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Standards Agenda

Thursday 17 September 2015 at 7.30 pm

DBC Bulbourne Room - Civic Centre

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Membership

Councillor Taylor (Chair)
Councillor Maddern

Councillor Matthews
Councillor Tindall

Substitute Members:
Councillors

Co-Opted Representatives of the Parish and Town Councils:

Councillor Robin McCarthy

Independent Co-opted Representative

Brendan Henry
John Ebdon
Rachel Keil

The Assistant Director (Chief Executive's Unit) and Monitoring Officer
Member Support Officer

For further information, please contact Kayley Johnston - ext:2226

AGENDA

1. MINUTES

To confirm the minutes of the meeting held on 11 June 2015 (attached at Appendix A).

2. APOLOGIES FOR ABSENCE

To receive any apologies for absence

3. **TRAINING FOR MEMBERS OF THE STANDARDS COMMITTEE** (Pages 1 - 38)

4. **DATE OF NEXT MEETING**

Thursday 10 December 2015

5. **EXCLUSION OF THE PUBLIC**

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1 as amended by the Local Government (Access to Information) (Variation) Order 2006 the public be excluded during the item in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during that item there would be disclosure to them of exempt information relating to:

6. **APPENDIX A - MINUTES OF THE MEETING HELD ON 11 JUNE 2015** (Pages 39 - 42)



AGENDA ITEM: 3

SUMMARY

Report for:	Standards Committee
Date of meeting:	17th September 2015
PART:	I
If Part II, reason:	

Title of report:	TRAINING FOR MEMBERS OF THE STANDARDS COMMITTEE
Contact:	Steven Baker, Assistant Director (Chief Executive's Unit) Directline: 01442 228229, internal extension: 2229 steve.baker@dacorum.gov.uk
Purpose of report:	To advise Members of the details of a training session for Members of the Standards Committee to be held at the meeting on 17 th December 2015.
Recommendation	That Members be requested to read the attached documents in readiness for the training session to be facilitated by the Monitoring Officer.
Corporate objectives:	The promotion and maintenance of high standards of conduct by Members of the Council will assist the Council in achieving its priorities of performance excellence and reputation and profile delivery.
Implications: 'Value For Money Implications'	There are financial and efficiency costs to the Council in having to deal with complaints made under the Code of Conduct. There are, therefore, value for money benefits to the Council in striving to ensure that complaints against Members are minimised as far as possible and any complaints that are received are dealt with as cost effectively as possible.
Risk Implications	The risk to the Council in not having in place a robust local standards regime could damage its reputation for good governance and undermine public confidence in the

	Council as a whole.
Monitoring Officer	This is a report prepared by the Assistant Director (Chief Executive's Unit) in his capacity as Monitoring Officer.
Consultees:	None
Background papers:	Code of Conduct For Members

BACKGROUND REPORT

1. It is proposed to use the meeting on 17th September as a training session for Members of the Committee which will be facilitated by the Monitoring Officer.
2. The training session will be based around a completely fictitious complaint made by an officer against a member of Dacorum Borough Council. Members will be asked to consider how they should approach conducting a hearing into the complaint. It would assist if Members could read the attached documents before the meeting so that they are familiar with the details of the complaint. Mark Brookes, the Deputy Monitoring Officer, will also be attending to speak to his investigation report and to be available to be questioned by Members.
2. The documents appended are as follows –

Appendix One: A pre-hearing summary of the complaint prepared by the Monitoring Officer.

Appendix Two: A copy of the complaint made by Mrs Susan Clarke (a Senior Planning Officer) against Councillor Hardy of Dacorum Borough Council, who is also a member of the Council's Development Control Committee, alleging that Councillor Hardy failed to treat Mrs Clarke and other members of the Planning Department with respect and bullied them.

Appendix Three: A copy of the investigation report.

Appendix Four: A copy of the Council's Complaints Procedure for dealing with complaints that a Member has breached the Code of Conduct.
4. A copy of the Council's Code of Conduct For Members is not attached as the relevant paragraphs of the Code are referred to in the pre-hearing summary and in the investigation report. The Council's Complaints Procedure sets out the procedure to be followed at the hearing (see Appendix 3 of the Complaints Procedure). The session will be led by the Monitoring Officer. It will largely take the form of an

informal discussion as to what are the key questions which emerge both from the complaint and what is said at the hearing itself as it progresses and how these should be addressed by the Members. It may be that other facts come to light during the session and Members will be asked to consider how they would respond to these new issues. There may be a small element of role playing, but If Members are asked to participate in this they will be given a short prepared script to read out (although they can choose to improvise if they prefer).

5. Members will be asked, in consultation with the Independent Person, to arrive at a decision as to whether or not Councillor Hardy has failed to follow the Code of Conduct and, if so, the reasons for their decision. If the Members decide that Councillor Hardy has not followed the Code of Conduct they will, in consultation with the Independent Person, be asked to consider what action, if any, should be taken against Councillor Hardy. Paragraph 8 of the Complaints Procedure sets out the range of actions available to the Standards Committee.
6. Just to emphasise that the scenario is completely made up and any resemblance to real persons living or dead is purely coincidental.

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Appendix One

Dacorum Borough Council

Standards Committee

Complaint in respect of Councillor Hardy

Monitoring Officer's Pre-Hearing Summary

1. The Complaint

On 1st August 2015 Senior Planning Officer, Susan Clarke wrote to the Monitoring Officer (MO) with a formal complaint (attached as Appendix Two) alleging that Councillor Hardy's conduct at the meeting of the Development Control Committee (DCC) on 28 July 2015 constituted a breach of the Council's Code of Conduct in that he failed to treat her and other officers of the Council's Planning Department with respect and bullied them.

2. The Investigating Officer's Report

The MO reviewed the complaint and after consulting the Independent Person (IP), Rachel Keil, decided that this complaint should be investigated and referred it to the Deputy Monitoring Officer, Mark Brookes, to carry out the investigation. Following his investigation, Mr Brookes concluded that there was evidence that Councillor Hardy had failed to comply with the Council's Code of Conduct and had failed to treat Mrs Clarke with respect. He did not find evidence of a failure to treat other officers of the Planning Department with respect and he did not find evidence of bullying. A copy of Mr Brookes' report is attached as Appendix Three.

The MO reviewed the investigation report and its conclusions and, after consulting again with the IP, referred the matter to the Standards Committee for a hearing.

3. Pre Hearing

In preparation for this hearing, Councillor Hardy has been provided with a copy of Mr Brookes' report. In order to attempt to simplify the hearing process and identify those matters which are agreed, Councillor Hardy has been requested to identify any points at which he disagrees with any finding of fact in the report.

4. The Key Issue

The core of the allegation relates to the manner in which Councillor Hardy addressed the DCC on 28 July in its consideration of a planning application by Homes 'R' Us for residential development at the former Civic Centre site in

Hemel Hempstead and whether his words, and his departure from the Committee Room, constituted a failure to treat the complainant with respect and/or amounted to bullying.

(a) The key events

Mr Brookes has set out in his report his conclusions as to the key events and as to what Councillor Hardy actually said. Councillor Hardy confirms much of this but disagrees with Mr Brookes on the following material points:

Mr Brookes found as a matter of fact that, following Mrs Clarke's introduction of this agenda item and her presentation of the Head of Planning's report and recommendation of refusal of the application, primarily as being contrary to the approved design brief for the former Civic Centre site, Councillor Hardy responded in the following terms:

"This is the Planning Department which very nearly cost Hemel Hempstead its football team, has cost the borough thousands of jobs over the years, which will ensure that the heart of Hemel Hempstead in the form of the old Civic Centre site remains empty waste land for years to come and stopping people from getting the homes they deserve.

You are just a waste of space unless you can tell me where you propose to locate the 1,000 new homes which we have got to find in the town, when you spend your time trying to block any sensible redevelopment of the old Civic Centre site, making sure that no developer can afford to build it by insisting on grandiose designs and materials which don't make commercial sense when a bog standard design brief would be more than sufficient."

At this point it is alleged by Mrs Clarke that Councillor Hardy left the Committee Room, saying:

"I have much more important things to do than to listen to any more excuses from a load of planning plebs who cannot appreciate a decent modern design."

Councillor Hardy confirms that this is what he said, with the exception of the final paragraph, where he says that his actual words were as follows:

"I have another important meeting which I must go to now. I do not want to listen to any more excuses from our planning people who don't seem to appreciate a decent modern design."

In particular, Councillor Hardy denies using the word 'plebs' and insists he said the word 'people'.

On this point, Councillor Hardy has asked that a witness be invited to attend to give evidence at the hearing that Councillor Hardy had an external meeting at 11.30 am and that his departure was required at this point in order to attend this meeting. This point is accepted by Mr Brookes, so it is not proposed to arrange for a witness to attend.

Other witnesses who might be able to assist in respect of the actual wording used would include the Chairman of DCC, Councillor Whitman, and the Committee Clerk, Ms Kayley Johnston (whose contemporaneous notes broadly confirm Mrs Clarke's version of events). Mrs Clarke, Councillor Hardy, Councillor Whitman, Ms Johnston and Mr Brookes will be present at the hearing. I have made no arrangements for members of the DCC to be present.

You will see from Mr Brookes' report that when he questioned all the other Members of DCC they all said that they could not quite hear what Councillor Hardy was saying at the point he was actually walking out of the room. This was because the Members of the DCC are seated on the side of the room farthest from the door (except the Chairman who is seated on the same side as the officers and therefore nearer to the door) and Councillor Hardy had his back to them when he said his final words.

(b) Disrespect:

Paragraph 4(1) of the Council's code of Conduct states that "you must treat others with respect."

Mrs Clarke states in her complaint that Councillor Hardy's words carried the clear implication that the officers in the Planning Department, including herself, were failing to apply professional standards in their work, and pursuing personal aesthetic preferences.

Councillor Hardy states, and this is accepted by Mr Brookes, that he had no intention to cause offence to Mrs Clarke or to any officer in the Planning Department, but wished to draw the Committee's attention to his view that the policies pursued by the Council had consistently failed to produce the new investment which the Hemel Hempstead town centre required.

Mr Brookes concludes that the issue is not the subjective test of Councillor Hardy's intentions when he addressed the Committee, but rather the objective test of whether the language that he used and the manner of his address fell below the standard which might reasonably be expected of a Councillor in such circumstances.

This is essentially a matter of interpretation of the Code of Conduct. The relevant witnesses on this matter would be Councillor Hardy and Mr Brookes, who has requested the opportunity to address the Standards Committee on this point.

(c) Bullying

Paragraph 4(2)(b) says that “you must not bully any person”.

Before its abolition, the Standards Board for England’s guidance provided a description of bullying as follows:

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

Mr Brookes concluded that there was no evidence of an intention to undermine Mrs Clarke and so concluded that Councillor Hardy’s conduct did not amount to bullying.

(d) Other Issues:

- (i) Councillor Hardy has asked that Mrs Clarke be asked to give evidence at the hearing that she made a personal attack upon Councillor Hardy at the public inquiry held into the appeal in respect of the refusal of DCC to grant Hemel Hempstead Football Club planning permission for a new football ground. Mrs Clarke will be attending the hearing and will be available to be questioned if required.

I attended the public inquiry referred to by Councillor Hardy and I recall that there were a number of intemperate remarks made on both sides during the course of that hearing. However, such past events would, at the most, be marginally relevant to the seriousness of any failure to treat Mrs Clarke with respect in this particular case. They would not be relevant as to whether there had been a failure to comply with the Code of Conduct.

- (ii) Councillor Hardy has asked that the Head of Planning and the Chief Executive of Homes ‘R’ Us be requested to give evidence as to the additional costs which Homes ‘R’ Us would have been required to incur had they complied with the former Civic Centre Design Brief, and the consequent increase in rent or purchase price for the residential properties. The Head of Planning will be available if required but I have made no arrangements for the Chief Executive of Homes ‘R’ Us to be present.

I would advise that, whilst such matters might have been material to the DCC’s consideration of the planning application,

they are not material to the Standards Committee's consideration of this matter.

5. The Procedure for the Hearing

I attach as Appendix Four a copy of the Complaints Procedure which the Standards Committee has adopted and which sets out the process for dealing with complaints that a Member has failed to comply with the Code of Conduct and how hearings will be conducted (see Appendix 3 of the Complaints Procedure). In this instance, Mr Brookes, the Investigating Officer, will be attending the hearing to present his report.

Councillor Hardy has indicated that he will be attending and will present his own case.

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Appendix Two

THE COMPLAINT LETTER

**TO: The Monitoring Officer
 Dacorum Borough Council**

29th July 2015

Dear Sir

COMPLAINT AGAINST COUNCILLOR HARDY, DACORUM BOROUGH COUNCIL

I write to make a formal complaint in respect of the gross disrespect and sheer rudeness which Councillor Hardy regularly exhibits to the planning officers of this Council.

Councillor Hardy was first elected to the Council at the election in May 2015 and I come across him regularly in his capacity as a member of the Council's Development Control Committee (DCC).

There is a bit of a history to this in that, before he was elected, Cllr Hardy was a major supporter and active campaigner for a scheme for the relocation of Hemel Hempstead Football Club to a new stadium to be built on a green field site in the Green Belt on the outskirts of the town. DCC opposed that scheme on the grounds that there was no justification for this development in the Green Belt.

Cllr Hardy was then, and still is, a prominent supporter of Hemel Hempstead Football Club and of the relocation proposals. Although he was not the applicant, he made very considerable demands for information in respect of the planning case officer's grounds for objection to the proposal, which the Planning Department were not always able to meet to his satisfaction. He also led a campaign for a petition in favour of the proposal, during the course of which he made very public and disparaging statements about the Council and particularly about the Council's Planning Department and its officers. When the planning application went to appeal, following its refusal by the DCC, he repeated these comments at the public inquiry held in relation to the appeal and suggested that the DCC's opposition was based on the Planning Department being "anti-football" and not wanting to see the local football club grow in size.

In the run up to the May 2015 election, Cllr Hardy based his campaign substantially on his frequently expressed views that the Council's Planning Department was responsible for preventing the town from getting a decent football club, and he stated on a phone-in programme on local radio that the Planning Department was "a load of dead wood nimbies" who were holding the town back and would need to be cleared out once he was elected as a Councillor."

Since his election Cllr Hardy has made no secret of his feelings about the Planning Department. I have had a couple of dealings with him on planning applications within his ward and found his manner rude and disdainful towards me and I know that the Head of Planning has received complaints from other staff in the Planning Department, but the DCC meeting on 28 July was the first time I had had any public dealings with him since his election in May.

I attended the DCC meeting in July to present a report on behalf of the Head of Planning, who was unable to attend, in respect of reserved matters relating to the mixed private and affordable residential development scheme at the former Civic Centre site at the northern end of Marlowes. As you know Homes 'R' Us bought the site from the Council and are now keen to build out the residential scheme. DCC had previously approved a design brief for the Civic Centre site redevelopment which made it clear that the Council would require any residential development to be of a high quality in terms of design and materials which complemented its town centre location and its close proximity to the Old Town. The designs which Homes 'R' Us have submitted are reminiscent of the brutalist architecture of the 1960s and are no more than several oversized grey concrete blocks which do nothing to enhance the appearance and character of the town centre.

At the DCC meeting in July I introduced the Head of Planning's report on the scheme, expressing regret that the applicant had not taken up the advice set out in the design brief for the site. I referred the Members of the Committee to the recommendation of the Head of Planning that the application be rejected but that a small Sub-Committee be appointed to meet the applicant in order to explain the Council's reasons for seeking a high quality of design in this location.

At this point Cllr Hardy stood up and said (I paraphrase) that this was the Planning Department which very nearly cost Hemel Hempstead its football team, had cost the Borough thousands of jobs over the years, and which will ensure that the Civic Centre site remains empty waste land for years to come.

He then asked me directly, not through the Chair, to justify my existence by telling the Committee where I proposed to locate the thousands of new homes required in the Borough over the next 10 years if I was going to block any sensible town centre scheme by insisting on a design brief which was commercially unviable.

Before I had a chance to reply Cllr Hardy stormed out of the room saying that he had more important things to do than waste his time listening to "any more excuses from a load of planning plebs who could not appreciate decent modern design".

The remaining DCC Members in the room accepted the Head of Planning's recommendation unanimously and agreed to seek a meeting with Homes 'R' Us and their professional advisers.

Subsequent to the July meeting, I raised the issue of Councillor Hardy's conduct with Councillor Whitman, the Chairman of DCC and said that I felt that it was unacceptable and a breach of the Code of Conduct. He replied that Councillor Hardy was a colourful character and that I would have to get used to it. Councillor

Whitman didn't think a quite word from him or the Leader was going to change him. I then spoke to the Council's Monitoring Officer, who advised me that I could make a formal complaint to the Standards Committee.

Accordingly, I now make this formal complaint that Councillor Hardy's conduct at the DCC meeting of 28 July 2015 was a breach of the Council's Code of Conduct in that he treated me, and by inference all members of the Planning Department, with disrespect, implying that we were not professionally competent and that we put our own personal aesthetic preferences above professional standards and our duty to the Council.

Yours faithfully,

Susan Clarke,

Senior Planning Officer
Dacorum Borough Council

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Appendix Three

The Investigating Officer's Report

Dacorum Borough Council

Confidential

**REPORT OF AN INVESTIGATION UNDER SECTION
28(6) OF THE LOCALISM ACT 2011 BY MARK
BROOKES, ACTING AS INVESTIGATING OFFICER,
INTO AN ALLEGATION CONCERNING COUNCILLOR
HARDY, A MEMBER OF DACORUM BOROUGH
COUNCIL**

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Executive Summary

Details of the allegation

The relevant sections of the Council's Code of Conduct

The parties concerned

The evidence obtained

Conclusions

Executive Summary

1. This report deals with an allegation by Mrs Susan Clarke against Councillor Hardy.
2. Allegation: That Councillor Hardy failed to treat Mrs Clarke and other officers of the Borough Council's Planning Department with respect.
3. Finding: That Councillor Hardy did fail to treat Mrs Clarke with respect.

Details of the allegation

4. Mrs Clarke attended the meeting of the Development Control Committee of Dacorum Borough Council on 28 July 2015 in her capacity as a Senior Planning Officer deputising for the Head of Planning, at which meeting she introduced a report on behalf of the Head of Planning relating to an application for planning permission by Homes 'R' Us for the development of new housing at the former Civic Centre site in Marlowes, Hemel Hempstead.

She complained that Councillor Hardy was present at that meeting and, following Mrs Clarke's introduction of this report, responded by saying that the Borough Council's Planning Department was responsible for nearly costing Hemel Hempstead its football club, and for the loss of many jobs in the Borough, and for the Civic Centre site remaining empty waste land for years to come.

Councillor Hardy then asked Mrs Clarke directly to justify her existence by telling the Committee where she proposed to locate thousands of new homes required in the Borough over the next 10 years if she was going to block any sensible town centre scheme by insisting on a design brief which was commercially unviable.

When Mrs Clarke referred to the Head of Planning's recommendation that the application be refused Councillor Hardy left the room without waiting for a reply and said as he was leaving that he had more important things to do than waste his time listening to "any more excuses from a load of planning plebs who could not appreciate decent modern design".

Mrs Clarke complained that this conduct amounted to a failure to show respect both to herself and to the members of the Planning Department and implied that they were not professionally competent and put personal aesthetic preferences above professional standards and their duties to the Borough Council.

The relevant sections of the Council's Code of Conduct

5. Section 4(1) of the Council's Code of Conduct states that "you must treat others with respect". This is amplified in the Council's protocol on Member/Officer relations, which for this purpose is to be taken as guidance to

Councillors and Officers on the interpretation of the Code of Conduct, which states that officers can expect respect, dignity and courtesy from Members.

Paragraph 4(2)(b) of the Council's Code of Conduct states that "you must not bully any person." The Standards Board for England (before it was abolished in 2011) provided a description of what constituted 'bullying' in its published Guidance on the Code of Conduct. The Standards Board described bullying as follows:

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

The Parties Involved

6. Councillor Hardy (the Member subject of the complaint), Councillor Whitman (the Chairman of the Development Control Committee), the Head of Planning, Mrs Clarke (a Senior Planning Officer and the complainant), Mr Baker (the Monitoring Officer), Rachel Kiel (the Independent Person), and Ms Johnston (the Committee Clerk).

The Evidence Obtained

7. Councillor Hardy was elected as a member of Dacorum Borough Council at the election in May 2015 and is a member of the Development Control Committee (DCC).
8. The former Civic Centre site located at the northern end of Marlowes is currently a vacant site, the building having been demolished in 2014 following the relocation of the Council staff to 'Swanky Towers' on an adjacent site. The former Civic Centre site was sold by the Council to Homes 'R' Us following the demolition of the building. Homes 'R' Us have outline planning permission for a residential scheme of up to 1000 houses and flats, 80% of which will be for private sale and the other 20% available for affordable renting.

The Council's Planning Department consider the former Civic Centre site to occupy a prestigious and sensitive location as it is within the town centre zone and also near to the Old Town which is a conservation area. The DCC adopted a design brief for the Civic Centre site which requires that any new buildings on the site should be of a quality and design which complement its important location in the town centre and only high grade materials should be used. The design brief expressed the DCC's aspiration that any residential development would be 'up market' and iconic in design befitting its prime location in the town centre. Homes 'R' Us submitted an application for reserved matters for their residential scheme and this came before the DCC at a meeting held on 28 July this year.

9. The Head of Planning prepared the report on reserved matters but was unable to attend the meeting. Mrs Clarke deputised for the Head of Planning at the meeting which was the first meeting of the DCC which she had attended at which Councillor Hardy was present as a Councillor. Mrs Clarke presented to the Committee the report on reserved matters on behalf of the Head of Planning in which he advised that the proposed design fell substantially short of the requirements of the design brief, particularly in terms of its mass, visual appearance and use of cheap, low grade materials. The report therefore recommended that the application by Homes 'R' Us should be refused.
10. Mrs Clarke told me that she had met Councillor Hardy before his election as a Councillor when he had been extremely critical of the Borough Council's opposition to the Hemel Hempstead Football Club's plans for a new ground on the outskirts of the town on a green field site in the Green Belt. At public meetings and at the appeal hearing, and subsequently in his election literature, Councillor Hardy had made very personal and, in Mrs Clarke's view, unjustified criticisms of individual officers, but she accepted that the Code of Conduct did not apply to him until his election as a Councillor.
11. She said that since the election, she was aware that Councillor Hardy had come into the Planning Department on at least two occasions in order to make enquiries about planning applications affecting his ward. On both occasions he had not been satisfied by the information which the reception staff had been able to provide and had been referred through to Mrs Clarke. He had sought to express a view on the merits of the particular applications and she had provided him with copies of the applications and asked him to put his comments in writing so that they could be taken into account when the relevant Planning Officer wrote the report for the Head of Planning to present to the DCC.
12. She told me that, at the DCC meeting, she had distinctly heard Councillor Hardy say to the Committee that:

"this is the Planning Department which very nearly cost Hemel Hempstead its football team, has cost the Borough thousands of jobs over the years, which will ensure that the heart of Hemel Hempstead in the form of the old Civic Centre site remains empty waste land for years to come and stopping people from getting the homes they deserve."

She reports that he then turned directly to her and said:

"You are just a waste of space unless you can tell me where you propose to locate the 1,000 new homes which we have got to find, when you spend your time trying to block any sensible redevelopment of the old Civic Centre site, making sure that no developer can afford to build it by insisting on grandiose designs and materials which don't make commercial sense when a bog standard design brief would be more than sufficient."

She states that at this point, Councillor Hardy stormed out of the Committee Room, saying

“I have much more important things to do than to listen to any more excuses from a load of planning plebs who cannot appreciate a decent modern design.”

13. Ms Johnston, the Committee Clerk, attended the meeting and took manuscript notes in order to prepare the minutes of the meeting. Her practice is to make shorthand notes as the debate proceeds, highlighting key words in full text. Tape recordings are not taken of ordinary meetings of the DCC, nor are the proceedings shown on webcast.

14. The contemporaneous notes written by Ms Johnston are not a full verbatim report, but they do record Councillor Hardy as using the following phrases (in the order in which they appear below):

“Planning Department which nearly cost Hemel its football club”

“cost Borough thousands of jobs over the years”

“Civic Centre site the heart of Hemel”

“empty for years to come”

“stopping people getting homes”

“waste of space – where else can 1,000 new homes go”

“blocking sensible redevelopment – developers cannot afford to build – grandiose designs don’t make commercial sense – bog standard will do”

“more important things – listen to more excuses ”

“load of planning (indistinct word) - don’t appreciate modern design”

(leaves 11.23 am)

15. Councillor Hardy told me that he had had a number of previous dealings with the Planning Department, before his election as a Councillor, and had found them to be inflexible, seeking to comply strictly with the Local Plan and unable or unwilling to consider any alternative proposals. He referred to the proposals for the new football stadium, the Planning Department’s approach to restricting the growth of the football club and the fact that the DCC’s refusal for the new ground had been upheld on appeal by the Secretary of State. In his view, development and consequent prosperity, depend upon developers’ initiative in coming forward with ideas about what can be developed commercially and not from unreasonable restrictions on design imposed by the Planning Department.

16. Councillor Hardy told me that, since being elected as a Councillor, he has been made aware of his constituents' concerns over the delay in building the residential development proposed for the former Civic Centre site. He said there was an acute shortage of affordable housing in Hemel Hempstead and he was therefore very supportive of the Homes 'R' Us proposals which would bring in 200 affordable homes into the town centre. His view is that the design proposed by Homes 'R' Us is an honest, workmanlike design which would be a considerable improvement over the present waste land appearance. Since Homes 'R' Us is required to use its resources for the provision of 200 social rented housing, its decision not to spend additional money on up market design and materials will mean that it does not have to reflect the additional cost in the rents of the affordable housing. Accordingly, he supported the simplicity of the presented design and opposed the Head of Planning's recommendation that it fell short of the design brief. He said it was the brief that was wrong and not the designs put forward by Homes 'R' Us.
17. Councillor Hardy told me that he had felt that it was important for the DCC to take a practical decision within the bounds of what was economically achievable. He stated that, in addressing the Committee, he had no intention to cause offence to Mrs Clarke or to any officer in the Planning Department, but was seeking to draw to members' attention the Head of Planning's attempts to seek unrealistic standards, with the result that beneficial developments had been prevented or delayed. In his view, the Planning Department and its officers should be capable of accepting honest criticism without taking offence.
18. Councillor Hardy has evidence that he had another appointment elsewhere in Hemel Hempstead at 12 noon on the day of the meeting which necessitated his leaving the meeting very shortly after the start of the consideration of the planning application by Homes 'R' Us. He did not speak from notes and says that he cannot recall the exact words which he used. He is clear though that he did not use the word 'plebs'. He said that he would never use such a word but he did accept that he felt totally frustrated with the Planning Department. He insisted that he had intended no discourtesy to the Chairman and had addressed his remarks towards the platform where both the Chairman and Mrs Clarke were seated. He recalls asking where the required new housing was to be located if it were not to be permitted on the Civic Centre site and acknowledges that it is possible that he may have expressed this request directly to Mrs Clarke rather than through the Chair, but points out that he has only recently been elected as a Councillor and that he is not yet accustomed to such conventions of address.
20. Councillor Whitman, the Chairman of the DCC told me that Councillor Hardy had apologised to him before the meeting that he could not stay for the whole meeting. Councillor Whitman said that Councillor Hardy is a forceful and colourful personality who speaks his mind on issues. Like most new members, he needs to learn the etiquette of Committee procedure and as Chairman he allowed him some tolerance, but he had spoken to him in the Members' Room after the previous meeting of the DCC where he had made very personal remarks to another member and told him privately that he did

not need to personalise the argument but should stick to the main points and direct his remarks to the Chairman.

21. Councillor Whitman told me that the Head of Planning's recommendation was entirely consistent with the policy adopted by the DCC and with previous decisions of the Committee. He had not noticed anything exceptional in respect of the matter until Mrs Clarke had completed her presentation of that report. He did not recall Councillor Hardy's exact words. He did recall that he was loud and that he seemed to be unnecessarily re-opening the Hemel Hempstead Football Club issue but that he had noted that he again personalised issues to the Planning Department despite the fact that these were decisions taken by the full Committee. He had intended to have a further word with him after the meeting, except that he had left by then. Councillor Hardy's words did not seem to have influenced the Committee unduly, as Mrs Clarke had summed up the policy position very clearly and the Committee had agreed with the recommendation and resolved to refuse the application.
22. Councillor Whitman told me that he had not been aware that Mrs Clarke had taken particular offence at Councillor Hardy's words until she raised the issue in their usual post-meeting review two days later, when they go through the draft minutes and agree actions. At the start of that meeting Mrs Clarke had said that she took exception to Councillor Hardy's accusation that officers were not acting professionally and that she looked to the Chairman to take appropriate action. The Chairman said that he had replied that they had both come up against Councillor Hardy before he was elected as a Councillor and that he showed no signs of having changed his attitude or behaviour since his election. So, whatever he might say to him, Mrs Clarke would have to accept that he was going to be on DCC for the foreseeable future so she might as well get used to him expressing his views.

Conclusions

23. I am satisfied that Mrs Clarke's recollection of events at the meeting of the DCC on 28 July this year and of what Councillor Hardy said at the meeting, as set out in Paragraph 12 above and very largely confirmed by the contemporaneous notes made by Ms Johnston, the Committee Clerk, is essentially a correct record. The only substantial dispute is in relation to the allegation that Councillor Hardy used the word 'plebs' as he left the room. Mrs Clarke is adamant that she heard Councillor Hardy say the word 'plebs' as he was walking out of the room. Councillor Hardy is equally adamant that he did not use the word 'plebs' and that the word he used was 'people'. There is no evidence to corroborate Mrs Clarke's allegation in this respect. Ms Johnston's notes do not record the use of the word although they do refer to some word or words being indistinct. Councillor Whitman cannot recall exactly what Councillor Hardy said and the other members of the Committee say they were too far away to hear what was being said as Councillor Hardy was in the process of walking out the door and had his back to them.

24. I am satisfied that the Head of Planning's report to the DCC in respect of the Homes 'R' Us proposals was properly presented by Mrs Clarke in accordance with the professional standards which would normally be expected from a Senior Planning Officer.
25. I have not sought to investigate the history of the Hemel Hempstead Football Club scheme or of other employment or housing planning applications in the Borough, so I express no view upon the veracity of Councillor Hardy's assertion as to the impact of planning policies.
26. I accept Councillor Hardy's assertion that, in addressing the DCC, he had no intention to cause offence to Mrs Clarke or to any member of the Planning Department, that his intention was to draw the Committee's attention to a series of events, and that his parting remarks were a reference to the fact that he was unable to remain at the Committee because of a requirement to attend another meeting. I therefore approach the issue of whether his remarks constituted a failure to treat others with respect not in terms of his intention but in terms of whether the language that he used and the manner of his address fell below the standard which might reasonably be expected of a Councillor in such circumstances.
27. Local Government is required to resolve matters of local controversy. Such matters will be matters which give rise to strong feelings. Some element of political rough and tumble is to be expected and accepted between members. But local authorities can only function effectively if reasonable relations are maintained between members and officers, however controversial the current issue may be.
28. It is not uncommon that the perceived failings of policies which have been adopted by the Council are laid at the door of the officer or department whose responsibility it is to administer those policies, and this is not of itself a failure to treat the officer or department with respect.
29. In this instance, however, Councillor Hardy did positively challenge Mrs Clarke at the meeting to justify her existence, and implicitly her continued employment by the Borough Council, and then left the Committee Room without giving her the opportunity to respond. Whilst he had explained to the Chairman of the Committee that he would have to leave the meeting early, he could not be sure that Mrs Clarke was aware that this was the reason for his departure, and his parting words (even if it is accepted that the word 'plebs' was not used) were, whether intentionally or not, such that they would be understood by an independent observer to indicate that he did not consider that any response which Mrs Clarke might give could be worth listening to. In so doing, in my view, Councillor Hardy failed to treat Mrs Clarke with respect and therefore failed to comply with the Code of Conduct.
30. Turning then to the complaint of bullying, as set out above, I am satisfied that Councillor Hardy's words and the manner in which they were delivered was offensive to Mrs Clarke. I cannot say that they were intimidating, in the sense that Mrs Clarke was not intimidated from responding to those words by

making this complaint. The Council's Code of Conduct does not define what constitutes 'bullying'. I have therefore used the description of bullying applied by the former Standards Board for England. In order to satisfy the Standards Board's description of bullying, it would be necessary that Councillor Hardy's words and actions constituted an attempt to undermine Mrs Clarke and/or her colleagues in the Planning Department. Councillor Hardy denies any such intention and in the absence of any further positive evidence of such intention, I must conclude that he did not have the necessary intention to intimidate and therefore that his words and actions did not amount to bullying.

Mark Brookes

Investigating Officer

Appendix Four

DACORUM BOROUGH COUNCIL

CODE OF CONDUCT FOR MEMBERS- COMPLAINTS PROCEDURE

1. Introduction

- 1.1 This Complaints Procedure sets out how you can make a complaint that a Member or Co-opted Member of Dacorum Borough Council has failed to comply with the Borough Council's Code of Conduct For Members, and explains how the complaint will be dealt with. It also sets out how you can make a complaint that a Member or Co-opted Member of a Town or Parish Council within the Borough has failed to comply with their own Council's Code of Conduct For Members.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Borough Council must have in place "arrangements" under which allegations that a member or co-opted member of the Borough Council, or of a Parish or Town Council within the Council's area, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the Borough Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by the member or co-opted member against whom an allegation has been made.

2. The Members' Code of Conduct

- 2.1 The Borough Council has adopted a Code of Conduct for Members, which is available for inspection on the Council's website and on request from the Council's Monitoring Officer (see below).
- 2.2 Each Parish and Town Council has also adopted their own Code of Conduct. If you wish to inspect a Parish or Town Council's Code of Conduct, you should inspect any website operated by the Parish or Town Council or request the Parish or Town Clerk to allow you to inspect their Code of Conduct.

3. Making a Complaint

- 3.1 If you wish to make a complaint, please write or email to:

Steven Baker
Monitoring Officer
Dacorum Borough Council
Civic Centre, Marlowes

Hemel Hempstead, HP1 IHH

steve.baker@dacorum.gov.uk

Tel: 01442 228229

- 3.2 The Monitoring Officer is a senior officer of the Borough Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the system in respect of complaints of member misconduct.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the relevant complaint form, which can be downloaded from the Council's website, next to the Code of Conduct, or is available on request from the Monitoring Officer. Please note that there are two separate complaint forms depending on whether the complaint is about a member of the Borough Council or a member of a Town or Parish Council.
- 3.4 Please 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. The Monitoring Officer will consider your request and if granted, we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
- 3.5 The Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint. Unless there are exceptional circumstances, the Monitoring Officer will also immediately inform the member concerned that a complaint has been made about them and provide them with a copy of the complaint or a summary.
- 3.6 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance.

4. Will your Complaint be Investigated?

- 4.1 The Monitoring Officer will review every complaint received and, will consult with the Independent Person before taking a decision as to whether it:
 - 4.1.1 Merits no further investigation

4.1.2 Merits further investigation

4.1.3 Should be referred to the Standards Committee

The decision will normally be taken within 20 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria at Appendix 2. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

- 4.2 Where the Monitoring Officer 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 or Town Councillor, the Monitoring Officer will also inform the Clerk of the Parish or Town Council of your complaint.
- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Council. Where the member or the Council make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- 4.4 If your complaint identifies potential criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5. How is the Investigation Conducted?

- 5.1 If the Monitoring Officer decides that a complaint merits further investigation, he/she may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen and who needs to be interviewed.
- 5.2 The Investigating Officer or Monitoring Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events and to identify what documents he/she needs to see and who he/she 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 harm 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.

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

5.4 Having received and taken account of any comments which you may make on the draft report, where an Investigating Officer has been appointed, the Investigating Officer will send his/her Final Investigation Report to the Monitoring Officer.

6. What happens if the investigating officer or monitoring officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and, after consulting the Independent Person, he/she 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 or Town Council where your complaint relates to a Parish or Town Councillor), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Final Investigation Report. Alternatively, the Monitoring Officer may refer the Investigating Officer's report to the Standards Committee if he/she considers it appropriate to do so.

6.2 If an Investigation Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

7.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's Final Investigation Report and will then either send the matter for a hearing before the Standards Sub-Committee or, in consultation with the Independent Person, seek an informal resolution.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards

of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and the Parish or Town Council where appropriate) for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will refer the Final Investigation Report to the Standards Sub-Committee which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for hearing complaints, which is attached as Appendix 3 to this Complaints Procedure.

At the hearing, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

8. What action can the Standards Sub-Committee take where a member has failed to comply with the Code of Conduct?

- 8.1 The Council has delegated to the Sub-Committee 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 Sub-Committee may:-
- 8.1.1 Publish its findings in respect of the member's conduct;
 - 8.1.2 Report its findings to Council (or to the Parish/Town Council) for information but recommending that no sanction be applied;
 - 8.1.3 Recommend to Council (or to the Parish/Town Council) that he/she be issued with a formal censure or be reprimanded;
 - 8.1.4 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;
 - 8.1.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - 8.1.6 Instruct the Monitoring Officer to (or recommend that the Parish/Town Council) arrange training for the member;
 - 8.1.7 Recommend to Council (or recommend to the Parish/Town Council) that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Council (or by the Parish/Town Council)
 - 8.1.8 Recommend to Council (or recommend to the Parish/Town Council) that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
 - 8.1.9 Recommend to Council (or recommend to the Parish/Town Council) that it excludes 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.
 - 8.1.10 Recommend to Council (or recommend to the Parish/Town Council) that it prevents the member from having access to a particular officer or officers.
- 8.2 The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9. What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chair will state the decision of the Standards Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the member (to the Clerk of the Parish/Town Council if applicable), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10. Who are the Standards Sub-Committee?

- 10.1 It is a Sub-Committee comprising of Members sitting on the Council's Standards Committee.
- 10.2 The Standards Committee has decided that it will comprise of five Members of the Standards Committee. If the Councillor complained about is a member of a Parish or Town Council, one of the five members of the Sub-Committee will be a Parish or Town Councillor member of the Standards Committee.
- 10.3 The Independent Person will attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who is the Independent Person?

- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of the Council.
- 11.2 A person cannot be "independent" if he/she:
 - 11.2.1 is, or has been within the past 5 years, a member, co-opted member or officer of the Council;
 - 11.2.2 is or has been within the past 5 years, a member, co-opted member or officer of a Parish or Town Council within the Borough), or
 - 11.2.3 Is a relative or close friend of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose a "relative" means:

- 11.2.3.1 Spouse or civil partner;
- 11.2.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 11.2.3.3 Grandparent of the other person;
- 11.2.3.4 A lineal descendent of a grandparent of the other person;
- 11.2.3.5 A parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2; or
- 11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or
- 11.2.3.7 Living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.

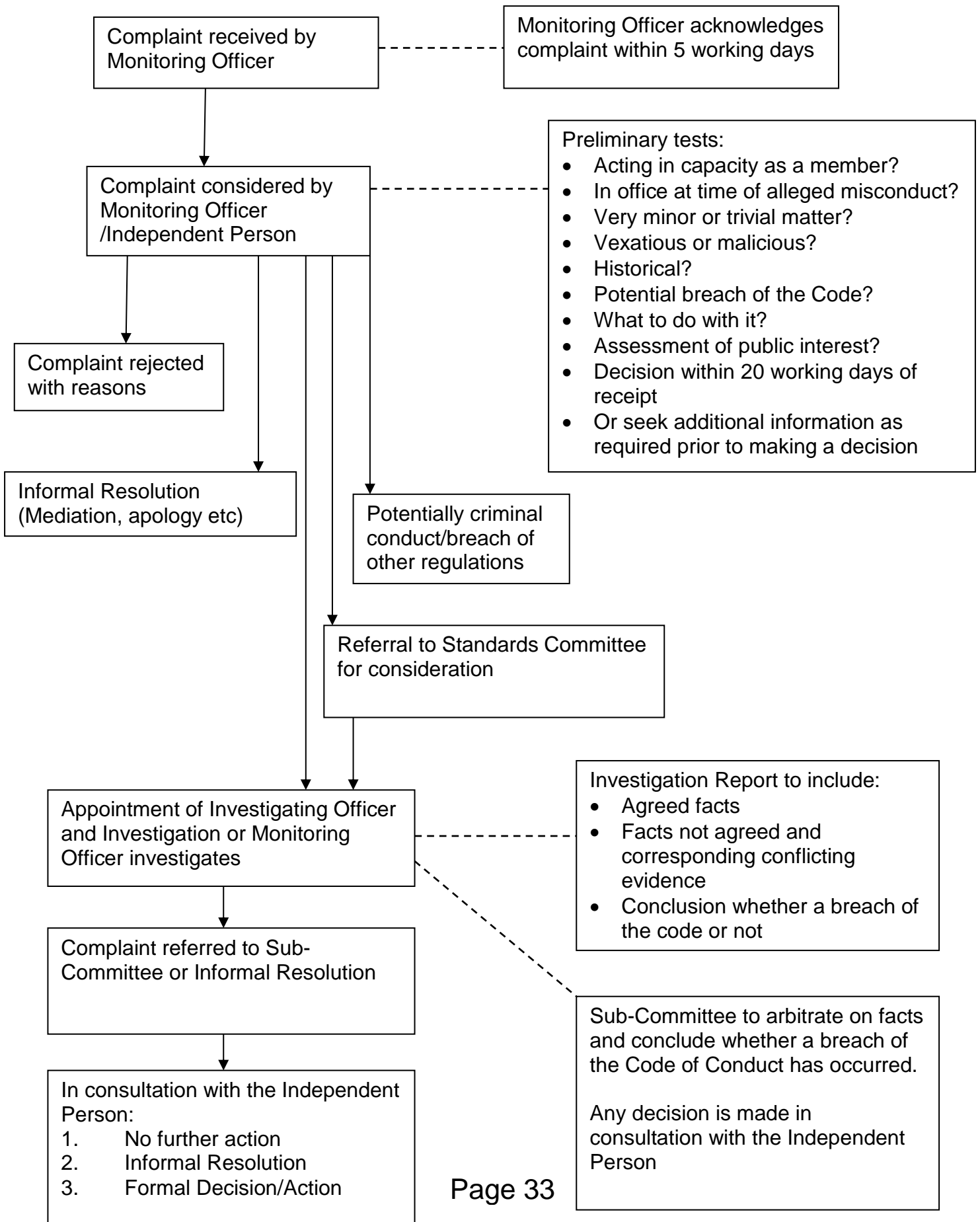
12. Revision of this Complaints Procedure

The Standards Committee may agree to amend this Complaints Procedure and has delegated to the Chair of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

- 13.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix 1 Complaints Procedure Flowchart



Appendix 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat” or,
3. The complaint appears to be politically motivated, or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor
6. There is insufficient information available for a referral for investigation; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances eg, allegation of bullying, harassment etc
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

Complaints which may be referred for investigation

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation

Complaints which may be referred to the Standards Committee for a decision on whether it should be investigated

1. The complaint is about a high profile Member, such as the Leader of the Council, and it would be difficult for the Monitoring Officer to make a decision as to whether or not it should be investigated.
2. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to make a decision as to whether or not it should be investigated.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor. The complaint must be serious enough to justify the public expense and Council resources in investigating it.

Appendix 3

STANDARDS SUB COMMITTEE HEARING PROCEDURE

Item No	Procedure
1.	Quorum 1.1 Three Members must be present throughout the hearing to form a quorum. 1.2 Where the complaint refers to a Parish/Town Councillor, a non-voting Parish/Town member of the Standards Committee must be present 1.3 The Sub-Committee shall nominate a Chairman for the meeting
2.	Opening 2.1 The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms and pagers etc 2.2 The Chairman asks all present to introduce themselves 2.3 The Councillor will be asked whether they wish to briefly outline their position
3.	The Complaint 3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed. 3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigator's report and not to make a statement) 3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer.

Item No	Procedure
4.	<p data-bbox="363 271 703 300">The Councillor's Case</p> <p data-bbox="363 342 1406 450">4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative)</p> <p data-bbox="363 492 1406 557">4.2 The Investigating Officer may question the Councillor and/or any witnesses</p> <p data-bbox="363 600 1406 665">4.3 Members of the Sub-Committee may question the Member and/or any witnesses</p>
5.	<p data-bbox="363 714 563 743">Summing Up</p> <p data-bbox="363 786 1201 815">5.1 The Investigating Officer may sum up the Complaint</p> <p data-bbox="363 857 1326 887">5.2 The Member (or their representative) may sum up their case.</p>
6.	<p data-bbox="363 934 499 963">Decision</p> <p data-bbox="363 1005 1406 1113">6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision</p> <p data-bbox="363 1155 1406 1220">6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p data-bbox="432 1263 1406 1328">6.2.1 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct or</p> <p data-bbox="432 1370 1406 1435">6.2.2 The Sub-Committee decides that the Member has failed to follow the Code of Conduct</p> <p data-bbox="432 1478 1310 1507">6.2.3 The Sub-Committee will give reasons for their decision</p> <p data-bbox="363 1550 1406 1657">6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct it will consider any representations from the Investigator and/or the Member as to:</p> <p data-bbox="432 1700 1114 1729">6.3.1 Whether any action should be taken, and</p> <p data-bbox="432 1729 1007 1758">6.3.2 What form any action should take</p> <p data-bbox="363 1789 1406 1897">6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person</p> <p data-bbox="363 1939 1406 2047">6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (in relation to a Parish/Town Councillor a recommendation to the Parish/Town Council)</p>

Item No	Procedure
6.6	The Sub-Committee will consider whether it should make any recommendations to the Council or in relation to a Parish/Town Councillor to the Parish/Town Council with a view to promoting high standards of conduct among Members
6.7	The Chairman will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.

DACORUM BOROUGH COUNCIL

STANDARDS COMMITTEE

11 JUNE 2015

Present -

MEMBERS:

Borough Councillors: Councillor Taylor (Chairman), Maddern and Matthews

TOWN AND PARISH COUNCIL CO-OPTED REPRESENTATIVES:

Councillor McCarthy (Aldbury Parish Council)

ALSO IN ATTENDANCE

Michael Nidd

OFFICERS:

Steven Baker, Assistant Director (Chief Executive's Unit)

Trudi Coston, Member Support Officer

The meeting began at 7.30 pm.

1. ELECT A CHAIRMAN

It was proposed by Councillor Maddern and seconded by Councillor Matthews to nominate Councillor Taylor to become Chairman of the Standards Committee.

Councillor Taylor asked the committee members and the officers to introduce themselves and give a brief overview of their background.

S Baker advised that Michael Nidd had been invited to observe the meeting as he had expressed an interest in the two vacant positions for Independent Members.

2. MINUTES

The minutes of the meeting held on 5 March 2015 were confirmed by the Members present and then signed by the Chairman.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received from Rachel Keil (Independent Person). S Baker advised that Rachel was not a member of the committee yet she always attends these meetings and has never missed one before.

4. INTRODUCTION TO THE STANDARDS COMMITTEE

S Baker drew attention to the various documents in the agenda and said that members should keep these as a record to refer back to. He referred to recommendation 2 on page 3 of the agenda (relating to the appointment of a sub-committee to shortlist and interview candidates for the independent member vacancies) and advised that the advert was currently in Dacorum Digest with a closing date of 29 June. Interviews would take place with the Sub-Committee between 30 June and 9 July, and the chosen candidates would be recommended for appointment at the Full Council meeting on 15 July.

Councillor McCarthy felt that five was a large number for a sub-committee. S Baker advised it was a recommendation from the previous committee which could be amended. He advised that the number of members on sub-committee should remain an odd number.

Councillor Taylor said he had chaired interviews in the past with just two others and felt three people was sufficient. He suggested the members of the committee would be sufficient.

It was proposed by Councillor Maddern, seconded by Councillor Matthews and agreed that the three members of standards committee be appointed as the sub-committee. Cllr Maddern and Cllr Mathews then indicated that they would be happy for Cllr Taylor to shortlist and interview the candidates with Mr Baker.

S Baker explained the report detailed information about the Code of Conduct, and one of the committee's functions was to keep the code under review and recommend any changes to full council. He said that not every council has the same code as it is a very local code and it may be very different to other councils. He advised that the parish code may also be different.

Councillor Matthews asked if they would be expected to be involved in the parish code. S Baker advised the law states the Borough Council must put in place a process for dealing with complaints and must have an independent person involved. The Council's complaints process must also apply to Town and Parish Councils. He said all complaints about parish and town councillors would come to us and be processed by us.

Councillor Maddern said she was a member of Nash Mills Parish Council and asked if that could be a problem. S Baker advised she would need to declare an interest if it involved a Nash Mills Parish Councillor and would not be able to take part in the discussions.

S Baker advised that there were three times more Town and Parish Councillors than Borough Councillors so that there was the potential for a lot more complaints about Town and Parish Councillors than Borough Councillors. He explained that he had to initially assess each complaint in consultation with the Independent Person and make a decision to ensure it was justified before escalating it any further. He referred to page 35 of the agenda where details of the standards complaints assessment criteria could be found.

S Baker explained that a complaint was often about a decision rather than behaviour, and a simple apology is often satisfactory. He said it can sometimes be more serious and would need to be escalated to a standards hearing. The Independent Person would need to be present and be satisfied that it was being dealt with properly. He explained it was down to the committee to promote and maintain high standards and keep the code fit for purpose.

S Baker referred to recommendation 3 and proposed that the next meeting date be used for training purposes. He planned to use the scenarios from the previous standards training in January. He hoped the vacant positions would be appointed by then so that the full committee could all be trained at the same time.

Councillor Matthews asked if the complaints that just required an apology would be covered in the training. S Baker said he could cover the wider process but the session would be focussed on a hearing as this would be when members of the committee would become involved..

Councillor McCarthy suggested it was down to good mediation skills. S Baker said it was good to resolve a complaint informally if possible but each case should be dealt with properly and transparently.

Councillor Taylor explained that to an aggrieved person something can seem serious, however just an acknowledgment and an apology can sometimes resolve the issue.

S Baker used a previous complaint he had dealt with as an example of why a complainant could be asked for evidence to ensure the matter was justified.

Councillor Taylor said members should use the information in the agenda as a reference manual for the future.

S Baker asked members to read pages 25-39 prior to the training as it sets out the procedure for complaints.

Councillor Matthews asked if was possible to have electronic copies of the documents in the agenda. S Baker agreed he would email the members with copies. He advised that the Code of Conduct could be found in the Constitution on the DBC website.

Councillor Taylor advised that all members should soon have iPad's and should be trying to keep paper limited as most documents were available electronically.

Outcome:

Recommendation 1: The report was noted.

Recommendation 2: Councillors Taylor, Maddern and Matthews were appointed as the sub-committee. Councillors Maddern and Mathews were happy to delegate to Cllr Taylor the shortlisting and interviewing of the candidates for Independent Members with Mr Baker.

Recommendation 3: The next meeting date will be used for standards training.

S Baker to email members copies of the documents that were in the agenda.

5. DATE OF NEXT STANDARDS COMMITTEE MEETING

The next meeting will take place on Thursday 17 September 2015. This will be used for Standards training.

The meeting ended at 8:03 pm.

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