referred straight to the Monitoring Officer. It was

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also incorrect for me to be refused a copy of the grievance when there is no policy stating this.”

- 5.11 Part of the consideration includes how the Parish Council dealt with Councillor Bevan's complaint against the former Clerk, and Councillor Robinson's role in that process.
- 5.12 Following his complaint against the Clerk on 26 June 2022, Councillor Bevan received no formal acknowledgement of his complaint although Councillor O'Meara confirmed in person that she was investigating his complaint.
- 5.13 On 28 June 2022 Councillor O'Meara emailed Councillor Bevan to notify him that his complaint had been discussed at a HR Committee meeting and the findings would be presented to the Parish Council meeting on 30 June 2022.
- 5.14 Councillor O'Meara reported to the Parish Council meeting on 30 June 2022. Although Councillor Bevan states that he believes the Parish Council was correct to refer his complaint to the HR Committee, he was not happy with how the matter was reported to the Parish Council meeting on 30 June. He states:

“At the full Council meeting on 30 June 2022 Councillor O'Meara gave me a verbal report that skipped so many issues and did not address all parts of my complaint. I confirmed I was not happy with the report and the way the Clerk was operating. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked me to write a motion. I did not do this as email correspondence later insinuated the matter had been dealt with. This is when letters from the Clerk's solicitors started. I don't have copies of the letters. They were read out by Councillor O'Meara in the closed session of a full Council meeting. I never saw hard copies of the letters to confirm who they had come from and whether they were on headed notepaper.”

- 5.15 On 18 July 2022 Councillor Bevan requested an update about the progress of his complaint from Councillor O'Meara. She stated that the matter had been dealt with at the Parish Council meeting and that he had confirmed then that he was happy with the response and that a meeting was organised for 21 July 2022 to discuss an outstanding point.
- 5.16 Councillor Bevan was unhappy that he felt his complaint was not being dealt with properly. He states:

“I was asked if the verbal report Councillor O'Meara had given answered my points. I said, “no”. That was the reason an EGM was called on 21 July 2022 albeit it was later cancelled and Councillor O'Meara informed me they were waiting for a briefing by Warwickshire & West Midlands Association of Local Councils (WALC).

I do not believe there has been a meeting between the Council and WALC. The only communication between WALC and the Council was through Councillor Robinson. I do not think Councillor O'Meara was involved in those conversations but could not say for certain as I was not there myself.”

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Complaint 2 – Negotiation and Terms of the Settlement Agreement

5.17 The issues to consider include whether the Parish Council dealt with the Settlement Agreement for the former Clerk correctly and Councillor Robinson's role in that process.

5.18 Councillor Bevan states that the group formed to negotiate the Settlement Agreement was not a properly constituted committee. It comprised Councillor B O'Meara, Councillor C O'Meara, Councillor Rees and Councillor Robinson.

5.19 Councillor Bevan states:

"As these councillors were never formally mandated by the Council to act on its behalf, I consider their action was unconstitutional."

5.20 In addition, as Councillor Robinson was the former Clerk's brother-in-law, we must consider whether there was a conflict which could have impacted on Councillor Robinson's ability to act. Councillor Bevan believes this was the case. He states:

"Whilst I do not recall any such agreement at a Council meeting, if there was such an agreement then there is an obvious conflict of interest between Councillor Robinson and the former Clerk who are brother and sister-in-law. At no time did Councillor Robinson declare another interest when involving himself in the negotiation of the NDA."

Was Councillor Bevan treated unfairly by Councillor Robinson in respect of being named within the Settlement Agreement?

5.21 Councillor Bevan became aware that he was named in the Settlement Agreement. He states that:

"Although I have not seen the NDA, the Clerk has provided me the wording of the paragraphs:

"the Respondent agrees that it will not authorise the disclosure of any details about the fact and terms of this agreement, matters relating to the Claim and the circumstances leading up to the termination of the Claimant's employment; except as may be required for the performance of this agreement or required by law, to HMRC or any other regulatory body, or to its professional advisors. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 7.

The Respondent shall not make and shall not authorise the making of any adverse or derogatory comments or statements about the Claimant whether verbally or in writing and, if in writing, in any form whatsoever, including, but not limited to, on social media or the internet. The Respondent will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 9."

5.22 Councillor Bevan quotes these paragraphs from the Settlement Agreement to the current Clerk in an email dated 20 December 2022, so we understand that he knew about the wording on at least this date. However, he states that he

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had not seen these clauses before the Settlement Agreement was signed and states that he did not understand the context. He states:

"I have no idea what Clause 7 and Clause 9 refer to".

- 5.23 Councillor Bevan queried with the Parish Council the relevant legislation under which it could impose limitations on him without his consent. He states:

"The powers granted to a parish council are defined in legislation.... The legislation does not grant the Council unilateral authority to impose obligations on individuals without their explicit consent.

I do not believe that any parish council can place any limitations on the free speech of any citizen of the UK.

I asked the Council to confirm the precise legal statute under which it was authorised to restrict the activities of an individual. Their response was:

"the Parish Council is able to enter into employment contracts with individuals that would enable it to carry out its functions. Therefore, it follows that the council can enter into arrangements that terminate these contracts as well. It is under these powers that the council entered into the agreement to which you refer This agreement requires the council to commit to certain actions which relate to all of its membership whether they were named or not. All council members are obliged during and following any term of office or service to continue to consider any matters relating to staffing and disciplinary matters as confidential unless instruction is received to release such information for governance or legal purposes."

6. Additional submissions received from Councillor Bevan and Councillor Robinson

- 6.1 The following comments were received from Councillor Bevan on the draft version of this report. We have responded under each relevant section:

"I have read the report regarding Cllr Robinson that was originally sent to me on 1 March 2024 by NWBC (the file name was Pre-Draft Report Bevan v Robinson v2) and it generally agrees with my views. There are a few detail points: the main one relates to the issue of "bullying". I don't think that I have ever used the term in relation to Cllr Robinson and I believe that it was Clive Tobin who first mentioned the term on page 6 of his initial view: "Furthermore, Councillor Robinson's overall conduct toward both Councillor XXX and Councillor Bevan has a quality of bullying toward them and appears to breach the requirements of the Code ...". Wilkin-Chapman report states that they have not been able to ascertain the effect of any bullying has on me, this is because my personality is strong enough for me to rise above it - that may not be so for everyone!"

Response to Comments

We should clarify that, in our investigation, it is open to us to consider any section of the Code of Conduct that we feel is appropriate. We accept that Councillor Bevan did not raise the issue of bullying but that Mr Tobin did mention it. We considered it because we thought it was relevant to our investigation. In our conclusions, for the reasons stated, we did not find evidence of bullying.

"I claim that Cllr Robinson discriminated against me and I claim "victimisation, by being personally named in the NDA under the Discrimination and the Equality Act 2010". I feel that I need to clarify two points here: Firstly, the report correctly states that I do not have any "protective characteristics" but secondly, I take my lead from the acas website (<https://www.acas.org.uk/discrimination-and-the-law/victimisation>) where they quote "Victimisation is when someone is treated less favourably as a result of being involved with a discrimination or harassment complaint.

Ways someone could be victimised include:

- *being labelled a troublemaker*
- *being left out*
- *not being allowed to do something*

Victimisation is a specific type of discrimination under the law (Equality Act 2010)". I believe that this does apply to the way that I was treated."

Response to Comments

The main point to reiterate is that the issue of discrimination does not form part of the Code of Conduct. This may be an issue that the Parish Council wishes to consider adding into a future revision of the Code of Conduct.

Because Councillor Bevan told us that he believed he had been discriminated against, we briefly considered the issue and found that Councillor Bevan did not have relevant protected characteristics under the Equality Act 2010. We have considered his comments about victimisation and the ACAS guidance. This states:

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"The law says victimisation means 'suffering a detriment' because you've done or intend to do a 'protected act'. A 'protected act' means taking action related to discrimination law. This includes:

- making a complaint of discrimination or harassment*
- supporting someone else's complaint*
- gathering information that might lead to a complaint*
- acting as a witness in a complaint*
- saying something or giving evidence that does not support someone else's complaint*

'Detriment' means someone experiences one or both of the following:

- being treated worse than before*
- having their situation made worse"*

The incidents cited in his complaint did not arise because Councillor Bevan had claimed that he was being discriminated against and he was not supporting anyone else's claim of discrimination. Therefore the definition of victimisation under the Equality Act 2010 does not apply to Councillor Bevan's situation.

"The final point that I should make relates to the time that I was informed about the paragraphs relating me to the NDA. The report states that I first heard of the conditions "early in 2023". I have a feeling that I knew at the end of 2022 but I defer to Wilkin-Chapman as I copied all the emails to them without editing. I do not challenge the content of the report and only offer the above as "supplementary information".

Many thanks,

Neil"

Response to comments

We have reviewed the evidence and there is an email from Councillor Bevan to the current Clerk dated 20 December 2022 in which he quotes the relevant paragraphs from the Settlement Agreement. He was therefore aware of them on at least that date. We have amended the relevant paragraphs below.

- 6.2 No comments were received from Councillor Robinson on the draft version of this report:

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7. Reasoning as to whether there have been failures

Official Capacity

- 7.1 The relevant sections of the Code of Conduct are set out in Section 3 above.
- 7.2 Section 27(2) of the Localism Act 2011 requires the Council to adopt a code of conduct dealing with the conduct that is expected of members of the Council *“when they are acting in that capacity”*.
- 7.3 The Code of Conduct reflects the requirement of section 27(2) of the Localism Act.
- 7.4 The Local Government Association Guidance 2020 on the Model Code of Conduct (The LGA Guidance) states that:

“The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor*
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.*
- This means it applies when you are carrying out your official duties, for example when you are considering or discussing local authority business, either as a councillor or representing the local authority on an outside body.*

The code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction, including:

- at face-to-face meetings*
- at online or telephone meetings*
- in written communication*
- in verbal communication*
- in non-verbal communications*
- in electronic and social media communication, posts, statements, and comments.*

This includes interactions with the public as well as with fellow councillors and local authority officers.”

- 7.5 The complaints relate to the handling of the Grievance against Councillor Bevan, the handling of his complaint against the former Clerk and how he was treated during the negotiations and completion of a Settlement Agreement with the former Clerk.
- 7.6 Councillor Robinson was Chair of the Parish Council.
- 7.7 Our view is that Councillor Robinson was conducting the business of the Parish Council throughout this period and all these matters are within the remit of parish council business.

- 7.8 We have therefore concluded that Councillor Robinson was acting in an official capacity and was subject to the Code of Conduct.

Respect

- 7.9 Paragraph 1 of the Parish Council's Code of Conduct states:

“General obligations

1. *He/she shall behave in such a way that a reasonable person would regard as respectful.”*

- 7.10 When describing ‘Disrespectful Behaviour’ the LGA Guidance states:

“Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

Disrespectful behaviour can be harmful to both you and to others. It can lower the public's expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure.”

Complaint 1

The Grievance

- 7.11 The first notification that Councillor Bevan received about a grievance against him was a short email from Councillor O'Meara, Chair of the HR Committee, on 28 June 2022. She states:

*”Hi Neil,
We have today received a formal grievance regarding yourself. The HR committee will be in touch with you soon, to attend a meeting to discuss further.
Kind regards
Belinda”*

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7.12 Despite repeated requests, Councillor O'Meara did not give Councillor Bevan any details or summary of the grievance against him. Neither did she provide him with a copy of the Grievance Policy. Instead, she provided him only with the terms of reference of the HR Committee.

7.13 He is abruptly told by Councillor O'Meara, on 30 June:

*"Hi Neil,
No you don't get a copy of the letter at all, standard policy. They are a confidential document.
Belinda"*

7.14 Most of the emails are from Councillor O'Meara, with no-one else copied in. However, the first invite to the "informal meeting" on 30 June 2022 is copied to Councillors Chris O'Meara, Wendy Rees and Phillip Robinson, but not Councillor Felicia Freeman.

7.15 It is not clear what committee this is. Councillor Bevan states:

"At the Annual Parish Council Meeting on 12 May 2022 the HR Committee was appointed. Councillors appointed to the HR Committee were; Councillor Rees, Councillor Felicitas Freeman, Councillor B O'Meara and Councillor C O'Meara."

7.16 Following Councillor Bevan's email to Councillor O'Meara on 30 June 2022 confirming that, as the meeting is not properly constituted he will not attend, there appears to be no response and no further action on the grievance. Councillor Bevan copies his email to Councillors Chris O'Meara, Wendy Rees and Philip Robinson.

7.17 Grievance procedures are usually raised by an employee against its employer. It is not clear, because Councillor Bevan was not shown a copy of the grievance, whether the former Clerk's grievance was against the Parish Council as her employer, with Councillor Bevan simply named as one individual; or whether the grievance was aimed directly at Councillor Bevan. It appears from Councillor O'Meara's language that the grievance was aimed directly at Councillor Bevan.

7.18 The case of *R. (on the application of Harvey) v Ledbury Town Council (2018)*, involved a complaint of bullying made by staff against a councillor, which the Town Council dealt with through a grievance procedure. The Town Council found the councillor guilty in her absence and imposed certain restrictions on her. The councillor brought judicial review proceedings against the Town Council's decision and the court confirmed that such a complaint against councillors should not be dealt with through the grievance procedure, but through the Code of Conduct. The court held that:

"there was no general power to run a grievance procedure in tandem with, or as an alternative to, the Code of Conduct process envisaged by the 2011 (Localism) Act, as to do so would be contrary to Parliament's intention"

7.19 The case also criticised the procedure used, in that it did not adequately allow for the councillor's participation in the hearing and the allegations were not properly put to her.

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- 7.20 We find that *Ledbury* is analogous to Councillor Bevan's situation. The former Clerk's grievance against him, should not have been heard by the HR Committee, or any other committee of councillors. It should not have been dealt with through the grievance process and should have been referred to the Monitoring Officer to deal with under the Code of Conduct.
- 7.21 Even if the process was correct (which it was not), we also find that it was wrong of the Parish Council not to give Councillor Bevan sufficient details of the grievance so that he understood it and could respond.
- 7.22 We note that the Parish Council did not have a Grievance Policy in place at the time. In those circumstances, the Advisory, Conciliation and Arbitration Service (ACAS) states that:

"Your organisation should have its own grievance procedure. Otherwise you must follow the steps in this guide and the Acas Code of Practice on disciplinary and grievance procedures."

- 7.23 In respect of informing the subject person about the grievance, ACAS states:

"Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made."

- 7.24 In respect of fairness in investigations, generally, the case of *R. (on the application of Greenslade) v Devon CC (2019)* states:

"a fair procedure is one in which the person who is accused of whatever it may be is entitled to know the gist of the case against him and to make representations on his own behalf."

- 7.25 We find that, in pursuing the wrong process against Councillor Bevan and, in not informing him of the relevant issues within the grievance that applied to him, and not allowing him the opportunity to respond, the Parish Council treated Councillor Bevan unfairly and with a lack of respect.
- 7.26 Although the communication with Councillor Bevan was led by Councillor O'Meara, it is clear that, as Chair, Councillor Robinson had oversight of that process and he is copied in to at least one of the emails from Councillor O'Meara. He was also one of the four members who formed the group dealing with the grievance and before whom Councillor Bevan was summonsed to an *"informal meeting"* to discuss the grievance.
- 7.27 The case of *Boughton, Dartmouth Town Council (2009) APE 0419 paragraph 3.3.6*, was a case dealt with under the previous Standards regime. However, its findings on the threshold for respect are relevant. The case tribunal described a failure to treat with respect as follows:

"A failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour including the place, who observed it, the character and relationship of the people involved will all be relevant in assessing whether the behaviour was disrespectful."

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- 7.28 In *Buchanan, Somerset County Council (2009) APE 0409*, in relation to a complaint by a chief executive the Tribunal said at paragraph 51:

“In the Tribunal’s view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect.”

- 7.29 The key elements of finding a failure to treat others with respect are that the conduct is unreasonable, demeaning and directed.
- 7.30 In the handling of the grievance against Councillor Bevan, there was a clear failure in procedure, an abruptness and rudeness in communicating with him and a complete lack of fairness in the process. As Chair of the Parish Council, Councillor Robinson clearly had oversight of these processes and therefore we find that Councillor Robinson failed to treat Councillor Bevan with respect.

Councillor Bevan’s Complaint against the Clerk

- 7.31 The process by which the Parish Council dealt with this matter also appears to have been shrouded in secrecy. There was a meeting of the HR Committee held some time before 28 June 2022, on which date Councillor O’Meara informed Councillor Bevan that the matter would be discussed at a meeting of the Parish Council on 30 June 2022.
- 7.32 That meeting did not go well. Councillor Bevan states:

“At the full Council meeting on 30 June 2022 Councillor O’Meara gave me a verbal report that skipped so many issues and did not address all parts of my complaint. I confirmed I was not happy with the report and the way the Clerk was operating. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked me to write a motion. I did not do this as email correspondence later insinuated the matter had been dealt with. This is when letters from the Clerk’s solicitors started. I don’t have copies of the letters. They were read out by Councillor O’Meara in the closed session of a full Council meeting. I never saw hard copies of the letters to confirm who they had come from and whether they were on headed notepaper.

On 18 July 2022 I requested an update on my complaint from Councillor O’Meara.

Councillor O’Meara responded on 19 July 2022 confirming that at the closed session of the 30 June 2022 Council meeting I had confirmed I was happy with the responses received and that a meeting was then organised for 21 July 2022 to discuss an outstanding point of my complaint.

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I was asked if the verbal report Councillor O'Meara had given answered my points. I said, "no". That was the reason an EGM was called on 21 July 2022 albeit it was later cancelled and Councillor O'Meara informed me they were waiting for a briefing by Warwickshire & West Midlands Association of Local Councils (WALC).

I do not believe there has been a meeting between the Council and WALC..."

- 7.33 It is not clear why, if Councillor Robinson proposed holding a further EGM to discuss outstanding issues about the complaint, that meeting did not go ahead. If it had been cancelled in order to take further advice from WALC, we ask when that meeting took place and why Councillor Bevan was not given further information about it.
- 7.34 There is also a lack of clarity about how this matter was handled. The matter was referred correctly to the HR Committee, but Councillor Bevan was only told about that after the event. It was then discussed at the Parish Council meeting on 30 June. However, there was confusion about the outcome. Councillor O'Meara believed the matter was resolved and Councillor Bevan was happy, but Councillor Bevan was clearly not happy.
- 7.35 As Chair, Councillor Robinson should not have first called an EGM to discuss outstanding issues and then cancelled it without telling Councillor Bevan. There is also no evidence as to what the advice was from WALC, whether it ever arrived and what happened to that advice. The whole matter seems to have been dealt with secretly, without giving Councillor Bevan the correct and clear information about the progress of his complaint, that he was entitled to
- 7.36 Again, we find that the Parish Council, and Councillor Robinson, as Chair, treated Councillor Bevan with a lack of respect and did not appear to take his complaint seriously.

Complaint 2, The Settlement Agreement

- 7.37 Councillor Bevan was named in the Settlement Agreement without his consent. The only information he received was two short extracts sent to him by the Clerk, as set out in paragraphs 4.22 (yy) and 5.21 above. The extracts state that the Parish Council:

"will use its best endeavours to ensure that its employees, worker, officers, directors and councillors (in particular, Cllr Neil Bevan and Cllr XXXX) comply with this clause 7."

- 7.38 A similar commitment in relation to Councillor Bevan and one other councillor is given in relation to clause 9.
- 7.39 Councillor Bevan states that he was not consulted about the terms of the Settlement Agreement. He was sent the wording of the relevant clauses by the Clerk, as set out in paragraph 5.21 above, in late 2022, after the Settlement Agreement was signed. It seems that Councillor Bevan was told of at least the obligations under the Settlement Agreement at some time before 7 December, as, in her email to ACAS on 7 December, the Clerk states:

"Individual councillors have been made aware of their obligations under this agreement and this afternoon, I will reiterate the general data

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protection duties they should already adhere to as part of the corporate body and on an individual basis as data processors.”

- 7.40 The paragraphs relate to the Parish Council using “their best endeavours” to ensure that no members, specifically Councillor Bevan and one other councillor, do not make public the fact of the Settlement Agreement or make any public derogatory comments about the Clerk.
- 7.41 Although it is unusual for individual councillors to be mentioned in such a clause, and although Councillor Bevan was not aware of the specific terms of the Settlement Agreement, the terms of the two clauses are clear enough. We do not see how he could be personally liable to the former Clerk for any breach. He should have been told that he would be named in the agreement and given the terms of the two clauses, before the agreement was finalised. We query how possible it would be to enforce those clauses against Councillor Bevan, particularly when he was not made aware of them. The Clerk also states, in an email to him dated 26 April 2023:

“The agreement states that Water Orton Parish Council (WOPC) will not authorise the disclosure of any details about the fact and terms of the agreement, matters relating to the claim and the circumstances leading up to the termination of employment. WOPC are also agreeing to use its best endeavours to ensure employees, worker, officers, directors, and councillors comply with this. WOPC can not take any sanction against members, our best endeavour is to report any breaches of the agreement to the Monitoring Officer should this occur. Therefore there is no mention in the agreement of restraining the activities of any individual councillors as WOPC does not have the legal powers to enforce this.”

- 7.42 If this is the case, we do wonder why the Parish Council included Councillor Bevan’s name in the clause at all. However, a non-disclosure clause is standard in such agreements and, the fact that there might have been errors in the process of negotiating the Settlement Agreement, does not make it necessarily invalid.
- 7.43 In respect of the process, Councillor Bevan was aware that four members of the Council were negotiating a Settlement Agreement with the former Clerk. Those four members were Councillor B O’Meara, Councillor C O’Meara, Councillor Rees and Councillor Robinson. He states:

“As these councillors were never formally mandated by the Council to act on its behalf, I consider their action was unconstitutional”

- 7.44 There is some evidence that the Settlement Agreement was discussed in Council meetings. Councillor Bevan states:

“The Clerk also told me that the NDA was discussed at the following meetings, the minutes of which are attached at NB2:

*30 June 2022 (Staffing matters, agenda item 22.42);
29 September 2022 (Staffing matters, agenda item 22.57);
12 October 2022 (Staffing matters, agenda item 22.60);
27 October 2022 (Staffing matters, agenda item 22.72);
1 December 2022 HR Committee meeting (agenda item HR22/14); and*

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1 December 2022 (Staffing matters, agenda item 22/83 (b)).”

7.45 However, Councillor Bevan states:

“There are formal minutes for the six meetings listed above and three sets of confidential notes alongside minutes for 29th September, 12th October and 27th October. I have not seen the confidential notes (even as my role as a Parish Councillor) and thus I contest that these notes are irrelevant as a formal record of Council activity.”

7.46 He also states:

“I have seen no record that agrees to the negotiating detail of the NDA in the minutes of the above meetings, nor any record of the NDA being discussed in the Council minutes prior to it being signed.

...

I have seen a ‘confidential note’ relating to agenda item 22.57 (29 September 2022 meeting). Although the note mentions the NDA, I do not recall the notes being distributed to councillors and can find no record of them being entered into Council minutes and agreed as a true record.

The same confidential note suggests that the grievance ‘should have gone to the Monitoring Officer’. The MO has confirmed to me that he has received no complaint against me.

Warwickshire Association of Local Councils (WALC) is also referred to in the confidential note suggesting that the WALC guidelines were being followed. However, based on a conversation I had with the CEO of WALC, I would be surprised if WALC guidelines were being followed.

I feel strongly that the notes were not made at the time but were written more recently. By way of example, the note refers to the signing of a letter written to the former Clerk’s solicitor and that the matter was ‘resolved unanimously’. I do not recall agreeing to the signature of such a letter at the meeting on 29 September 2022.”

7.47 There is reference to the progress of a Settlement Agreement with the former Clerk in the above agendas and minutes, all of which are referred to as taking place within closed sessions. Councillor Bevan was present at many of these meetings and voted. However, all councillors present should have been given a copy of any confidential reports and notes, so that they could make a fully informed decision on agreeing the Settlement Agreement with the former Clerk. The discussions were held in closed sessions and the usual purpose of such sessions is to allow councillors to see and discuss confidential information.

7.48 We find that this was a failure in the proper procedure and, as Chair, Councillor Robinson failed to show respect to Councillor Bevan as a member of the Parish Council.

7.49 The other failure in the procedure was that four councillors, Councillor O’Meara, Councillor C O’Meara, Councillor Rees and Councillor Robinson, were negotiating the Settlement Agreement with the former Clerk’s solicitors, without being properly mandated by the Council. We wondered if they were a sub-

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committee of the HR Committee, but Councillor Robinson did not sit on that committee. Councillor Bevan is correct that the Parish Council should have given proper delegated authority, either to the full HR Committee, or to a separate group, to negotiate the agreement with the former Clerk. However, we do not find that this failure specifically affects Councillor Bevan and therefore, we do not find that this contributed to a failing under the issue of respect.

Conclusion

- 7.50 We consider that Councillor Robinson's conduct in respect of Councillor Bevan's complaint against the Clerk and in the treatment of Councillor Bevan following the raising of the Clerk's grievance, did fail to treat Councillor Bevan with respect.
- 7.51 We consider that Councillor Robinson's conduct in respect of the negotiation and agreement of the Settlement Agreement did fail to treat Councillor Bevan with respect. This is related to the inclusion of Councillor Bevan's name in paragraphs 7 and 9 without informing him before the Settlement Agreement was finalised.
- 7.52 We have therefore concluded that, if Councillor Robinson had still been a parish councillor, he would have been in breach of paragraph 1 of the Code of Conduct.

Non-Disclosure of Other Interests

- 7.53 We have considered Councillor Robinson's behaviour in respect of his involvement in the negotiation and agreement of the Settlement Agreement with the former Clerk. The former Clerk is Councillor Robinson's sister-in-law.
- 7.54 Paragraph 13 of the Parish Council's Code of Conduct states:

"Other Interests

13. *In accordance with the General Principles of Public Life enshrined within the Code of Conduct, (in particular the principles of Honesty and Openness) elected and co-opted members are required to declare at any meeting any personal interest (other than and in addition to any Disclosable Pecuniary Interest) (whether it be an interest in any land, contract, proposed contract, business, membership of any club or body that is considered to be relevant to any matters under discussion). The member will then wish to consider whether any person who was in full knowledge of the facts would consider that interest as likely to prejudice their judgement of the public interest, and if he/she so concludes, shall not take part in the discussion or vote on the matter. As per Water Orton Parish Council Standing Order 3. u.*

...

15. *Members are advised to seek advice and clarification from the Monitoring Officer in cases of doubt."*

- 7.55 Standing Order 3. u. states:

"u A councillor or non-councillor with voting rights who has a disclosable pecuniary interest or another interest as set out in the

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Council's code of conduct in a matter being considered at a meeting is subject to statutory limitations or restrictions under the code on his right to participate and vote on that matter."

7.56 Other interests are not further defined in the Code of Conduct, but it seems likely that a close family relationship such as this is an obvious conflict that would mean Councillor Robinson should not have participated in the negotiation of the Settlement Agreement with the former Clerk.

7.57 The LGA Guidance states, about the issue of interests:

"You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained."

7.58 Councillor Robinson should have declared his interest at the meetings where the Settlement Agreement was discussed and should not have participated or voted on the agreement. This is even though the matter was discussed in closed session. Councillor Robinson should have made his declaration at the start of each meeting in the open session and absented himself from the closed sessions, where the Settlement Agreement was discussed. We also note that he signed the Settlement Agreement, despite being conflicted by his personal interest.

7.59 We consider Councillor Robinson's behaviour in respect of the settlement with the former Clerk to be a clear breach of the Code of Conduct in respect of declaration of interests.

Conclusion

7.60 We consider that Councillor Robinson failed to disclose his personal interest as the former Clerk's brother-in-law, was conflicted in the negotiation and agreement of the Settlement Agreement and should not have been involved in the matter.

7.61 We have therefore concluded that, if Councillor Robinson had still been a parish councillor, he would have been in breach paragraph 13 of the Code of Conduct.

Bullying

7.62 Paragraph 2 of the Parish Council's Code of Conduct states:-

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

7.63 We have considered whether anything in Councillor Robinson's behaviour in these matters would qualify as bullying under the Code of Conduct.

7.64 The term bullying is not defined within the Code of Conduct, however the LGA guidance states:

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“Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Bullying may be obvious or be hidden or insidious. Such conduct is usually part of a pattern of behaviour which attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

Bullying can take the form of physical, verbal and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person, by telephone or in writing, including emails, texts or online communications such as social media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

Bullying can affect anyone, in any career, at any time, at any level and within any workplace. Such behaviour can take the form of easily noticed, physically threatening or intimidatory conduct with immediate impact, or it can take place behind closed doors or be much more subtle or camouflaged and difficult to identify, at least at first. It can start, for example, with what appear to be minor instances, such as routine ‘nit-picking’ or fault-finding, but which become cumulative or develop into more serious behaviour over time, enabling the perpetrator to isolate and control the person.”

- 7.65 The definition of bullying used by the Arbitration, Conciliation and Advice Service (ACAS) is:

“Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.” (Advice leaflet - Bullying and harassment at work: Guidance for employees, ACAS March 2014)

- 7.66 Both definitions have some similarities and refer to offensive, intimidating, malicious, insulting or humiliating behaviour associated with a relationship between the two individuals where the bully is in a position of influence or authority.
- 7.67 Councillor Bevan has not mentioned the effect on him of Councillor Robinson’s behaviour. In addition, because Councillor Robinson has refused to engage in the investigation, we have been unable to understand his views on the issues.
- 7.68 In *H v Isle of Wight Council (unreported)*, 23 February 2001, (High Court), Wright J held that:

"The criterion of what does or does not amount to bullying in any given circumstances is not to be judged solely by the subjective perception of the victim himself ... but involves an objective assessment of the

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observed behaviour, taken in conjunction with any apparent vulnerability in the target of the behaviour complained of."

- 7.69 In *Green v DB Group Services (UK) Ltd [2006] EWHC 1898 (QB)*, the High Court found that Ms Green had been subjected to *"a relentless campaign of mean and spiteful behaviour designed to cause her distress. ... [T]he behaviour amounted to a deliberate and concerted campaign of bullying within the ordinary meaning of that term."* In deciding whether behaviour amounted to bullying, the cumulative effect of the alleged conduct had to be considered, rather than the individual incidents relied on.
- 7.70 Conversely, In *Mullen v Accenture Services Ltd [2010] EWHC 2336 (QB)*, the High Court found that the circumstances of *Green* provided an instructive example of what may constitute bullying within the ordinary meaning of the term and was *"a useful yardstick"*. Mr Mullen claimed that he had been bullied by his line manager who humiliated him in front of other members of staff, regularly shouted and swore at him, put him under immense pressure to solve any problems and who, despite Mr Mullen working long hours and losing sleep, was never satisfied by anything he did.
- 7.71 His employer was described by the judge as a performance driven company at which employees were expected to work long hours under pressure to achieve results, in return for which they received impressive salaries. On the basis of the evidence, the High Court held that while there might have been *"blunt language and inappropriate banter"* this had been the result of wishing to drive the work forward, rather than being directed at Mr Mullen. While *"there may sometimes be a fine line between strong management and bullying"*, the line had not been crossed in this case as Mr Mullen had not been at the receiving end of *"genuinely offensive and unacceptable behaviour"*.
- 7.72 We have considered these cases as guidance in the issues between Councillor Robinson and Councillor Bevan. Although we have found failures in procedure in dealing with the issues and a lack of respect towards Councillor Bevan, we have not seen anything which would indicate either that Councillor Robinson treated him in malicious and spiteful way, or that Councillor Bevan was particularly affected, beyond his obvious feeling that he was treated unfairly in his complaint and that Councillor Robinson was not following the correct procedures.
- 7.73 There is one incident of relevance, which is the meeting of 30 June 2022, at which Councillor Bevan's complaint against the former Clerk was discussed. Councillor Bevan states:
- "At the full Council meeting on 30 June 2022 Councillor O'Meara gave me a verbal report that skipped so many issues and did not address all parts of my complaint. I confirmed I was not happy with the report and the way the Clerk was operating. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked me to write a motion. I did not do this as email correspondence later insinuated the matter had been dealt with."*
- 7.74 Although Councillor Bevan states that the meeting became "heated", we do not have any further details of that. From his follow up correspondence with Councillor O'Meara, it is clear that he was frustrated and angry with what he

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saw as the Council avoiding its duty to investigate his complaint properly, but there is no clear evidence of whether he felt bullied by Councillor Robinson.

Conclusion

7.75 We have concluded that we do not believe that Councillor Robinson was guilty of behaving towards Councillor Bevan in a bullying manner.

7.76 We therefore find that, if Councillor Robinson had still been a councillor, he would not be in breach of paragraph 2 of the Code of Conduct

Seeking to improperly confer an advantage on any person

7.77 We have also considered whether anything in Councillor Robinson's actions in dealing with these issues would amount to an improper use of his position to confer an advantage on the former Clerk.

7.78 Paragraph 3 of the Parish Council's Code of Conduct states:

"He/she shall not seek to improperly confer an advantage or disadvantage on any person."

7.79 The LGA Guidance states:

"Your position as a councillor provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly."

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a councillor."

Involving yourself in a decision in which you have an interest, to seek to benefit yourself or another would be a breach of this paragraph of the code."

7.80 The LGA Guidance emphasises that most allegations of improper use of position arise out of a failure to declare interests. It gives the following examples:

"Most alleged improper uses of position are in connection with matters in which the councillors have interests."

A councillor who was a 'joint co-ordinator' of a community group did not notify the local authority of her position in this group. She took part in the considerations and voted on the decision to negotiate a new lease in respect of a workshop used by this community group. A standards committee found that she had used her position improperly as the decision on which she voted benefited a group in which she clearly had an interest which she had not disclosed to the local authority."

A local authority leader failed to declare a conflict of interest relating to land he owned. The court found that he used his position as a councillor

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and instructed a planning officer to alter the road route to benefit his own land's value to a considerable extent. He was found guilty of misconduct in public life for trying to influence the route of a new by-pass to enclose his land in a new development belt, which would have significantly increased its value. He received an 18-month custodial sentence.

A parish councillor was found to have improperly used his position and secured an advantage for a member of the public by asking the parish clerk to make a payment which had not been approved by the Parish Council in breach of the Code of Conduct. The payment was for repairs to a private road used by the councillor to get to his allotment."

7.81 We have been unable to ascertain Councillor Robinson's response to the matters complained about, so we have had to assess on the evidence we have and Councillor Bevan's statements.

7.82 In respect of Councillor Robinson's dealing with Councillor Bevan's complaint against the former Clerk, Councillor Bevan states:

"At the full Council meeting on 30 June 2022 Councillor O'Meara gave me a verbal report that skipped so many issues and did not address all parts of my complaint. I confirmed I was not happy with the report and the way the Clerk was operating. The conversation became heated and Councillor Robinson confirmed his intention to call an Extraordinary General Meeting to sort the matter out. Councillor Robinson asked me to write a motion. I did not do this as email correspondence later insinuated the matter had been dealt with. This is when letters from the Clerk's solicitors started. I don't have copies of the letters. They were read out by Councillor O'Meara in the closed session of a full Council meeting. I never saw hard copies of the letters to confirm who they had come from and whether they were on headed notepaper."

7.83 As we have been unable to ascertain Councillor Robinson's response to the complaint it is unclear why he thought an EGM would resolve the issues raised against the former Clerk.

7.84 The Terms of Reference for the HR Committee state:

"(c) Functions

The Committee will be responsible, in conjunction with the Clerk to the Council for:-....

operation of the Council disciplinary, grievance, grading and appeal procedures"

7.85 It is not clear from the Terms of Reference whether the HR Committee has final authority to make decisions about grievances and disciplinary procedures and it is clear that there was no procedure in place at the time to deal with complaints between councillors and staff and/or grievances.

7.86 We are therefore unsure whether an EGM was the correct procedure to deal with a complaint against the former Clerk. Giving Councillor Robinson the benefit of the doubt, if the HR Committee routinely reported to full Council to resolve matters on its recommendation, this might have been appropriate.

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However, the EGM was subsequently cancelled on the basis that the Parish Council was waiting for advice from WALC. However, Councillor Bevan does not know what that advice was or whether it was actually given.

- 7.87 More importantly, following the LGA Guidance, Councillor Robinson clearly had a personal interest in all the issues relating to the former Clerk, as they are brother and sister-in-law. At no time did Councillor Robinson declare that fact, which he should have done at the beginning of every meeting. As he was conflicted, he should also have stepped aside from all matters relating to resolving both Councillor Bevan's complaint and the former Clerk's grievance.
- 7.88 In respect of the negotiation of the Settlement Agreement, it is clear that there was a genuine employment dispute raised by the former Clerk. The Clerk has forwarded copies of the case notes from Councillor O'Meara's communications with ACAS. On 31 October 2022, ACAS first contacted the Parish Council to inform it that they had received an early notification about a workplace dispute and offering to provide conciliation.
- 7.89 There is then a chain of email and telephone communication between Councillor O'Meara and ACAS about a Settlement Agreement, leading to an email on 28 November 2022 from ACAS to Councillor O'Meara which states:

"Dear Belinda, now that both parties have agreed the terms of the COT3 and are aware of each other's agreement, the settlement is now legally binding....Next steps: Claimant will sign the COT3 wording and send a signed copy to Water Orton Parish Council, you will need to sign the document and return to Claimant X's (The Clerk) representative."

- 7.90 The Settlement Agreement was signed on 1 December 2022 and we have seen the minutes of that meeting, in closed session, which state:

"22/083. HR Committee:

b) It was noted that the agreement is ready for signature, wording has been agreed between parties and payment should be made within 28 days. Cllr B O'Meara proposed and it was seconded by Cllr W. Rees to approve the agreement. Cllr S Stuart proposed an amendment to not sign this document before 5th December 2022. The Council voted against this amendment. Cllr Freeman left the meeting. The original proposal was moved to a vote, and it was RESOLVED to approve the agreement by majority, Cllr Stuart & Cllr Bevan voted against this proposal. Agreement to be signed by Cllr P. Robinson as Chair of the Parish Council."

- 7.91 In the Clerk's covering email to us on 28 June 2023, enclosing the ACAS notes, she states:

"I haven't been able to find any information to suggest that the wording of the agreement had been agreed by the council prior to 1 December, and can see that the previous HR Committee Chair agreed the wording on behalf of the Council on 25th November and I don't have any evidence beyond what that already supplied which would have given Cllr O'Meara delegated authority to agree this"

- 7.92 As already stated in this report, we are unaware of the status of the group who dealt with the former Clerk's complaint. Councillor Bevan states:

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“At the Annual Parish Council Meeting on 12 May 2022 the HR Committee was appointed. Councillors appointed to the HR Committee were; Councillor Rees, Councillor Freeman, Councillor B O’Meara and Councillor C O’Meara.

The councillors involved in the discussions regarding the NDA were; Councillor B O’Meara, Councillor C O’Meara, Councillor Rees and Councillor Robinson. As these councillors were never formally mandated by the Council to act on its behalf, I consider their action was unconstitutional.”

- 7.93 We have also not seen any delegated authority to Councillor O’Meara to agree the terms of the Settlement Agreement on behalf of the Council. Although the matter was brought to the Council on 1 December for approval and signing, by that time, the Settlement Agreement was agreed and binding as advised by ACAS.
- 7.94 Again, at no time, did Councillor Robinson declare his personal interest and he fully participated in the meeting – and earlier meetings – in which the Settlement Agreement was discussed. He also signed the Settlement Agreement on behalf of the Parish Council.
- 7.95 We do note that there was a genuine employment dispute, that ACAS was involved and that it is usual for organisations to settle such disputes with the help of ACAS and via a Settlement Agreement. However, we are concerned about the failures in proper process and in Councillor Robinson’s close involvement in the matter, even to the extent of signing the Settlement Agreement on behalf of the Council.
- 7.96 The LGA Guidance states that an interest:

“can of course affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, an interest would need to be declared in both situations.”

Conclusion

- 7.97 Without Councillor Robinson’s statement about these issues, we can only assess on the basis of information we have seen and Councillor Bevan’s statements. On this basis, our view is that Councillor Robinson improperly used his position to gain an advantage for the former Clerk, his sister-in-law.
- 7.98 We therefore find that, if Councillor Robinson had still been a councillor, he would have been in breach of paragraph 3 of the Code of Conduct

Equality

- 7.99 We have briefly considered this issue, although the issue of equality is not included in the Code of Conduct.

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7.100 Councillor Bevan told us:

“I believe that I have been discriminated against, specifically victimisation, by being personally named in the NDA under the Discrimination and the Equality Act 2010.”

7.101 The definition of discrimination is set out in the Equality Act 2010 (the Act). It states:

13 Direct discrimination

A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

7.102 The protected characteristics are listed in Section 4 of the Act, as follows:

- *age*
- *disability*
- *gender reassignment*
- *marriage and civil partnership*
- *pregnancy and maternity*
- *race*
- *religion or belief*
- *sex sexual orientation*

7.103 We are unaware of any protected characteristic of Councillor Bevan, therefore we do not see that his treatment by being named within the Settlement Agreement amounts to discrimination.

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8. Finding

- 8.1 Our finding is that, if Councillor Robinson had still been a Parish Councillor, he would have been in breach of paragraphs 1, 3 and 13 of the Code of Conduct.

Dated 13 June 2024

Wilkin Chapman LLP
Investigating Solicitors

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North Warwickshire
Borough Council

PRIVATE AND CONFIDENTIAL

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for North Warwickshire Borough Council, into allegations concerning Councillor Phillip Robinson of Water Orton Parish Council.

Dated: 13 June 2024

VOLUME 1 REPORT

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Appendix A Schedule of evidence taken into account and list of unused material

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1. Executive Summary

- 1.1 Councillor Phillip Robinson is a former member of Water Orton Parish Council (the Parish Council) resigning on 29 June 2023. As he was a councillor at the time of the alleged conduct, he will be referred to throughout this report as Councillor Robinson.
- 1.2 At the time of the alleged conduct Councillor Robinson was Chair of the Parish Council and a member of the Financial Committee.
- 1.3 Councillor Stuart was co-opted to the Parish Council in 2017 but decided not to stand for re-election in 2019. Councillor Stuart was elected to the Parish Council again on 4 May 2023. Although he was not a councillor at the time the complaint was submitted, he will be referred to throughout this report as Councillor Stuart.
- 1.4 During his first term as a councillor, HS2 sought to be placed in the vicinity of the school. As such a new building was proposed on a nearby site within the village. Councillor Stuart pushed for greater community engagement which led to him becoming a liaison between the Parish Council and the primary school during his term between 2017 and 2019.
- 1.5 At the end of his initial term, Councillor Stuart left three items outstanding:
 - (i) a proposed Environmental Policy;
 - (ii) application for the Dog Inn to become an asset of community value; and
 - (iii) linkage between the Parish Council and the primary school.
- 1.6 Councillor Stuart presented a paper to the Parish Council regarding an Environmental Policy at the end of his term of office. He sought resolution at the first meeting of the next term.
- 1.7 Although Councillor Stuart chased the Parish Council regarding its Environmental Policy on a number of occasions the policy was not presented to the public prior to its approval.
- 1.8 The Environmental Policy that was eventually published on the Parish Council's website bore no resemblance to the policy he had proposed.
- 1.9 The application for the Dog Inn to become an asset of community value was made but was later found not to be on the North Warwickshire Borough Council's website.
- 1.10 In his previous term Councillor Stuart took on the role of liaison between the Parish Council and the school. Councillor Stuart later became Chair of the Governors.
- 1.11 Councillor Stuart identified a number of items which could potentially be procured/sourced from or in partnership with other bodies within the village and he emailed Councillor Robinson with a view to discussing matters but received no response.
- 1.12 A terse email exchange took place which did not facilitate any meeting and seemed to be trying to block such a meeting.

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- 1.13 Councillor Stuart repeated his request at a public meeting when it was suggested there be an Extraordinary General Meeting (EGM) to enable discussions regarding funding.
- 1.14 Councillor Stuart was asked to suggest the outcomes he wished to achieve and offered the use of the school to host the meeting.
- 1.15 The outcomes Councillor Stuart was seeking to achieve were the only items on the agenda for the EGM.
- 1.16 Councillor Stuart made a presentation to the councillors who attended the EGM but was told he would not be able to provide the presentation to councillors who were not present, nor meet with them separately to give them access to the presentation.
- 1.17 Councillor Stuart considers that the minutes of the meeting contained omissions, misclassifications and additions not raised at the meeting. Councillor Stuart asserts that the minutes presented suggested a much more negative tone of the presentation than what had been delivered.
- 1.18 He sought a correction of the minutes on a point regarding pupils but was told in no uncertain terms that the minutes were not a matter for non-councillors to comment on.
- 1.19 At the next Parish Council meeting the Clerk made certain forceful and unfounded allegations that Councillor Stuart did not like the way councils were run, inferring that he did not understand the value of strong governance.
- 1.20 The day after the Parish Council meeting Councillor Stuart saw Councillor Robinson whilst walking into the village. He asked Councillor Robinson how they could address the situation. Councillor Robinson suggested they meet and Councillor Stuart told Councillor Robinson he would be happy to do so.
- 1.21 An email exchange followed where Councillor Stuart sought to progress the matter, but the meeting never took place and he was eventually asked if he would 'let this pass'.
- 1.22 At a subsequent meeting Councillor Stuart asked if the Parish Council had a complaints policy but no one seemed to know.
- 1.23 Councillor Stuart then submitted a complaint against the Clerk and the Chairman. Councillor Stuart does not believe this has been dealt with satisfactorily.
- 1.24 The minutes of the Parish Council meeting on 31 March 2022 recorded:

"Cllr. Robinson made a further statement concerning the recent complaint against the clerk:

During the monthly parish council meeting held on the 25th of November a heated exchange took place between a member of the public who was a past Parish Councillor and the parish council clerk.

One of the many duties of the clerk is to ensure that the meetings are conducted in line with council standing orders and recognised good practices. Unfortunately, there was a series of exchanges where the Clerk's duties and competence were questioned, this led to the chairman having to call the meeting to order. Subsequently the council received a

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letter of complaint against the clerk, this correspondence was passed to the HR committee for investigation and recommendations for any actions.

Having spoken to both parties the HR committee have decided that no action needs to be taken. From this decision I have concluded that this was an unfortunate occurrence and should be closed down. Going forward as chairman strict compliance to the agenda and comments from the floor will not be permitted outside of the public forum.

I would also remind members of the public that any correspondence should be addressed to the Parish Clerk and not "to whom it may concern"

- 1.25 The minutes of the Parish Council meeting on 31 March 2022 did not appear on the website until after the following meeting. They were therefore approved and became a matter of public record without being available to public scrutiny.
- 1.26 Councillor Robinson's statement suggests Councillor Stuart was spoken to. Councillor Stuart says was not spoken to about his complaint.
- 1.27 The decision that 'no action needs to be taken' is contrary to the letter Councillor Stuart received.
- 1.28 Councillor Stuart alleges a lack of governance in that policies and procedures are absent or not followed, Standing Orders are applied inconsistently and transparency is poor.
- 1.29 Councillor Stuart submitted a document containing allegations, which is called "Complaint". However, he does not identify which parts of the Parish Council's Code of Conduct (The Code of Conduct) he believes Councillor Robinson to have breached. We have therefore considered that the following sections of the Code of Conduct are applicable to the allegations:
- 1.30 The Code of Conduct contains the following paragraphs:

"General obligations

In addition to the General Principles of public life, when a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

- 1. *He/she shall behave in such a way that a reasonable person would regard as respectful.*
- 2. *...*
- 3. *He/she shall not seek to improperly confer an advantage or disadvantage on any person."*

- 1.31 We have concluded that, if Councillor Robinson were still a parish councillor, he would have breached the Code of Conduct of the authority concerned by failing to treat Councillor Stuart with respect;
- 1.32 We have concluded that, if Councillor Robinson were still a parish councillor, he would have breached the Code of Conduct by improperly using his position to secure an advantage for the Clerk.

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2. Official details

- 2.1 Councillor Robinson was a member of Water Orton Parish Council between [insert date] and his resignation on 29 June 2023.
- 2.2 At the time of the alleged conduct Councillor Robinson was Chair of the Parish Council.
- 2.3 We have been unable to ascertain whether Councillor Robinson received Code of Conduct training whilst serving on Water Orton Parish Council.

3. Relevant legislation and protocols

- 3.1 Section 27 of the Localism Act 2011 (“the Act”) provides that a relevant authority (which includes town and parish councils) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.
- 3.2 Section 28 (1) of the Act provides that the Council must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:
- (a) Selflessness;
 - (b) Integrity;
 - (c) Objectivity;
 - (d) Accountability;
 - (e) Openness;
 - (f) Honesty;
 - (g) Leadership.
- 3.3 Under 28(6) of the Act, principal authorities (which includes district councils) must have in place (a) arrangements under which allegations can be investigated; and (b) arrangements under which decisions on allegations can be made.
- 3.4 Under Section 28(7) of the Act, arrangements put in place under section 28(6)(b) must include provision for the appointment by the authority of at least one Independent Person (“IP”) whose views are to be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate.
- 3.5 Section 28(11) of the Act provides that if a relevant authority finds that a member or a co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take.
- 3.6 The Parish Council has adopted a Code of Conduct (attached at WC 1) which is consistent with the principles set out in 3.2 above. It also contains the following obligations:

“General obligations”

In addition to the General Principles of Public Life, when a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

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

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2. *He/she shall not seek to improperly confer an advantage or disadvantage on any person."*

4. Evidence and facts

Our appointment

- 4.1 North Warwickshire Borough Council's (the Borough Council) arrangements for dealing with standards complaints (the Arrangements) state that the Monitoring Officer of the Borough Council (MO) in consultation with the Independent Person (IP) together with the Chair and Spokesperson of the Borough Council's Standards Committee, having applied the legal jurisdiction criteria test, shall decide whether or not the complaint should be referred for investigation.
- 4.2 Clive Tobin, the MO of the Borough Council, decided to refer the matter for investigation and instructed Wilkin Chapman LLP on 11 April 2023 to carry out an investigation on his behalf of the complaint submitted by Councillor Stuart.
- 4.3 Councillor Robinson resigned on 29 June 2023.
- 4.4 The case of *Hussain v Sandwell Council* [2017] EWHC 1641 (Admin) held that it was within the powers of a local authority to conduct investigations outside of the standards arrangements and that if it was clearly understood that there could be no possibility of any sanction resulting from an investigation of a former member's conduct, then continuing with an investigation would be possible if it was continued in the interests of the general good governance of a local authority and in the wider public interest.
- 4.5 On 30 June 2023 the MO confirmed that, based on the decision made in *Hussain v Sandwell* he wished the investigation to continue.
- 4.6 The Borough Council's Standards Committee further considered whether the investigation should continue on 6 September 2023, following information received about Councillor Robinson's ill health.
- 4.7 The Standards Committee decided that the investigation should continue.
- 4.8 Wilkin Chapman LLP is a solicitors firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Jonathan Goolden, Estelle Culligan, Gill Thompson and Kelsey Jerrard.

The investigation

- 4.9 During the investigation, Councillor Stuart provided a signed statement.
- 4.10 We wrote to Councillor Robinson on 21 April 2023. Councillor Robinson replied the same day (copy attached at WC 2). He told us:

"...I am prepared to have a face to face meeting in Water Orton at your convenience. I also like you to prepare any questions in advance so that I can be fully prepared."
- 4.11 Shortly after the above email, Councillor Robinson sent a further email making us aware that [REDACTED]
- 4.12 On 26 April we suggested to Councillor Robinson that he may prefer to respond to written questions.

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- 4.13 Councillor Robinson replied the same day (copy attached at WC 3). He told us:

“many thanks for your understanding in this matter, I am in agreement with the approach you have suggested...”

I look forward to receiving your written questions in due course.”

- 4.14 Written questions were sent to Councillor Robinson on 15 June 2023 (copy attached at WC 4). Councillor Robinson responded the same day (copy attached at WC 5). He told us:

“I have no interest in spending hours trawling through the questions I therefore offer a no comment at this to all of the questions raised.”

- 4.15 We have therefore been unable to ascertain Councillor Robinson’s response to the complaint.
- 4.16 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence at Appendix A.
- 4.17 We wish to record our thanks for the co-operation and courtesy shown to us by both parties and we wish to record our sympathy towards Councillor Robinson in respect of his health situation.

The Complaint – Mr Steve Stuart

- 4.18 Councillor Stuart submitted a complaint to the MO of the Borough Council (copy attached at WC 6). He stated:

“In the interests of full disclosure, I purchased property in the village in 2015, moved in in 2016 and was co-opted to the Parish Council after I became eligible to do so. This was my first representative position although I have worked in local government both directly and a consultancy basis since 2004.

I served until the next round of elections; I chose not to stand for a further term as I didn’t feel I could guarantee the level of time required to do the role in the way I felt it should have been for a further period of 4 years.

During my time on the Parish Council, I pushed for greater community engagement and this led to acting as a link with the Primary School at the time they were building the new school. I was subsequently co-opted onto the board of governors.

Last August I became Chair of the Board of Governors, this is relevant to later points in the following chronologies.

I have tried to detail the matters and issues in a fashion which is easy for an external party to digest but am conscious that there will be matters which may require clarification. I would be happy to assist in this regard.

Similarly, there is significant supporting documentation around each of the 4se matters. Both in terms of emails and also listings on websites. Rather than overloading this email with dozens of attachments I have attached only one. If you require any or all, please do not hesitate to ask.

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When my term of office with the council ended there were three items which were outstanding.

- 1. A proposed Environmental Policy*
- 2. The application for the Dog Inn to become an Asset of Community Value.*
- 3. Linkage between Parish Council and the Primary School, the EGM and GM of the Parish Councils in November 2021 and subsequent complaint.*

I will seek to provide details of these in turn

Environmental Policy.

At the last meeting of the Parish Council ahead of the end of term of office I presented a paper to propose an environmental policy for the council. Given that I would no longer be serving on the council I did not feel it appropriate to seek to introduce the full policy in advance but sought a resolution that it would be discussed at the first meeting of the next council.

The matter was chased on a number of occasions and eventually an environmental policy was presented to council. This was approved. But the policy was not presented to the public as attachments are not included alongside agendas or minutes.

Several times the matter to add this policy to the website was raised in the public sessions of council meetings. Sometimes these were minuted, sometimes they weren't. However, it took several attempts before the policy did appear on the website. No direct message detailing this had been done was received. The fact it eventually appeared was noted in the public session on 25th November 2021. The policy presented bore no resemblance to the one presented at the final session of the previous council. The eventual appearance of the policy on the website occurred after the following timeline was sent to the clerk.

[details in the final column of the table below have been omitted as the internet links within the complaint are incomplete]

Timeline reference	Date	Action	Required Action	Outcome relating to environmental policy	Link
1	24/09/2019	<i>Presentation of recommendations to Parish Council</i>	<i>Item to be scheduled on next agenda</i>	None	-
2	28/12/2020	<i>Email to clerk chasing outstanding action</i>	???	None	-
3	25/02/2021	<i>Chased status</i>	<i>Clerk to report to</i>	<i>Policy appears on next agenda</i>	-

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			<i>next meeting</i>		
4	25/03/2021	<i>Policy presented</i>		<i>Approved and adopted</i>	-
5	29/07/21	<i>Asked whether adopted policy could be seen</i>	<i>Posting on website</i>	<i>None</i>	-
6	29/09/2021	<i>Mentioned in email to chair that it had not appeared on website</i>	<i>Listing on website</i>	<i>No response to email</i>	
7	06/10/2021	<i>Chased response to email</i>	<i>Listing on website</i>	<i>None</i>	
8	28/10/2021	<i>Raised at Parish Council Meeting</i>	<i>Listing on website</i>	<i>None – item not mentioned in minutes</i>	-

The Asset of Community Value – The Dog Inn.

The Dog Inn in Water Orton is one of two public houses within the village. It is situated on a large plot of land and includes a car park which has been used for general public use when required. Part of the lands include the old haulage yards from when farmed animals were driven to the slaughterhouses in Castle Bromwich.

Part of the land was given Village Green Status. Prior to the last round of elections, the parish council received representations from Kingslea Homes which wished to develop part of the site. The removal of the village green status was required for them to complete their development. The council having taken representations from the wider community were largely negative to the plan.

As part of the discussions, it was discussed about making the Dog and its environs an asset of community value. This application was made but was still outstanding when the elections took place.

This was mentioned in email discussions and promised it would be raised with the council. However, no mention of the situation was listed in the minutes of the parish council until it was raised in public session.

When raised it was promised it would be progressed, but the only mention was that there was no progress as part of a later Clerks report.

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When the matter was raised again during the Annual Parish Meeting in 2022 the clerk reported that she knew nothing of the application. On further investigation the application was no longer listed as being in process on the NWBC website.

The site has since had the village green status removed and a sum of money and land has been transferred or proposed to be transferred to the Parish Council.

Link personnel between the school and parish council, the EGM & GM of November 2021 & Subsequent complaint.

With HS2 seeking to be placed in the vicinity of the school site a new building was proposed on a nearby site within the village.

However, discussions on the development were not done in conjunction with the Parish Council or local residents and it was seen to be a matter of some concern as the development may have significant impact both during construction but in subsequent operation.

It was suggested that a parish council representative could be co-opted onto the schools governing body and be able to facilitate greater communication, information sharing and areas of potential collaboration.

I took on the role. At the end of the term of office for the council I offered to continue to perform this function, but a different governor had joined the body of the council and decided to perform the role. I offered at this point to resign from the board of governors should the parish council wish me to do so.

The new councillor however subsequently resigned both from their role on the council and the governing body. I enquired and offered to pick up the liaison role again on several occasions but the matter was not progressed.

I became chair of governors in August 2021. It soon became apparent that there was a significant problem with the schools' finances. With a view to address a significant overspend we commenced a contract and procurement review. I identified a number of items which could potentially be procured or sourced from, or in partnership with other bodies within the village.

I sent an email to the chair of the parish council with a view to having a discussion to see if some of these matters could be explored. No response was received. After a period of time, I emailed again, this time copying in the clerk.

There followed an increasingly terse exchange of emails which did not facilitate any meeting and indeed seemed to specifically try to block any such meeting.

I attended the following public meeting and repeated the request. This time contrary to the email exchange it was detailed that no liaison individual could be allocated at any meeting other than the first of the Parish Council's year in May.

Later in that same meeting there was a discussion relating the funding for proposed play equipment on the village green. During this discussion it was mentioned that there was the potential conflict and competition between the parish council and the school for prospective funding.

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It was suggested that an EGM of the Parish Council was called to enable conversations to take place in relation to funding. I detailed that whilst I was happy to attend this it seemed overly formal when an informal exploratory conversation may achieve more which could be subsequently scrutinised and formalised.

I was asked to suggest what outcomes I would wish from the EGM, and I provided the following:

- 1. To increase understanding among Parish Councillors as to the operation of the school.*
- 2. To detail the aims and objectives of the school in relation to school improvement, community engagement and fundraising.*
- 3. To seek approval for councillors either named or generically to act as liaison with the school, its governors and stakeholder organisations with a view to explore and investigate areas for potential collaboration, areas where work may tessellate and identify where possible conflicts / duplications of effort can be avoided.*
- 4. To gain a clear understanding of what delegated authority representatives from the council may have.*

I also offered the use of the school to host the meeting feeling it more appropriate that councillors and members of the public having sight of the new building.

The outcomes listed however were the only items on the agenda. I was told that there was no facility for councillors to act as liaison and no delegated responsibility could be given.

Similarly, I was told I would not be allowed to provide a version of the presentation that I made to the councillors not present at the meeting or to meet with them so that they could have access to the information provided.

Given the constant referral to Standing Orders and some seemingly contradictory utterances I reviewed the relevant policies and procedures. Following my review of standing orders and the communications policy of the council it became apparent that a number of assertions made by the Clerk were not factually correct.

The minutes of the meeting which were subsequently presented contained a number of specific errors. These were both in terms of omissions, misclassifications and also additions which were not raised at the meeting. I sought to raise these with the council via email. I believe these changes were not considered, and indeed I do not feel they were shared with councillors both attending and not. I'd also assert that the minutes presented suggested a much more negative tone of the presentation than what was delivered.

One item I did not detail in the corrections was the misclassification of some of our pupils with Special Educational Needs as having Learning Disabilities. I raised this matter directly at the meeting where the minutes were to be approved. The potential stigma to the children concerned and also the damage caused by attributing the statements to me was significant.

I was told in no uncertain terms that the minutes were not a matter for non-councillors comment on. I did however make the request to make the extra change around the SEN / LD and, thankfully, given that this was heard by councillors this was later considered and amended. However, I still believe that

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the other alterations / corrections supplied were not considered or forwarded to councillors.

There is no mention in the minutes of the following GM of the acceptance of the minutes of this meeting or the alteration made to them.

During the public forum section of that meeting the clerk saw fit to make certain forceful and unfounded allegations, namely that I did not like the way that councils were run, the inference being that I didn't understand the value of strong governance. Then when an observation was made about advice given by the clerk not being valid under standing orders, she saw fit to accuse me of trying to humiliate her.

The atmosphere was toxic. My son, who was present with me, was distressed when we left the meeting.

The exchanges were not minuted.

The following day I sought the viewpoint of borough councillor David Reilly who was present at the meeting to gauge his viewpoint as to the proceedings.

By accident the following day I happened upon the Chairman of the Parish Council whilst walking into the village. I asked him how we could take steps to address the situation. He suggested that we met to talk about the situation. I detailed I would be happy to proceed on that basis.

There then followed a number of emails where I consistently sought to progress the matter. However, the meeting never took place. I was eventually asked if I would "let this pass".

Whilst every step was taken on my behalf to deal with this in as informal manner as possible no such undertaking was taken by the Parish Council.

I subsequently attended a Parish Council meeting and asked if there was a complaints policy. No one seemed to know. I then submitted a complaint against both the clerk and chairman, which I have attached.

I requested in every subsequent communication a copy of the procedure which was being followed in handling this complaint. At no point has this request been acknowledged let alone been actioned.

I eventually received an email purporting to be from the chair of the HR committee. I subsequently responded asking if it was an official response not being on headed paper. It was also noted that the comments by the clerk were "deeply regrettable" however there was no mention of an apology. Clarification was sought on this and then on other matters contained in the email.

A letter on headed paper was subsequently received this now contained an apology. However, it was not clear on what basis the apology was made and there was no detail that the complaint was upheld or otherwise. Again, clarification was sought and a further request to see the procedure followed.

No response has yet been received. Further chases are ongoing. A response was received on 30th June stating that a letter had been sent. A clarification was sought as to whether this was the letter already received or a further one. No response has been received and as of yet, no further letter has been received.

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The email initially received also detailed that there would be an item on the next agenda where councillors and the clerk would be reminded of the importance of the communications policy. No such item has been placed onto the agenda.

The minutes of the Parish Council meeting of 24th February included the following note:

“Cllr B O’Meara had reported to the clerk that a letter had been sent to Mr Stuart advising him of the HR committee’s decision regarding his complaint and that no further action would be taken.”

I would suggest that this minute does not provide a genuine reflection of the letter sent in private acknowledging the actions detailed in the letter. A copy of this report was requested; however, no acknowledgement of the request has been made.

The minutes of the Parish Council Meeting of 31st March contained the following statement.

“Cllr. Robinson made a further statement concerning the recent complaint against the clerk:

During the monthly parish council meeting held on the 25th of November a heated exchange took place between a member of the public who was a past Parish Councillor and the parish council clerk.

One of the many duties of the clerk is to ensure that the meetings are conducted in line with council standing orders and recognised good practices. Unfortunately, there was a series of exchanges where the Clerk’s duties and competence were questioned, this led to the chairman having to call the meeting to order. Subsequently the council received a letter of complaint against the clerk, this correspondence was passed to the HR committee for investigation and recommendations for any actions.

Having spoken to both parties the HR committee have decided that no action needs to be taken. From this decision I have concluded that this was an unfortunate occurrence and should be closed down. Going forward as chairman strict compliance to the agenda and comments from the floor will not be permitted outside of the public forum. I would also remind members of the public that any correspondence should be addressed to the Parish Clerk and not “to whom it may concern””

It should be noted that the minutes of the meeting did not appear on the website until after the following council meeting, so they were approved and became matter of public record without being available to public scrutiny.

The statement also suggests that I was consulted with, this is not the case. The complaint was written expecting there to be an exploratory meeting with a view to understand the nature of the complaint and to also effect an informal resolution if possible. This did not occur.

Similarly, the statement would suggest the exchange was all the one way. The competence and duties of the clerk were not questioned, although the judgements relating to advice on standing orders and council policy was questioned (and actually not addressed).

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The detail that no action needs to be taken is also contrary to the letter received. As such the initial accusation made in public by the clerk have not been publicly acknowledged or withdrawn.

However, these matters, whilst personally important, are not the main drive of this letter. I feel that these matters are illustrative of a lack of governance, where policies and procedures are absent/not followed, where standing orders are applied inconsistently and transparency is poor. Some meetings with non-constituted groups are allowed whilst others are not.

I do not know whether these matters and others not detailed here are those of competence or malfeasance. Similarly, the lack of scrutiny and diligence provided by councillors, particularly those on the HR committee, and the subsequent presentation of information to the wider public is also of concern and compounds these matters.

These matters detailed are the ones which have been encountered by me personally or in my role as a governor of the school or as a former Parish Councillor. In fact, there isn't an issue I have raised which has not encountered a governance issue in terms of how it has been dealt with."

4.19 Councillor Stuart was interviewed on 25 May 2023. A signed statement was obtained on 29 June 2023 (copy attached at WC 7). He stated that:

- (a) he was a councillor for Water Orton Parish Council (the Council). He was elected in August 2022 following the resignation of another councillor;
- (b) he served a previous term on the Council between 2017 and 2019. At the end of that term he had not felt he had the time to commit to do the job in the way he felt it should be done. However, after engaging with the Council, he had had concerns about the level of governance and, as his situation had changed at the time another councillor resigned, he decided to stand again and was elected;
- (c) he asked, via resolutions, to create a Steering Committee of which he was Chair. He also sat on the recently formed Complaints Committee;
- (d) he was Chair of School Governors but that was not on appointment by the Council;
- (e) as part of the Steering Committee they had introduced a new Code of Conduct. Beyond reviewing the previous code and making it fit for purpose he had not undertaken any formal training in respect of the Code of Conduct. It wasn't offered or suggested to him when he had come into post in August 2022. The only guidance he was given was being given a copy of a book "the good councillor guide";
- (f) he asked at a Council meeting in December 2021 if the Council had a Complaints Policy. They said they didn't know which had rather taken him aback. He then asked where, if he wished to raise a complaint, it should be submitted. He was told that any complaint should be submitted to the Clerk regardless of whether the complaint was against the Clerk or a councillor;

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- (g) therefore, at the time he submitted his complaints to the Council in March 2022 there was no visible or published policy or usual process for dealing with complaints;
- (h) between 2004 and 2018 he was employed by a local authority. He had seen complaint procedures across a whole realm of councils and would have expected the Council to have contacted him to ascertain the nature of his concern, whether it could be dealt with on an informal basis and what resolution he sought to achieve. None of that happened and every time he sent a communication asking for a copy of the procedure, his requests were not acknowledged at all;
- (i) at the time he submitted his complaint to the Council governance had not existed at all. The procedures basically consisted of whatever the Clerk said at the time. At that time there were a number of councillors who were seemingly in the thrall of the Clerk, believing her to be correct in absolutely everything that she said. They also saw fit to back up those judgments and not provide any scrutiny to the work that was undertaken;
- (j) in his opinion they were lazy to the point of negligence. They had had the attitude of, 'well, we're in charge, what we say goes'. Any objection or concern that was raised was dealt with on a very, very defensive basis;
- (k) he found he was not the first person to raise a complaint so it begged the question of how, when someone asked if there was a complaints policy the response was, 'I don't know'. Either there was or there wasn't. It also begged the question of what do they do when they receive a complaint and he thought the answer was that they made it up as they went along. There was no honesty or transparency about anything;
- (l) in terms of the Environmental Policy, environmental issues were very important to him and as they didn't have a policy in place he wrote one. At the last meeting ahead of the end of the Council's term in 2019, he made a presentation to propose the Environmental Policy. He had not felt it was appropriate to push through a policy which a later administration would be saddled with so he sought a resolution that it would be discussed at the first or an early meeting of the new term;
- (m) when he made contact with the Council, he asked about the Environmental Policy but nothing happened. Then, two or three meetings later an Environmental Policy appeared on a meeting agenda. No one apart from those voting on it actually got to see it, so associated papers and appendices were not published on the Council website. The agenda was there but no supporting documentation so you couldn't go and look at them;
- (n) he asked for it to be published so he could read it. He had had to keep going on the website and looking for it and then all of a sudden it had been there. They had not thought, even from a basic service point of view, to notify the person who had been asking about it for months. When he looked at it, it was a bog standard generic policy, put your name in here and you've got an Environmental Policy;

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- (o) in the policy he had written there had been an awful lot more around being active in terms of taking action, supporting various types of wildlife, in terms of management of land etc. The policy they published was a very, very low level generic policy;
- (p) in terms of the Dog Inn (the Dog), he had raised the status of the application for the Dog to be an Asset of Community Value, both via email and then on two occasions at meetings. One time it was minuted, the other it was not. At the annual Parish Gathering someone raised a matter relating to the Dog Inn or an asset of community value. He asked, "what happened to the asset of community value on the Dog?" and the Clerk turned round and said, "I know nothing about that" which was a complete and blatant lie. There had been communication and items had been minuted;
- (q) the Council had been approached by a housing developer. The Dog was on a big site with a big car park around it and attached to it there was an area of effectively waste ground. The developer wanted to buy that piece of land but it and part of the Dog car park had a village green covenant on it which would need removing if they wanted to develop;
- (r) they thought it would be a good preventative and protective measure to make the Dog an asset of community value, potentially making the process it a little more difficult for someone to turn it into houses;
- (s) at that time the Council had not had a Clerk or the Clerk was off sick and so it had been suggested that he fill out the paperwork. He did that and had taken it forward following resolution of the Council. That process was ongoing during the time he left the Council and a new Clerk coming in. It had not progressed and then all of a sudden, somehow, that application had been removed from North Warwickshire's website. There used to be an active list of applications and the one relating to the Dog just disappeared off that list;
- (t) it would have remained live until someone actually sought to remove it. He made an attempt to find out how it had been removed but couldn't get an answer. He had his suspicions because then the village green status was removed and progress was made on the sale of the land. However, according to any minutes he saw no resolution passed in relation to removing the application for the Dog to become an asset of community value;
- (u) in terms of his complaint regarding a link between the School and the Council issues had come about when it became known that HS2 would be coming through the village. It would drive right through the site of the school. The school was 140 years old and a lot of people were upset by the proposed demolition but HS2 said they would build a new school over the other side of the village green, about 200 yards away;
- (v) when the plans for the school were being developed for what was otherwise meadow land there had been concerns about the relatively thin road to the school when there would be around 340 kids going in and out. Lots of rumours started about matters of concern for the Council particularly in relation to planning and why the Council weren't

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engaging with the school. The Council invited the Head of the School to come and explain what the plans were;

- (w) they discussed how they could have better links and discussed things together and had come up with the idea that there was a space on the Board of Governors. It was suggested that a councillor went onto the Board of Governors to be a link between the School and the Council. As he had only recently joined the Council and wasn't a member of any Committee he had taken on that role;
- (x) he then came to the end of his term as a parish councillor, chose not to stand but his term as School Governor had still had some time to run. He discussed with the Chair of the Council at the time that he would be happy to continue to be the link between the Council and the School who agreed with that. It then turned out that another Governor had stood for the Council and said they were going to take on the link role;
- (y) later, he had become Chair of Governors. In the interim the councillor who had taken over the link role resigned both from her position as a councillor and that of School Governor. Not long afterwards he had asked whether the Council wished him to take up the link role again. He was told, "we'll look at it and we'll come back to you". Although he raised it a couple of times, nothing ever happened;
- (z) when he had taken over as Chair of Governors it became apparent that there were problems with the School's finances. They were in a mess and the Head Teacher had detailed they were leaving to take up an alternative position. The first thing they tried to do was to stop all the money haemorrhaging out of the school so they had gone through what the school were spending their money on, line by line;
- (aa) the School were spending £5,000 on cutting the grass. He thought, if the Council could cut our grass and we gave them, say, £4,000, they got £4,000 and the School saved £1,000. Grass cutting was first on the list. He had then thought, what else could they do? He had thought, let's see if we can get a range of better deals working or buying in partnership with the Council;
- (bb) he had asked for a conversation to discuss what areas they might purchase together better, what the School might purchase from the Council and what the Council might purchase from the School. It would keep money in the village and that would be great. He got no answer so he had chased it. He got an answer effectively saying 'we can't talk'. There had then followed an exchange of increasingly tetchy emails which he had eventually called a halt to, suggesting they both reflected on the matter;
- (cc) he then turned up to a Council meeting and tried to raise it because he thought he might get a better response in a public forum. He had not. It ended up with the Clerk making pronouncements and, having some experience of local government, he had thought "they don't sound right to me". He looked them up and found actually they weren't right;
- (dd) at another meeting the Clerk told a member of the public there was no way they could record a meeting or publicise it. He had said, "I don't

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think that's actually the case". She went mad, she blew her top and said, "you just don't like the way that Council's are run". He tried to point her to the Standing Orders but she said, "you're just trying to humiliate me", it got really nasty;

- (ee) he had taken his six year old son with him to the meeting. Afterwards his son had been really distressed because the Clerk had shouted at him. The impact on his son was quite significant;
- (ff) after that he had wondered how do we progress it. He happened to bump into Councillor Robinson the next day who said something along the lines of, "that was not right, we need to discuss it". He had then made 6, 7, 8 attempts to progress that and had then been told, "ah, will you just put it down to an emotional outburst and let it go?" The answer to that was, "no, I won't let it go, it's wrong". Councillor Robinson had seen it was wrong and it was important that something was seen to happen so, after enquiring about the existence or otherwise of a complaints policy, he made a complaint to the Council to make it formal;
- (gg) his complaint to North Warwickshire Borough Council also referred to raising finance for play equipment and development of the play area on the green. The Council and the School had been separately talking about raising around £250,000 from various sources. He had just wanted to make the point that the School had identified sources of funding they could not go for because the School wasn't a political body and, similarly, there were some things the Council had been talking about that they couldn't go for because they were a political body. It had been barmy, if the School needed to raise £250,000 and the Council needed to raise £250,000 and they could both end up not raising enough;
- (hh) at that point the Council said, "oh, let's have an Extraordinary General Meeting (EGM) where we can discuss these matters". He had been saying, "can't we just have a chat, just explore it and then if you need to bring it back to Council then fine". The Council insisted on an EGM. He had been asked what he wanted on the agenda. He had given them four items for the agenda which were the only four items on the agenda. He had sought to progress a link individual between the Council and the School so that they didn't constantly have to go to EGMs;
- (ii) at the EGM he gave his presentation. The Clerk turned round and said, "well you can't have a representative, you can't have a link person because we're not allowed to do that". He had thought, "well what was the point of the meeting then?" He had recorded his presentation and asked if those councillors unable to attend the meeting could be provided access to it. He was told that that would not be allowed. The reason given was, "if they started receiving information in such a format they would stop attending meetings". He had also been told he could not contact councillors individually outside of a meeting environment;
- (jj) the minutes of that EGM were inaccurate. Some of the statements made were factually incorrect and detrimental to the school. He sent an email "to whom it may concern" and listed a number of inaccuracies in the minutes. He wanted the email to go to all members and had expected it to have been cascaded as such;

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- (kk) the minutes of the EGM stated that the contact for the School would be the Clerk. He could say categorically that had not been the case. They received nothing but disregard and a negative response without justification and without it being referred upwards. There was no process and no governance. He had expected that to be the default position given that at the meeting he had been prepared to push back against it. However, it was never raised, but it was given in the minutes;
- (ll) at the next meeting he was told, in no uncertain terms, that it was massively inappropriate for him to send an email “to whom it may concern”. He had also been taken to task in relation to the minutes, being told they were not for outsiders and were there for councillors and for the Council’s record;
- (mm) he had raised one very specific point about a technical issue regarding the school. That was voted on and the alteration made but the rest of the alterations were disregarded. To that day, he did not think the other councillors even had an awareness that there were concerns about inaccuracies of the minutes which were a matter of public record;
- (nn) following the submission of his complaint to the Council, he received an email purportedly from the Chair of the HR Committee, Councillor Belinda O’Meara, and subsequently received a letter on headed paper which stated that ‘the Clerk’s comments were deeply regrettable’. In the letter on headed paper the Council apologised for any upset. He sought clarification of that because the letter was vague – who was apologising and what exactly were they apologising for? If you were apologising for something then you had accepted some kind of blame but were not telling him what they thought was wrong. To that day he had not had clarification despite several requests made to Councillor O’Meara;
- (oo) the letter had also stated, “the Clerk has been warned as to their conduct and there would be a warning given to everyone around their conduct at a future meeting as an agenda item”. That had not been reflected in the minutes of any subsequent meeting. Then, at a later meeting, followed a public statement directly from the Chair relating to the incident and the complaint. He had not been present at that meeting but was made aware that something had been said. The minutes of the meeting, containing the Chair’s statement, were not published in draft form prior to the next meeting so had been accepted as public record before anyone had chance to see and question them;
- (pp) the statement from the Chair made no mention of the complaint against the Chair. The letter from the HR Committee seemingly accepted the explanation of the Chair in relation to the complaint against him. The statement from the Chair also detailed that the committee had “spoken to both parties”. That did, he would suggest, detailed that they had spoken to him which had most definitely not been the case. He believed both parties referred to were the Chair and the Clerk. In detailing that he believed it showed that the Chair was privy and possibly responsible for the complaint being handled internally and then not detailed it in any form in his subsequent public statement;

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- (qq) as detailed, he requested a copy of whatever process was followed in arriving at the conclusions they had made. At no stage was he consulted in relation to the complaint, be it to provide clarity or understanding of any matter or to enquire as to what resolution he had been seeking;
- (rr) the minutes of the meeting also detailed that the matter of the complaint had been concluded and no further action would be taken. That, he believed, was a distinct effort to discredit him and provided a public exoneration of the Clerk as it suggested no action was deemed to be necessary. If the position of an apology, an agenda item as to expected standards of behaviour had taken place and a minute that “agreed (or corrective) actions had taken place” would have provided an accurate and less opaque summation of any conclusions drawn by the committee that handled the complaint. Albeit conclusions drawn or made without any reference to any proper procedure or policy;
- (ss) he believed the Chair had acted without respect, honesty and in complete disregard of any overarching principle of good governance.

5. Summary of the material facts

- 5.1 Councillor Phillip Robinson was Chair of the Parish Council until his resignation on 29 June 2023.
- 5.2 At the end of his initial term, Councillor Stuart left three items outstanding:
- (iv) a proposed Environmental Policy;
 - (v) application for the Dog Inn to become an asset of community value; and
 - (vi) linkage between the Parish Council and the primary school.

Environmental Policy

- 5.3 Councillor Stuart presented a paper to the Parish Council regarding an Environmental Policy at the end of his term of office. He sought resolution at the first meeting of the next term.
- 5.4 Although Councillor Stuart chased the Parish Council regarding its Environmental Policy on several occasions the policy was not presented to the public prior to its approval.
- 5.5 The Environmental Policy that was eventually published on the Parish Council's website bore no resemblance to the policy he had proposed.

The Dog Inn

- 5.6 The application for the Dog Inn to become an asset of community value was made but was later found not to be on the North Warwickshire Borough Council's website.

Link between the Parish Council and the Primary School

- 5.7 In his previous term Councillor Stuart took on the role of liaison between the Parish Council and the school. Councillor Stuart later became Chair of the Governors.
- 5.8 Councillor Stuart identified a number of items which could potentially be procured/sourced from or in partnership with other bodies within the village and he emailed Councillor Robinson with a view to discussing matters but received no response.
- 5.9 A terse email exchange took place which did not facilitate any meeting and seemed, to Councillor Stuart, to be trying to block such a meeting.
- 5.10 Councillor Stuart repeated his request at a public meeting when it was suggested there be an Extraordinary General Meeting (EGM) to enable discussions regarding funding.
- 5.11 Councillor Stuart was asked to suggest the outcomes he wished to achieve and offered the use of the school to host the meeting.
- 5.12 The outcomes Councillor Stuart was seeking to achieve were the only items on the agenda for the EGM.

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- 5.13 Councillor Stuart made a presentation to the councillors who attended the EGM but states that he was told he would not be able to provide the presentation to councillors who were not present, nor meet with them separately to give them access to the presentation.
- 5.14 Councillor Stuart considers that the minutes of the meeting contained omissions, misclassifications and additions not raised at the meeting. Councillor Stuart asserts that the minutes presented suggested a much more negative tone of the presentation than what had been delivered.
- 5.15 He sought a correction of the minutes on a point regarding pupils but was told that the minutes were not a matter for non-councillors to comment on.
- 5.16 At the next Parish Council meeting the Clerk made certain forceful and unfounded allegations that Councillor Stuart did not like the way councils were run, inferring that he did not understand the value of strong governance.
- 5.17 The day after the Parish Council meeting Councillor Stuart saw Councillor Robinson whilst walking into the village. He asked Councillor Robinson how they could address the situation. Councillor Robinson suggested they meet, and Councillor Stuart told Councillor Robinson he would be happy to do so.
- 5.18 An email exchange followed where Councillor Stuart sought to progress the matter, but the meeting never took place. He was eventually asked if he would 'let this pass'.

Complaint against the Clerk and the Chairman

- 5.19 At a Parish Council meeting, Councillor Stuart requested a copy of the Parish Council's complaints policy. However, he says no one seemed to know whether there was such a policy.
- 5.20 Following a heated meeting Councillor Stuart submitted a complaint against the Clerk and Chairman of the Parish Council on 30 December 2021. Councillor Stuart has sent us a copy of his complaint (copy attached at WC 8), which states:

"I wish to invoke the Complaints Procedure for the Parish Council in relation to the actions of your clerk at the Parish Council Meeting of 25" November. Here the clerk made several unfounded assertions against myself which I believe to be in breach of your communications policy. I do not have a copy of the employees code of conduct but I suspect that these comments also breached this document.

This is the culmination of a number of wider matters which I believe to be of detriment to the council in terms of its operation and its engagement with residents and other stakeholders. These include but are not limited to:

- 1. Incorrect interpretation of standing orders.*
- 2. Inaccurate minute taking.*
- 3. Failure to follow up on minuted and agreed actions.*

I have already attempted to seek to work to resolve these matters at as low and informal level as possible however this has not been successful and as such I also feel it is necessary to signal the potential need to

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address the matter of how the above has been dealt with by the chair of the Parish Council. The matters in this instance include but are not limited to:

- 1. Failure to address the incorrect interpretation of Standing Orders.*
- 2. Allowing the breach of the Communications policy to occur.*
- 3. Failure to address the public breach of the Communications Policy.*

Undoubtedly you will wish to make further enquiries of me to furnish you with further details. You may contact me by phone on or via email at alternatively I am happy to meet in person should you feel this would be more productive or should restrictions allow."

- 5.21 Councillor Stuart does not believe his complaint has been dealt with correctly. Indeed, the complaint against the Chairman was not referred to the MO of the Borough Council which is the correct procedure.

- 5.22 The minutes of the Parish Council meeting on 31 March 2022 (copy attached to Councillor Stuart's statement at SS8) recorded:

"Cllr. Robinson made a further statement concerning the recent complaint against the clerk:

During the monthly parish council meeting held on the 25th of November a heated exchange took place between a member of the public who was a past Parish Councillor and the parish council clerk.

One of the many duties of the clerk is to ensure that the meetings are conducted in line with council standing orders and recognised good practices. Unfortunately, there was a series of exchanges where the Clerk's duties and competence were questioned, this led to the chairman having to call the meeting to order. Subsequently the council received a letter of complaint against the clerk, this correspondence was passed to the HR committee for investigation and recommendations for any actions.

Having spoken to both parties the HR committee have decided that no action needs to be taken. From this decision I have concluded that this was an unfortunate occurrence and should be closed down. Going forward as chairman strict compliance to the agenda and comments from the floor will not be permitted outside of the public forum.

I would also remind members of the public that any correspondence should be addressed to the Parish Clerk and not "to whom it may concern"

- 5.23 Councillor Stuart states that the minutes of the Parish Council meeting on 31 March 2022 did not appear on the website until after the following meeting. They were therefore approved and became a matter of public record without being available to public scrutiny.

- 5.24 Councillor Robinson's statement at the meeting suggests that Councillor Stuart was spoken to but Councillor Stuart says no-one spoke to him about his complaint.

- 5.25 The decision that 'no action needs to be taken' is contrary to the letter Councillor Stuart received.

- 5.26 The complaint against Councillor Robinson was not referred to the MO of the Borough Council.

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5.27 Councillor Stuart then submitted a complaint to the MO of the Borough Council.

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6. Additional submissions received from Councillor Stuart and Councillor Robinson

6.1 The following comments were received from Councillor Stuart on the draft version of this report:

1. *“Formal acknowledgement.*

Thank you for the letter, report and evidence bundle sent to me on 23rd April. I note its contents.

2. *Thoughts on process to draw up the report*

I think that the processes followed have been reasonable, the operation fair and professional and that the investigators have given adequate opportunities to clarify and refine submitted responses where appropriate. Whilst the process has been lengthy the investigators have answered any questions during this period and given details as to why any delays have occurred.

3. *Context of invited comments*

This report in my mind is the latest action in a narrative which has been going on for the past two and a half years but has its seeds in decisions and actions taken over twice that length of that shorter chronology.

Throughout all of that time I have purely tried to serve the community in which I reside. Even the matters which are under investigation here come from proactive work to conserve the environment, protect village assets and to try and get community organisations to work closely together for the direct benefit of both organisations and indirectly those which access their services.

This was using, in a volunteer capacity, skills which had served me well in an extensive and respected career in public service.

4. *Comments on the evidence provided by Cllr Robinson.*

The response to the questions asked, or indeed the almost non-response, is disappointing but possibly to be expected seeing as it continues a pattern of behaviour which could have dealt with the matters around this complaint at an informal level before the end of 2021.

I note that rather than a complete ignoring of the questions there is a comment in the emails from Councillor Robinson which seeks to detail that he was not the chair for the entirety of the new term. This would suggest, to my mind anyway, that the questions and presented evidence had been considered to some degree.

Councillor Robinson was also at the time of the emails (April 2023) was seeking re-election to the Parish Council. He did not object to being proposed as Chair at the Annual Meeting of the Parish Council

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in May 2023 yet resigned subsequently before June's Meeting when he had been replaced as Chair.

It may just be a personal reaction to seeing this evidence but I am unsure how one could seek to undertake the role of either Parish Councillor or Chair of the Parish Council without fully engaging in any investigative process and taking full opportunity to repudiate, refute or disprove any allegations.

5. Wider context of complaint.

I understand that there are other complaints relating to activities at Water Orton Parish Council but am unaware of the exact nature of these.

However it is worth mentioning that whilst the matters here may seem to be self-contained they are purely illustrations of wider governance matters which now, I suspect, will go without investigation.

These are serious matters which include procurement activities, selection of contractors, governance around the signing of contracts, private negotiations, governance around the calling of meetings, failure to follow timings specified in standing orders and resolutions, the recruitment processes for a replacement clerk and the subsequent agreement of pay arrangements with the appointed candidate.

These matters extend beyond Councillor Robinson individually but also call into question the conduct of the clerk, the previous vice-chair and other councillors no longer on the Parish Council who have subsequently resigned their position.

6. Impacts of actions of subject of complaint to individuals.

It may appear that with the resignation of these individuals the matters could similarly be let pass. However the concerns raised in this investigation still have ramifications today.

Whilst [REDACTED] on behalf of individuals involved are of note and do illicit sympathy from everyone; there are significant impacts on those which are attacked publically and subsequently have to enter into an isolating and lengthy procedure during which some matters which have been adjudicated to be erroneous and misleading are still a matter of public record. Personal and professional impacts are significant as well as indirect impacts on loved ones.

I noted in my original statement around the impact of the clerks attack on my son who was 6 years old at the time. Although the minuted statement from the Parish Council meeting of 31st March suggested that the Chair had to call the meeting to order it is important to note that he did not intervene during the attack from the clerk.

Whilst the investigation points out how parts of this statement are misleading it doesn't make, as far as I can see, any judgment on the part of the statement which suggested the chair (Cllr Robinson) called the meeting to order or how this may be perceived by individuals reading this minute.

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To learn of some of the pejorative terminology towards myself is somewhat shocking and hurtful. Again this matter is isolating as sharing it with loved ones would only further exacerbate their own struggles and upset. It is not noted how Council representatives refer to me by my surname in a number of exchanges, this may be considered to be simply overly careless – I am commonly known by a shortened first name to help overcome the occurrences of this – I believe it to be deliberate in a number of cases here.

7. *Impact of the actions of the subject of complaint to the Parish Council.*

I have been mindful too throughout this process to my own duties to the public bodies which I represent. There is no doubt that the operation of the parish council around the time of the items listed in this investigation caused some significant concerns within the village relating to its governance.

It is noted that the complaint around the environmental policy and the chain of events around its eventual publication do not fall foul of any regulation, but this is still symptomatic of working towards minimum standards rather than best practice.

As detailed in my statement since returning to the Parish Council I have sought to change this. To help address the matters relating to governance I pushed through the creation of a steering committee to consider the absence of key and basic policies.

The Parish Council now is completely transparent in its operation and welcomes challenge and public engagement. However it is still dealing with perceptions which arose during the previous term and whilst the outcome of this and other investigations may help in fuelling further improvements the present, totally understandable, shroud of confidentiality does impact. Similarly, the questionable arrangements which surround the departure of the clerk mentioned in this investigations impose significant restraints on any public acknowledgements of work undertaken by paid officers during this time.

The Parish Council presently has one vacancy and it should be noted that at the present time there is nothing in the public domain which would allow any existing councillor, other than myself, to have any knowledge of the investigation to the matters I have raised should the subject of this complaint seek to stand.

The same points arise relating to any other subject of any other complaints that are presently outstanding.

The Parish Council also can engage / co-opt non-councillors on certain sub-committees, again the ability to make informed decisions around co-option until this process is completed is compromised.

8. *Conclusion*

I thank the investigators for their diligence and tenacity in drawing up of this report and their considered conclusions. I feel that the report

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covers the scope of the investigation well, however the scope could have covered a whole range of other matters.

I look forward to receiving a final copy of the report and gaining an understanding of next stages.

- 6.2 No comments were received from Councillor Robinson on the draft version of this report.

Response to comments

- 6.3 We thank Mr Stuart (now Councillor Stuart) for his comments. We note that, in the main, they are general comments on the historical governance of the Parish Council and the wider impacts of the incidents in this report on the local community. While we welcome these comments, there is no need for us to amend anything in our report or to comment further.

- 6.4 However, in respect of the following two extracts, we have commented further:

"Whilst [REDACTED] on behalf of individuals involved are of note and do illicit sympathy from everyone; there are significant impacts on those which are attacked publically and subsequently have to enter into an isolating and lengthy procedure during which some matters which have been adjudicated to be erroneous and misleading are still a matter of public record. Personal and professional impacts are significant as well as indirect impacts on loved ones.

I noted in my original statement around the impact of the clerks attack on my son who was 6 years old at the time. Although the minuted statement from the Parish Council meeting of 31st March suggested that the Chair had to call the meeting to order it is important to note that he did not intervene during the attack from the clerk.

Whilst the investigation points out how parts of this statement are misleading it doesn't make, as far as I can see, any judgment on the part of the statement which suggested the chair (Cllr Robinson) called the meeting to order or how this may be perceived by individuals reading this minute.

To learn of some of the pejorative terminology towards myself is somewhat shocking and hurtful. Again this matter is isolating as sharing it with loved ones would only further exacerbate their own struggles and upset. It is not noted how Council representatives refer to me by my surname in a number of exchanges, this may be considered to be simply overly careless – I am commonly known by a shortened first name to help overcome the occurrences of this – I believe it to be deliberate in a number of cases here."

- 6.5 We have sought to highlight in our report that we found some of the exchanges between Councillor Robinson and the former Clerk about Mr Stuart and his correspondence to be unprofessionalism and disrespectful. We sympathise that Mr Stuart is shocked and hurt to see these references in our report. We repeat that we found these exchanges compelling in our finding of evidence of disrespect. It is imperative that all councillors and council staff treat members of the public and each other, with respect, in their direct interactions and in their discussions with each other about other people. If Councillor Robinson had still been a councillor, we would have found him to be in breach of the Code of Conduct.

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- 6.6 We also understand that Mr Stuart is very upset about the impact of the Clerk's behaviour towards him in front of his young son at the Parish Council meeting. We have been unable to comment on this matter in detail in the report because there is no written evidence etc of the precise interaction at the meeting. We have concentrated instead on the outcome of that meeting and how Councillor Robinson dealt with Mr Stuart's complaint against the Clerk.
- 6.7 We recognise that the impact of these events on Mr Stuart personally, his son, and possibly others cannot be underestimated, and it is not something that can be fully quantified in a report.

"The Parish Council now is completely transparent in its operation and welcomes challenge and public engagement. However it is still dealing with perceptions which arose during the previous term and whilst the outcome of this and other investigations may help in fuelling further improvements the present, totally understandable, shroud of confidentiality does impact. Similarly, the questionable arrangements which surround the departure of the clerk mentioned in this investigations impose significant restraints on any public acknowledgements of work undertaken by paid officers during this time.

The Parish Council presently has one vacancy and it should be noted that at the present time there is nothing in the public domain which would allow any existing councillor, other than myself, to have any knowledge of the investigation to the matters I have raised should the subject of this complaint seek to stand.

The same points arise relating to any other subject of any other complaints that are presently outstanding.

The Parish Council also can engage / co-opt non-councillors on certain sub-committees, again the ability to make informed decisions around co-option until this process is completed is compromised."

- 6.8 In respect of Mr Stuart's comments about publication of the report, as Councillor Robinson is no longer a councillor and therefore no longer subject to the Code of Conduct, the Borough Council cannot impose any sanctions under the Code of Conduct on him. However, the Borough Council may consider other steps it may take about the report and this may include publication of the findings in an appropriate way.

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7. Reasoning as to whether there have been failures

Official Capacity

- 7.1 The relevant sections of the Code which must be considered are set out in Section 3 above.
- 7.2 Section 27(2) of the Localism Act 2011 requires the Council to adopt a code of conduct dealing with the conduct that is expected of members of the Council *“when they are acting in that capacity”*.
- 7.3 The Council's Code of Conduct reflects the requirement of section 27(2) of the Localism Act.
- 7.4 The Local Government Association Guidance 2020 on the Model Code of Conduct (The LGA Guidance) states that:

“The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor*
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.*
- This means it applies when you are carrying out your official duties, for example when you are considering or discussing local authority business, either as a councillor or representing the local authority on an outside body.*

The code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction, including:

- at face-to-face meetings*
- at online or telephone meetings*
- in written communication*
- in verbal communication*
- in non-verbal communications*
- in electronic and social media communication, posts, statements, and comments.*

This includes interactions with the public as well as with fellow councillors and local authority officers.”

- 7.5 The complaints relate to matters of Parish Council business.
- 7.6 Councillor Robinson was Chair of the Parish Council.
- 7.7 Our view is that Councillor Robinson was conducting the business of the Parish Council when he was dealing with matters raised by Councillor Stuart both in writing and at Parish Council meetings.

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- 7.8 We have therefore concluded that Councillor Robinson was acting in an official capacity and was subject to the Code of Conduct.

Respect

- 7.9 Paragraph 1 of the Code of Conduct states:

“General obligations

1. *He/she shall behave in such a way that a reasonable person would regard as respectful.”*

- 7.10 When describing ‘Disrespectful Behaviour’ the LGA Guidance states:

“Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

Disrespectful behaviour can be harmful to both you and to others. It can lower the public’s expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure.”

- 7.11 The case of *Boughton, Dartmouth Town Council (2009) APE 0419* was a case dealt with under the previous Standards regime. However, its findings on the threshold for respect are relevant. The case tribunal described a failure to treat with respect as follows:

“A failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour including the place, who observed it, the character and relationship of the people involved will all be relevant in assessing whether the behaviour was disrespectful.”

- 7.12 In *Buchanan, Somerset County Council (2009) APE 0409*, in relation to a complaint by a chief executive the Tribunal said at paragraph 51:

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"In the Tribunal's view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect."

- 7.13 The key elements of finding a failure to treat others with respect are that the conduct is unreasonable, demeaning and directed.
- 7.14 As Councillor Stuart raises a number of issues, we have considered each issue separately.

The Environmental Policy

- 7.15 Councillor Stuart told us:

"In terms of the Environmental Policy, environmental issues are very important to me and as we didn't have a policy in place I wrote one. At the last meeting ahead of the end of the Council's term in 2019, I made a presentation to propose the Environmental Policy. I didn't feel it was appropriate to push through a policy which a later administration would be saddled with so I sought a resolution that it would be discussed at the first or an early meeting of the new term."

When I made contact with the Council (email attached at SS1), I asked about the Environmental Policy but nothing happened. Then, two or three meetings later an Environmental Policy appeared on a meeting agenda. No one apart from those voting on it actually got to see it, so associated papers and appendices were not published on the Council website. The agenda was there but no supporting documentation so you couldn't go and look at them."

I asked for it to be published so I could read it. I had to keep going on the website and looking for it and then all of a sudden it was there. They didn't think, even from a basic service point of view, to notify the person who had been asking about it for months. When I looked at it, it was a bog standard generic policy, put your name in here and you've got an Environmental Policy."

In the policy I had written there was an awful lot more around being active in terms of taking action, supporting various types of wildlife, in terms of management of land etc. The policy they published was a very, very low level generic policy."

- 7.16 Councillor Stuart has sent us an email from the former Clerk to all councillors dated 20 December 2021 (copy attached at WC 9), in which she attaches a document that Councillor Stuart prepared in April 2019 before he left the Parish Council. The document is called "Sustainability and Environment". The former Clerk states:

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"You are no doubt aware that Mr Stuart has the bit between the teeth and not happy with the current policy the council adopted. Phill has been getting more grief from him over this. To try and appease Mr Stuart, if this is possible, could councillors please read the attached document produced by Mr Stuart prior to him leaving the parish council in 2019. It will be discussed at the January meeting as to whether the council wishes to adopt any of the recommendations or if it is happy with the current policy. If you do not have a copy of the policy you will find it on the council website."

- 7.17 Councillor Stuart has also forwarded an earlier email chain, dating from when he left his views on an environmental policy with the Parish Council in 2019. The Clerk's email to Councillor Robinson dated 24 April 2019 (copy attached at WC 10) states:

"This has been sent by Steve Stuart who is coming off the council. I think he makes some valid points and I thought it maybe of interest to you for future meetings. I feel that something like this is important and should be carried forward."

- 7.18 This is followed by Councillor Robinson's reply (copy attached within WC 10):

"Thanks, I assume "Steve" is the one who looks like Swampy the eco warrior who like the sound of his own voice and uses the word right a lot. He also looked to me like someone who was slightly stoned last night. An interesting 30 minutes last night, I will have to work very hard to keep my cool, I've not seen a meeting held in such a shambolic way for many years, tell me it's not always that bad?"

- 7.19 When the former Clerk replies, Councillor Robinson replies (copy attached within WC 10):

"What a load of b....."

Best regards,

Phillip"

- 7.20 Councillor Stuart had prepared and presented a comprehensive draft Environmental Policy at the last meeting of his term of office, after that date, he was not a parish councillor again until May 2023. The "new" Parish Council, as constituted after the 2019 election, was then responsible for amending, if it wished, and adopting the Environmental Policy.

- 7.21 It is clear, from reviewing these internal emails, that the Parish Council did consider Councillor Stuart's alternative policy but rejected it in favour of the version they adopted themselves. Although the Parish Council must have regard to the views of members of the public that it represents, only the council itself can take decisions on policies that it adopts. However, the exchange between the former clerk and Councillor Robinson makes unedifying reading and demonstrates both a familiarity which is inappropriate in a professional relationship – and may well be due to the family connection between them – and a serious lack of respect for a former parish councillor and member of the public.

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7.22 In respect of the issue of publication of the supporting papers with the agenda item about adoption of the Environmental Policy, the rules on publicity for parish council meetings are set out in the Public Bodies (Admissions to meetings) Act 1960, which states:

(a) *“public notice of the time and place of the meeting shall be given by posting it at the offices of the body (or, if the body has no offices, then in some central and conspicuous place in the area with which it is concerned) three clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;*

(b) *there shall, on request and on payment of postage or other necessary charge for transmission, be supplied for the benefit of any newspaper a copy of the agenda for the meeting as supplied to members of the body (but excluding, if thought fit, any item during which the meeting is likely not to be open to the public), together with such further statements or particulars, if any, as are necessary to indicate the nature of the items led or, if thought fit in the case of any item, with copies of any reports or other documents supplied to members of the body in connection with the item;”*

7.23 Principal councils – i.e., borough, district and county councils, are subject to much more stringent requirements in different legislation about the publication of supporting reports and documents with agenda items.

7.24 As set out above, parish councils have more flexibility and, while many councils may choose to publish supporting papers with agenda items, many do not, and simply publish the agenda.

7.25 Therefore, although Councillor Stuart felt unhappy that the Parish Council did not publish any associated papers with the agenda item, the Parish Council is not required to do so.

7.26 The lack of response to Councillor Stuart’s several requests to see the Policy on the website, is a failure in the Parish Council’s communications and a discourtesy to Councillor Stuart as a member of the public, but we do not find that this is a breach of the issue of respect by Councillor Robinson directly.

7.27 However, we find that the communications between Councillor Robinson and the former clerk show a clear lack of respect for Councillor Stuart’s views on the issue of the Environmental Policy and in respect of dealing with him generally.

7.28 The Dog Inn was a second issue that Councillor Stuart had progressed by the time he left office in 2019 He states:

“The Council had been approached by a housing developer. The Dog is on a big site with a big car park around it and attached to it there is an area of effectively waste ground. The developer wanted to buy that piece of land but it and part of the Dog car park had a village green covenant on it which would need removing if they wanted to develop.

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We thought it would be a good preventative and protective measure to make the Dog an asset of community value, potentially making the process a little more difficult for someone to turn it into houses.

At that time the Council didn't have a Clerk or the Clerk was off sick and so it was suggested that I fill out the paperwork. I did that and took it forward following resolution of the Council. That process was ongoing during the time I left the Council and a new Clerk coming in."

- 7.29 It seems that the matter did not progress and, despite Councillor Stuart asking questions about it, he could not get any clear answers from the Parish Council. He states:

"In terms of the Dog Inn (the Dog), I had raised the status of the application for the Dog to be an Asset of Community Value, both via email (see SS1) and then on two occasions at meetings. One time it was minuted, the other it was not. At the annual Parish Gathering someone raised a matter relating to the Dog Inn or an asset of community value. I asked, "what happened to the asset of community value on the Dog?" and the Clerk turned round and said, "I know nothing about that" which was a complete and blatant lie. There had been communication and items had been minuted.

It didn't progress and then all of a sudden, somehow, that application was removed from North Warwickshire's website. There used to be an active list of applications and the one relating to the Dog just disappeared off that list.

It would have remained live until someone actually sought to remove it. I made an attempt to find out how it was removed but couldn't get an answer. I have my suspicions because then the village green status was removed and progress was made on the sale of the land. However, according to any minutes I could see no resolution passed in relation to removing the application for the Dog to become an asset of community value."

- 7.30 Councillor Stuart has sent a series of email exchanges he had with the Borough Council in 2017, which show that an application to list the Dog Inn was submitted in 2017 (copy attached at WC 11). However, we have also seen an email from the former Clerk dated 2 March 2021, in response to a request from Councillor Robinson to retrieve any historical documents she can find (copy attached at WC 12). She states:

"I've spoken to xxxxxxxx this morning to see if he had any recollection of the previous pc sending an application for the ACV for the Dog. He didn't get involved but he's sent an email to xxxxxxxxxx and xxxxxxxxxx and asked them. I've checked NWBC Register for Community Assets that are pending/successful/unsuccessful and I can't find anything to do with Water Orton. I never sent in the application so I can only think that Swampy sent it, or didn't send it."

- 7.31 It is clear that, for whatever reason, the application to register The Dog Inn as an ACV did not progress after the Parish Council submitted it to the Borough Council in 2017. However – despite the former Clerk's rather facile use of a

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pejorative nickname for Councillor Stuart – it is also clear that neither she nor Councillor Robinson were aware of what happened to the application.

The links between the School and the Parish Council

- 7.32 The final issue that Councillor Stuart had left with the Council when he stood down as parish councillor was his proposal to act as a link between the local primary school and the Parish Council. He states:

“In terms of my complaint regarding a link between the School and the Council issues came about when it became known that HS2 would be coming through the village. It would drive right through the site of the school. The school is 140 years old and a lot of people were upset by the proposed demolition but HS2 said they would build a new school over the other side of the village green, about 200 yards away.

When the plans for the school were being developed for what is otherwise meadow land there were concerns about the relatively thin road to the school when there would be around 340 kids coming in and out. Lots of rumours started about matters of concern for the Council particularly in relation to planning and why the Council weren't engaging with the school. The Council invited the Head of the School to come and explain what the plans were.

We discussed how we could have better links and discuss things together and came up with the idea that there was a space on the Board of Governors. It was suggested that a councillor went onto the Board of Governors to be a link between the School and the Council. As I had only recently joined the Council and wasn't a member of any Committee I took on that role.”

- 7.33 When Councillor Stuart decided not to stand again as a councillor, he was still a school governor and offered to continue as the link with the parish, which the school was happy with. However, this did not happen as another school governor joined the Parish Council and took on that role.
- 7.34 Subsequently, this person resigned her position as both school governor and parish councillor. Councillor Stuart, who was by this time, Chair of governors, emailed Councillor Robinson on 29 September 2021 to request a meeting to discuss closer collaboration between the school and the Parish Council, He refers to his previous role while on the Parish Council of link between the two. He states that the Parish Council responded to say, “*we'll look at it and we'll come back to you*”. However, despite Councillor Stuart raising this a couple of times, nothing came of it. Councillor Stuart also raises the issue of exploring financial efficiencies through the school and Parish Council working together. He states:

“When I took over as Chair of Governors it became apparent that there were problems with the School's finances. They were in a mess and the Head Teacher had detailed they were leaving to take up an alternative position. The first thing we tried to do was to stop all the money haemorrhaging out of the school so we went through what we were spending our money on, line by line.

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The School were spending £5,000 on cutting the grass. I thought, if the Council can cut our grass and we give them, say, £4,000, they get £4,000 and we save £1,000. Grass cutting was first on the list. I then thought, I wonder what else we could do? I thought, let's see if we can get a range of better deals working or buying in partnership with the Council.

I asked for a conversation to discuss what areas we might purchase together better, what we might purchase from the Council and what the Council might purchase from the School. It keeps money in the village and that would be great. I got no answer so I chased it. I got an answer effectively saying 'we can't talk'. There then followed an exchange of increasingly tetchy emails which I eventually called a halt to, suggesting we both reflected on the matter. (copies of the emails are attached at SS2)"

- 7.35 The email exchange at SS2 appears to relate solely to Councillor Stuart's request for closer collaboration, not specifically about the financial issues. However, there are some gaps in dates, so it may be that some emails are missing. However, the Clerk replies to his initial email with a polite email to say that Councillor Stuart's request came too late for the Parish Council to consider it at their meeting, so she will put it forward for the next meeting.
- 7.36 We have seen a subsequent series of emails at SS4 between Councillor Stuart and the former Clerk, in which Councillor Stuart challenges the Parish Council's need to put the matter to a formal committee.
- 7.37 Councillor Stuart was clearly unhappy about the response from the Clerk. However, most parish councils would have put such a matter before the whole council for discussion and decision. Councillor Stuart has sent us an email (copy attached at WC 13) from Councillor Robinson to the former Clerk dated 1 October 2021, in response to his email to Councillor Robinson dated 29 September 2021 requesting a meeting to discuss closer collaboration between the School and the Parish Council. Councillor Robinson states:

"I think this should be discussed by the whole Parish council, maybe in the first instance during the public forum or see if one of the councillors would be interested in taking this role?"

- 7.38 The Parish Council called an extraordinary Council meeting on 9 November 2021, to allow Councillor Stuart to talk about the school and to discuss possible future liaison between the Parish Council and the School. The minutes state that Councillor Stuart raised the possibility of liaising with one councillor, but that the Clerk explained that would not be possible. The minutes (attached at SS6 within WC 7) state:

"7 To gain a clear understanding of what delegated authority representatives from the council may have.

It was explained that there was no specific position for a parish councillor on the board but Mr Stuart wanted to liaise with a councillor. The clerk explained no individual councillor has powers to make decisions on behalf of the council and the most straightforward point of contact would be through the clerk.

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It was agreed that an item regarding issues, reports and/or updates on the school would be added to future parish council agendas where applicable.”

- 7.39 The clerk is correct, in that proceedings of parish councils are covered by Schedule 12, Part II, paragraphs 7 – 13 of the Local Government Act 1972. Decision-making within parish councils is undertaken by the parish council meeting as a whole, or by separate committees appointed by the parish council. Individual councillors do not have decision-making powers. This is different to a borough or district council, which may operate a Leader and Cabinet model of governance under the Local Government Act 2000. This allows for certain individual councillors to have delegated authority and decision-making powers. However, this option is not open to parish councils.
- 7.40 We can therefore see nothing wrong in how the Parish Council dealt with Councillor Stuart's enquiries about liaison between the school and the Parish Council. It allowed him the opportunity to present to an EGM and explained to him how the Parish Council could facilitate further updates from the school – i.e. through future items on the agenda for council meetings.

Councillor Stuart's Complaint against the Clerk and how Councillor Robinson dealt with it

- 7.41 We have considered Councillor Stuart's complaint against the Clerk following the EGM of 9 November 2021 and the parish council meeting of 25 November 2021 and how Councillor Robinson handled that complaint.
- 7.42 It is helpful to set out briefly the chronology of events leading up to the complaint and Councillor Stuart's communications with the Parish Council about the complaint.
- 7.43 Following the EGM on 9 November, Councillor Stuart emailed both the Clerk and Councillor Robinson on 23 November, but headed his email, "To Whom it may Concern" (SS5). Councillor Stuart requests a number of amendments to the draft minutes and points out some error in misinterpretation of the Standing Orders. He finishes by stating:

"However we have detailed areas where we think we can have a mutually beneficial relationship, if you are of a mind to engage further on these or other areas you may identify we would be happy to speak to you."

- 7.44 Councillor Stuart states in his statement:

"At the next meeting I was told, in no uncertain terms, that it was massively inappropriate for me to send an email "to whom it may concern". I was also taken to task in relation to the minutes, being told they were not for outsiders and were there for councillors and for the Council's record."

- 7.45 Councillor Stuart also cites the incident which prompted his formal complaint:

"the Clerk told a member of the public there was no way they could record a meeting or publicise it. I said, "I don't think that's actually the case". She went mad, she blew her top and said, "you just don't like the way that Council's are run". I tried to point her to the Standing Orders

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but she said, "you're just trying to humiliate me", it got really nasty. I had taken my six year old son with me to the meeting. Afterwards he was really distressed because the Clerk had shouted at me. The impact on him was quite significant."

- 7.46 In the days and weeks following the meeting, Councillor Stuart made a number of attempts to resolve his unhappiness with the Clerk's behaviour informally, through discussion and email with Councillor Robinson. He states:

"After that I wondered how do we progress it. I happened to bump into Councillor Robinson the next day who said something along the lines of, "that was not right, we need to discuss it".

- 7.47 In an email to Councillor Robinson on 14 December 2021, in advance of the next public meeting, Councillor Stuart writes (SS3):

"The email was the fourth time I have reached out to see if the unpleasantness at the last public meeting could be addressed. The first time you detailed that you felt that a discussion was in order. This has not transpired."

- 7.48 On the same date, Councillor Robinson replied to say that he thought a meeting would be useful to discuss and resolve the matter and offered to come back to Councillor Stuart with some dates. However, there was no further response until Councillor Stuart chased on 29 December. On 30 December, Councillor Robinson emails as follows (SS3):

"You will understand, I'm sure, that trying to set up a meeting over the Christmas period is extremely difficult. As chairman I do not operate in isolation and once I have spoken to the full council on this matter I will get you answer. I would however prefer to treat the incident as an emotional outburst rather than a personal one, this I feel is a better way forward if you are able to let this pass. I will endeavour to ensure that such outbursts do not reoccur."

- 7.49 Councillor Stuart made a formal complaint to the Parish Council on 30 December 2021. The complaint is set out in para 5.20 above.

- 7.50 Between January and July 2022, Councillor Stuart had a series of email communications with Councillor Belinda O'Meara, Chair of the Human Resources Committee and Deputy Chair of the Parish Council. Many of those emails comprise Councillor Stuart's chasing of replies and information, and his mounting frustration at what he sees as a lack of responsiveness and courtesy from the Parish Council, is obvious. The most relevant of those emails are the following (copies attached at WC 15):

6 Jan 2022 – Councillor O'Meara acknowledges the complaint;

6 Jan 2022 – Councillor Stuart asks for a copy of the relevant policy for dealing with the complaint;

27 Jan 2022 – Councillor O'Meara states that the Human Resources (HR) Committee met and she is drafting a response;

27 Jan 2022 – Ms Stuart asks again for a copy of the procedure and queries why there is no attempt at informal resolution;

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9 Feb 2022 – Councillor O'Meara sends an unsigned letter of reply which is on blank paper and signed by her in her capacity as Chair of the HR Committee;

9 Feb 2022 – Councillor Stuart replies, asking if it is an official letter, asking again about the processes followed and referring to the offer of a meeting by Councillor Robinson, which did not happen;

21 Feb 2022 - Councillor O'Meara sends a slightly amended copy of the letter by post, dated 6 February 2022 to Councillor Stuart;

11 March 2022 – Councillor Stuart replies, noting about the changes, *"I note that the received letter deviates from the attachment which you sent in two regards. Firstly an alteration which suggests that the clerks actions will not happen again as opposed to "will be repeated". The second is that there is now an apology given."*;

Councillor Stuart requests a copy of the report to the Parish Council meeting of 24 February about the HR Committee's findings and a copy of the complaints process followed;

31 March 2022 – At the Parish Council meeting, Councillor Robinson makes a public statement about the matter. The minutes state:

"During the monthly parish council meeting held on the 25th of November a heated exchange took place between a member of the public who was a past Parish Councillor and the parish council clerk....

Unfortunately, there was a series of exchanges where the Clerks duties and competence were questioned, this led to the chairman having to call the meeting to order. Subsequently the council received a letter of complaint against the clerk, this correspondence was passed to the HR committee for investigation and recommendations for any actions. Having spoken to both parties the HR committee have decided that no action needs to be taken. From this decision I have concluded that this was an unfortunate occurrence and should be closed down. Going forward as chairman strict compliance to the agenda and comments from the floor will not be permitted outside of the public forum. I would also remind members of the public that any correspondence should be addressed to the Parish Clerk and not "to whom it may concern"

Councillor Stuart chases a reply to his emails during May and June;

30 June – Councillor O'Meara replies, saying she has sent a response by post;

During July, Councillor Stuart emails to state that he has not received this letter and asking if Councillor O'Meara is referring to the letter dated 6 February, or it is a letter replying to his further points;

25 July 2022 – Councillor O'Meara replies to say she has sent two letters in the post to Councillor Stuart's home address;

25 July 2022 – Councillor Stuart replies to say he has only ever received one letter, dated 6 February;

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There is no further response and Councillor Stuart has confirmed to us that he did not receive answers to his questions, nor did he receive the second letter.

- 7.51 It is unclear whether a complaints policy relating to complaints about staff was in force at the Parish Council at the time of the alleged conduct. The Code of Conduct would not have applied to the Clerk as it only applies to councillors. Councillor O'Meara refers to the matter being discussed by the HR Committee but there is no evidence of any particular policy being followed. There is a Communications Policy, which Councillor Stuart refers to. We have not seen the version in place at the time but we assume it was similar to the current version available on the Parish Council's website. It states:

"The principles of these guidelines apply to Parish Councillors, the Clerk to WOPC and all other staff.....Do not write anything in communications that might be construed as offensive or discriminatory. Do not make negative comments about an individual, including members of the public, Members, Officer, or business suppliers."

- 7.52 It is not clear whether Councillor Robinson's offer to meet and discuss the matter with Councillor Stuart during December 2021, was an attempt to resolve the complaint informally (whether following any internal procedures or not) or were Councillor Robinson's attempts himself simply to resolve that matter. Without Councillor Robinson's comments, we do not know.
- 7.53 We find that the fact that the meeting did not happen was either a failure of procedure, or Councillor Robinson's desire simply to make the matter "go away". Either way, this is not an appropriate way to deal with a quite serious complaint from a constituent who was attempting, at the time, to resolve the matter without recourse to a formal complaint.
- 7.54 After Councillor Stuart raised his complaint formally, it was, at least, acknowledged by Councillor O'Meara, quickly. The Council had dealt with it and it appeared to have gone through some form of formal process.
- 7.55 However, there were a number of issues which were very badly handled in the response, notably, the Parish Council's failure to provide Councillor Stuart with a copy of the procedures they were following; the provision of an unsigned response from Councillor O'Meara by email on 9 February 2022, followed by an amended signed letter in the post, dated the 6 February 2022, but post marked 21 February 2022. The Parish Council's failure to answer Councillor Stuart's follow up questions and the issue of the mysterious second letter which he never received, are also examples of very poor governance and procedures.
- 7.56 Councillor Stuart has sent us a few emails concerning the handling of the complaint. It was received by the former clerk, who forwarded it to three members of the HR Committee and Councillor Robinson on 31 December 2021 (copy attached at WC 15), correctly stating:

"Please see attached a scanned copy of a letter of complaint received from Mr Stuart."

It appears the complaint is two fold. The first being the actions and ability of the clerk and the second questioning the way in which Mr Stuart's informal concerns have been handled by the chairman."

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As you are aware, as clerk, it is my role to advise on such matters. However as the complaint involves myself, any involvement by me would be inappropriate. I would suggest that you seek advice either from WALC or a clerk from another parish, if you feel this is necessary."

- 7.57 However, despite the fact that the Former Clerk should not have been involved in the process of handling the complaint, Councillor O'Meara, the Chair of the HR Committee, copied her into the draft replies to Councillor Stuart. On 8 February 2022, she emails to the former Clerk a copy of the draft first letter to Councillor Stuart (copy attached at WC 16):

"Hi xxxxx, draft letter"

- 7.58 The former Clerk replied the same day (copy attached within WC 16), commenting on and changing the letter. She emails:

"Hi Belinda

That looks ok. I've made a few minor changes but not changed the context in any way. You may disagree but I changed the last sentence as I don't think the council has anything to apologise for. If you think it should go back in, that's fine. I've attached the amended letter.

*regards
xxxxx"*

- 7.59 On 24 February 2022, Councillor O'Meara sent a draft of her second letter to the former Clerk (copy attached at WC 17).
- 7.60 We believe that this second draft was meant to be the second letter which Councillor Stuart states that he never received.
- 7.61 Councillor Stuart first raised the issues in December 2021, immediately following the relevant meeting. At the end of July 2022, he still had not received a satisfactory response to his complaint.
- 7.62 Councillor Robinson addressed the issue of the complaint at the start of the Parish Council meeting on 31 March 2022. However, Councillor Stuart states about that:

"The statement from the Chair made no mention of the complaint against the Chair. The letter from the HR Committee seemingly accepted the explanation of the Chair in relation to the complaint against him. The statement from the Chair also detailed that the committee had "spoken to both parties". This does, I would suggest, detail that they had spoken to me which was most definitely not the case. I believe both parties referred to were the Chair and the Clerk. In detailing this I believe it shows that the Chair was privy and possibly responsible for the complaint being handled internally and then not detailing it in any form in his subsequent public statement."

- 7.63 It is clear that, with the exception of Councillor Robinson's abortive attempt to arrange a meeting with Councillor Stuart in December 2022, no-one at the Parish Council spoke to Councillor Stuart about his complaint. Therefore, the statement that the committee "had spoken to both parties" is erroneous and misleading. Most people would understand the phrase "both parties" to mean the complainant and the person complained about.

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- 7.64 It is also clear that, despite the former Clerk saying that she should not be involved in any way with the complaint, Councillor O'Meara asked her to review both draft letters to Councillor Stuart and she was able to make changes to them.
- 7.65 We have been unable to ascertain Councillor Robinson's response to the complaint.
- 7.66 Based on the information received, our view is that, in failing to allow Councillor Stuart's complaints against the Clerk to be dealt with correctly, Councillor Robinson did fail to treat Councillor Stuart with respect. Councillor Robinson treated Councillor Stuart with a lack of respect in relation both to his dealing with Councillor Stuart during December 2021, when he did not arrange a meeting as offered to discuss the complaint and in relation to his misleading statement made at the meeting of 31 March 2022. We also suspect – but cannot say with certainty – that Councillor Robinson influenced Councillor O'Meara in how she dealt with the complaint, including involving the former Clerk in approving the draft responses to Councillor Stuart.
- 7.67 We have therefore concluded that, if Councillor Robinson had still been a councillor, his conduct would have been a breach of paragraph 1 of the Parish Council's Code of Conduct.

Improper use of position

- 7.68 Paragraph 3 of the Parish Council's Code of Conduct states:

"He/she shall not seek to improperly confer an advantage or disadvantage on any person."

- 7.69 The LGA Guidance states:

"Your position as a councillor provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly."

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a councillor."

Involving yourself in a decision in which you have an interest, to seek to benefit yourself or another would be a breach of this paragraph of the code. For guidance on how to conduct yourself when you have an interest and how to balance your rights as an individual and your responsibilities as a public decision maker see the chapter on registration of interests."

...

...

The term 'improperly' is not defined in the Code of Conduct. This ensures that the scope of the provision is not unnecessarily limited. The

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underlying principle is that councillors are elected or appointed to public office to serve the public interest.

A councillor's conduct would be improper if they were to use their public position to further private interests of themselves or associates, or to settle old scores with enemies, to the detriment of the public interest. Any conduct that unfairly uses a councillor's public position to promote private interests over the public interest will be improper."

- 7.70 As we have explained above, local authorities are at liberty to publish any policy they have agreed is suitable. There was no advantage to be gained by any one person in adopting a different Environmental Policy to that which Councillor Stuart had originally proposed when he was a councillor in 2019. We have stated that Councillor Robinson's communications with the Clerk about Councillor Stuart regarding this issue were rude and disrespectful towards Councillor Stuart. However, we do not consider that Councillor Robinson improperly used his position in respect of the issues raised regarding the Environmental Policy.
- 7.71 As stated above, there is no information about the reasons for the removal of the application regarding The Dog Inn from the Borough Council's website. It is also clear that neither Councillor Robinson nor the Clerk knew what had happened to the application. Therefore, we can make no findings on this issue.
- 7.72 In respect of Councillor Stuart's complaints against the Clerk and the Chair, we have stated above why we believe Councillor Robinson and the Parish Council did not deal with it correctly.
- 7.73 The correct procedure for Councillor Stuart's complaint against Councillor Robinson would be for it to have been referred to the MO at the Borough Council.
- 7.74 Because of the obvious lack of proper procedures available at the time in respect of handling the complaint about the Clerk, we consider that Councillor Robinson's attempts to deal with it informally through a meeting with Councillor Stuart, during December 2021, were his own initiative. For whatever reasons, those meetings did not happen and Councillor Stuart's attempts to resolve his complaint informally came to nothing.
- 7.75 We have been unable to ascertain Councillor Robinson's response to the complaint. We have also not been able to talk to the former Clerk, who has resigned her position. However, the former Clerk is Councillor Robinson's sister-in-law, so there is a family connection between them.
- 7.76 We have also seen that there was a great deal of familiarity and informality in their communications with each other. It is also interesting that, on receipt of Councillor Stuart's complaint, the former Clerk copied it to members of the HR Committee and Councillor Robinson, saying she could take no part in the matter. However, Councillor O'Meara sent the draft replies to Councillor Stuart to the former Clerk and allowed her to comment on and amend them.
- 7.77 Considering all these matters together – Councillor Robinson's failure to deal with Councillor Stuart's complaint; the nature of the communications between Councillor Robinson and the former Clerk; the involvement of the former Clerk in reviewing draft responses – we have concluded that Councillor Robinson did

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use his position improperly to secure an advantage for the former Clerk – i.e. he tried to either minimise the complaint or make it disappear completely.

- 7.78 We have therefore concluded that, if Councillor Robinson had still been a parish councillor, his conduct in this respect would have been a breach of paragraph 3 of the Parish Council's Code of Conduct.

8. Finding

- 8.1 Our findings are that, if Councillor Robinson had still been a parish councillor, he would have been in breach of paragraphs 1 and 3 of the Code of Conduct.

13 June 2024

Wilkin Chapman LLP
Investigating Solicitors