

CONDUCT COMMITTEE



7 MARCH 2013 - 9.30AM

PRESENT: Councillor F H Yeulett, Chairman; Councillors M J Humphrey, R Skoulding and W Sutton (District Councillors), Ms A Hay (Independent Person), Councillor G Ridley and N Russell (Parish/Town Council Representatives).

Officers in attendance: Alan Pain (Corporate Director and Monitoring Officer), Ian Hunt (Chief Solicitor) and Elaine Cooper (Member Support Officer).

CND14/12 MINUTES OF 12 DECEMBER 2012

The minutes of the meeting of 12 December 2012 were confirmed and signed.

The Chairman welcomed everyone to the meeting, especially the new Independent Person and the two Parish/Town Council representatives. He referred to the comments in the last minutes making the point that some of the complaints being considered today have been in the public domain for some time and it is the duty of the committee to evaluate the facts in an open and transparent manner, ensuring that both parties receive a fair hearing, the Council does not leave itself open to any challenge and that people in public life should be 'whiter than white' and work in the public interest. He made the point that this is the committee's meeting, with officers present to assist the committee.

*** FOR INFORMATION OF THE COUNCIL ***

CND15/12 CO-OPTION OF TOWN AND PARISH REPRESENTATIVES

Members considered co-option of two representatives from Parish and Town Councils within the District to support the work of the committee in an advisory capacity and whilst these members may speak, raise questions and seek to influence the debate they do not have formal voting rights. Members were informed that three applications were received following an invitation to Parish and Town Councils for representatives. The Chairman has considered the applications and recommends the co-option of Councillor Ridley of Gorefield Parish Council and Councillor Russell of Christchurch Parish Council.

The Chairman drew members' attention to the fact that the representatives may speak, raise questions and seek to influence the debate, but do not have formal voting rights. Councillor Humphrey asked if this is something set down by Government or something this Council has chosen to do? The Chief Solicitor advised that whenever a person is co-opted to a committee it does not come with voting rights, which is not permitted by legislation.

Decided that Councillors Ridley and Russell be co-opted to the Conduct Committee as Parish/Town Council Representatives.

CND16/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR CURTIS

Further to minute CND9/12, members considered a complaint under the member Code of Conduct against Councillor Curtis, a District Councillor. Members received a copy of the complaint by Mrs

A Phipps in relation to comments made by Councillor Curtis in relation to the Whittlesey Supermarket applications and the response to this complaint from Councillor Curtis. Members were informed that Councillor Curtis advised on 24 August following the publication of the committee report relating to the applications, that he was no longer open minded and declared that he was pre-determined, therefore, not sitting as part of the Planning Committee membership.

Members were reminded of the process to be followed when considering a complaint, including whether or not there is a reasonable prospect of the complaint being proven based on the information held, the factors that can be considered and the options available to them.

Members made comments, asked questions and received responses as follows:

- Councillor Sutton expressed the view that the main action the complainant appeared to want was that Councillor Curtis be expelled from the Planning Committee and it was well publicised that he removed himself from the Planning meeting considering the Whittlesey Supermarket applications, so the issue was resolved by the member himself and he cannot see anywhere else for this complaint to go;
- the Independent Person agreed that the remedy has already occurred as the complainant's main point is that Councillor Curtis should not be on Planning Committee and he did remove himself from this meeting;
- Councillor Humphrey agreed and feels that it was one of many emotive exchanges that came out of the issues surrounding the Whittlesey Supermarket applications, with the issue having been resolved and, therefore, being trivial to take any further;
- Councillor Yeulett stated that Councillor Curtis is consistent that there are two sides to the issue;
- Councillor Humphrey expressed the opinion that looking at the considerations and options, he would support dismissing the complaint, but reasons would be required for this.

Decided that no further action be taken in respect of this complaint as the conditions of the complaint have been fulfilled.

CND17/12 MEMBER CONDUCT COMPLAINT - COUNCILLORS FRENCH, OWEN AND PUGH

Further to minute CND10/12, members considered a complaint under the member Code of Conduct against Councillors Mrs French, Owen and Pugh, March Town Councillors. Members received a copy of the complaint by Mr Kemp in relation to the recruitment and appointment of the Town Crier for March and the responses from the respective councillors, together with a detailed response from the Town Clerk setting out the background to the matter and providing relevant records of the Town Council.

Members were reminded of the process to be followed when considering a complaint, including whether or not there is a reasonable prospect of the complaint being proven based on the information held, the factors that can be considered and the options available to them.

Members made comments, asked questions and received responses as follows:

- Councillor Russell expressed the view that he believes the correct action was taken on this matter even down to the fact that it was said that the post would be re-advertised if neither candidates were suitable. Councillors Humphrey and Sutton agreed with this view;
- the Independent Person also agreed with this view, but thinks it was unfortunate that it was

councillors interviewing other councillors and she thinks it would have been beneficial for the panel to have included an independent person. Councillor Ridley agreed and the Chairman stated that this is a point that can be taken forward;

- Councillor Humphrey questioned whether the committee had the ability to make a recommendation such as this? The Monitoring Officer confirmed only an informal letter could be sent to the Town Council;
- Councillor Yeulett questioned whether a matter such as this could arise across the district? The Monitoring Officer advised that all parishes could be informally written to if the committee wishes.

Decided that no further action be taken in respect of the complaint as the committee feels that due process was followed and it was requested that the Chairman sends a letter to the Town Council in respect of using an independent person in recruitment exercises such as this in the future.

(Councillor Skoulding declared a Non-Pecuniary Interest in this item, by virtue of being a member of March Town Council)

CND18/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR JOLLEY

Further to minute CND12/12, members considered a complaint under the member Code of Conduct against Councillor Jolley, a District Councillor. Members received a copy of the complaint by Ms Dent in relation to concerns over business relationships between Councillor Jolley and an applicant for an adjoining planning application site in respect of the Whittlesey Supermarket applications and a copy of the response to this complaint by Councillor Jolley.

Members were reminded of the process to be followed when considering a complaint, including whether or not there is a reasonable prospect of the complaint being proven based on the information held, the factors that can be considered and the options available to them.

Members made comments, asked questions and received responses as follows:

- Councillor Skoulding expressed the view that the complaint looks like tit for tat to him;
- Councillor Humphrey stated that the response from Councillor Jolley refutes the allegation being made, questioning whether you challenge this by further investigation or what the benefit would be of pursuing it?;
- Councillor Sutton questioned whether Councillor Jolley had any dealings with this person earlier on and whether he had any influence on the Whittlesey Supermarket applications. Councillor Humphrey asked if past connection, which might be the case, is relevant and it depends what this connection is and without further knowledge it is difficult to judge;
- the Independent Person expressed the opinion that it appears that Councillor Jolley had no direct dealings with this person and it is not known whether he had discussions with any other councillors that might have influenced them;
- Councillor Yeulett expressed the view that it is about a relationship rather than any action that has been taken. Councillor Ridley agreed, questioning whether this influenced any decision made in the future;
- Councillor Sutton stated that, on balance, he does not feel it is worth taking any further. Councillor Humphrey agreed as he sees little benefit being achieved with it being another

'spin off' from the Whittlesey Supermarket debacle. Ms Hay also agreed that it did not warrant further investigation;

Decided that no further action be taken in respect of the complaint as the committee feels that the complaint focuses on a relationship and not any misdoings.

CND19/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR MELTON

Further to minute CND13/12, members considered a complaint under the member Code of Conduct against Councillor Melton, a District Councillor. Members received a copy of the complaint by a young person attending a Democracy Day event on 19 October 2012 and the choice of words used by Councillor Melton, together with the response made by Councillor Melton to the complaint.

Members were reminded of the process to be followed when considering a complaint, including whether or not there is a reasonable prospect of the complaint being proven based on the information held, the factors that can be considered and the options available to them.

Members made comments, asked questions and received responses as follows:

- Councillor Sutton stated that he was involved in the Speed Dating part of Democracy Day and feels it is unfortunate that this is seen to put a black mark against the day. He thinks for any elected member to use this type of word in discussion with young people is wrong and even more wrong for the Leader of the Council to do so. He feels it is unfortunate that this has happened and more unfortunate that Councillor Melton has tried to twist the issue onto the youngsters themselves, which he does not think is appropriate;
- Councillor Humphrey stated that he did not attend Democracy Day this time, but looking at the nature of the complaint, whilst it is not the best choice of words, he feels it is a very trivial issue, with the fact that it has been reported and there has been no denial on the words used reflecting on the Leader and he feels that any further action is pointless. He made the point that there is not one of us who has not used a word that they have gone on to regret;
- Councillor Sutton expressed the opinion that the Leader should write a letter of apology to the young person involved;
- Councillor Russell expressed the view that it was the wrong thing to say in an inappropriate place;
- Councillor Ridley expressed the opinion that the complaint is trivial and he feels a letter of apology is sufficient. The Independent Person agreed, she feels it is unfortunate, but understands that the young person wants a letter of apology;
- Councillor Humphrey asked if this was within the committee's remit? The Monitoring Officer advised that it can be suggested that the Leader makes a letter of apology;
- Councillor Sutton asked if the complaint cannot be dismissed, with reasons that the Leader writes a letter of apology? Councillor Humphrey made the point that members are here to determine whether the complaint is dismissed or taken further, not the merits of the case. The Monitoring Officer advised that if members are minded to dismiss the complaint it is effectively the end of the matter, however, the Chairman could formally write to the Leader and ask him to consider making an apology to the young person concerned.

Decided that no further action be taken on the complaint and that the Chairman writes

formally to the Leader asking him to write a letter of apology to the young person involved.

CND20/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR PATRICK

Members considered a complaint under the member Code of Conduct against Councillor Patrick, a District Councillor. Members received a copy of the complaint by Mrs Magnus in relation to the conduct of Councillor Patrick in relation to consideration of a planning application that she had submitted, together with the response to this complaint by Councillor Patrick.

Members were reminded of the process to be followed when considering a complaint, including whether or not there is a reasonable prospect of the complaint being proven based on the information held, the factors that can be considered and the options available to them.

Members made comments, asked questions and received responses as follows:

- Councillor Humphrey stated that he is familiar with this issue as he was responsible for calling in the application concerned making it clear to the applicant that he was not for or against, but would call it in to allow for an open and honest debate of the issue. He made the point that all the decisions have gone against the complainant and he feels this complaint is tit for tat as the decision has not gone her way she is going to take any opportunity to make a complaint against a councillor. Councillors Skoulding and Sutton agreed;
- the Independent Person expressed the view that the letter of complaint is more about the conduct of Councillor Tierney and she does not feel that the complaint showed that Councillor Patrick was influenced. She feels there is no case to answer;
- Councillor Humphrey made the point that there is no reflection on the person making the complaint as she is in a situation where everything seems to be against her and you would choose to make a complaint on anything you could.

Decided that no further action be taken on the complaint as the committee feels that it is tit for tat and it is more directed against Councillor Tierney over which the committee has no jurisdiction.

CND21/12 MEMBER CONDUCT COMPLAINT - COUNCILLORS OLIVER AND FARMER

Members considered a complaint under the member Code of Conduct against Councillors Farmer and Oliver, Wisbech Town Councillors. Members received a copy of the complaint, including exempt information, by Mr Erbie Murat, Clerk to Wisbech Town Council in relation to his suspension from the Town Council, together with the responses from Councillors Farmer and Oliver.

Members were reminded of the process to be followed when considering a complaint, including whether or not there is a reasonable prospect of the complaint being proven based on the information held, the factors that can be considered and the options available to them.

It was agreed that the exempt papers remain confidential as it relates to specific staff within the Town Council.

Members made comments, asked questions and received responses as follows:

- Councillor Sutton made the point that Wisbech Town Council is undertaking its own internal investigation on this subject, so feels that under considerations it could be deemed as "already the subject of investigation". He stated that Councillors Farmer and Oliver have

withdrawn from any involvement in this issue and it is being investigated by a separate sub-committee and he cannot see how this complaint can be moved forward until this investigation is complete;

- Councillor Humphrey expressed the view that there is the on-going issue with the Town Clerk being suspended and the complaint was against the conduct of the two councillors in connection with that suspension, however, whatever the Town Council is doing is a separate issue. He feels this issue is complex and if it does emerge as an issue from the point of view of the Town Council can this committee defer its decision or recommend that it goes to investigation to support anything the Town Council is doing?;
- the Independent Person expressed the opinion that deferment would seem to be a good idea, but progress on the Town Council investigation should be sought;
- Councillor Yeulett expressed concern that any decision the committee makes here might prejudice any internal inquiry and he is of the mind to defer. Councillors Ridley and Russell agreed;
- Councillor Yeulett asked if the complaint could not be more appropriately dealt with through another regulatory channel? The Monitoring Officer acknowledged that there is another investigation taking place, the complaint can be dismissed but this does not preclude the complainant coming back if the other investigation does not prove to be satisfactory;
- Councillor Humphrey made the point that the Town Council is not another regulatory body and it is up to this Council to deal with member conduct issues. The Monitoring Officer agreed stating that Fenland District Council has no jurisdiction on employment matters at the Town Council;
- Councillor Yeulett asked if the complaint was deferred rights are not fettered for it to be brought back to the committee to consider? The Monitoring Officer advised that deferring the complaint merely means that no decision is made;
- the Independent Person expressed the view that employment issues are all part and parcel of the complaint and until they have been resolved she does not feel the committee can move forward with the complaint.

Decided that the complaint be deferred due to insufficient information being available at this point due to the internal investigation being undertaken by the Town Council which is related to this complaint.

(Members noted that this item of business contained exempt information which is not for publication as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972)

CND22/12 MEMBER CONDUCT COMPLAINT - COUNCILLOR OWEN

Members considered a complaint under the member Code of Conduct and the Internet and E-mail Usage Policy against Councillor Owen, a District Councillor. Members received a copy of the complaint, which concerns pornographic images being found on Council IT equipment in contravention of the Council's Internet and E-mail Usage Policy, together with the response from Councillor Owen in relation to the complaint.

Members were reminded of the process to be followed when considering a complaint, including whether or not there is a reasonable prospect of the complaint being proven based on the information held, the factors that can be considered and the options available to them.

Members made comments, asked questions and received responses as follows:

- Councillor Humphrey stated that he was made aware of this issue in the Chairman's absence and he did visit Councillor Owen in the capacity of being concerned about his physical well-being in light of this issue, but not to discuss the merits of the complaint;
- Councillor Skoulding made the point that the activity occurred on only one day in February and for 16 minutes and he cannot see anything wrong;
- Councillor Sutton expressed the view that what anyone chooses to do in their own time in their own home is their own choice, but the issue is about the use of local authority equipment and there is compelling evidence that what happened was on local authority equipment. He asked what would happen if this had involved a paid member of staff? The Monitoring Officer advised that issues concerning members of staff would be dealt with via the staff disciplinary procedures;
- Councillor Ridley stated that he may agree what anyone does in their own home is their own business, but when a person is using Council equipment it is a different matter. He questioned if the vast majority of the information could be as the result of a virus and questioned whether this needs to be interrogated?;
- Councillor Skoulding expressed the view that due to the number he feels that they were downloaded without the councillor knowing;
- Councillor Humphrey made the point that the committee must not fall into the trap of trying to investigate the complaint. There is no denial by the councillor in the fact that this happened, it is not a criminal offence and if it had been undertaken on his own computer no-one would know, however, it happened on Council equipment, is against the Council's policy, and whilst it is not desirable it will be public and this is something the councillor is going to have to come to terms with. He would not want to see someone who has served the town and the Council well be destroyed by something that is not an offence;
- the Independent Person stated that she has the same concerns about viruses and whether the councillor was aware of this happening;
- Councillor Humphrey made the point that the councillor acknowledges that this information was accessed on a Council computer, but asked what damage it has done except reflect on Councillor Owen's private life. He made the point that Councillor Owen did resign from Cabinet with immediate effect to ensure the Council was not brought into disrepute and his actions have already received some sanctions;
- Councillor Yeulett stated that he does not detect any willingness from members to take this issue forward as timescales have been questioned, the effect of viruses has caused doubt, there has been acceptance by the councillor of his behaviour, the actions are not a criminal offence per se whilst it is a breach of the Council's policy and Councillor Owen did resign from Cabinet with immediate effect.

Decided that no further action be taken in respect of the complaint as the committee feels that it is not warranted or beneficial, especially as the issue will be publically reported in the press.

CND23/12 DETERMINATION - COMPLAINT 20120125/29

Members considered the findings of the Investigating Officer's report regarding complaint

20120125/29, which was referred for investigation by the Initial Assessment Sub-Committee of the former Standards Committee, and determination of the complaint in accordance with the Conduct Committee process. The Monitoring Officer informed members that Councillor Johnson would not be attending the meeting and she is happy for the determination to proceed in her absence. Members were informed that:

- a complaint was made by Mr T R Keeble concerning the alleged conduct of Councillor Gillian Johnson of Elm Parish Council at a Parish Council meeting on 19 January 2012 in respect of planning application F/YR12/0011/O, a site at 15 Overstone Drive, Coldham, where Councillor Johnson only declared a personal interest in this application, but should have declared a personal and prejudicial interest, as she lives next door to the development site at 15a Overstone Drive and influenced the decision to her personal benefit;
- the Investigating Officer reports the following facts, which have not been disputed by Councillor Johnson:
 - that Councillor Johnson did attend a meeting of Elm Parish Council on 19 January 2012
 - in respect of item 11 on the agenda pertaining to planning applications, Councillor Johnson declared a personal interest in application 3 pertaining to the erection of four dwellings involving the demolition of an existing garage on land north-west of Overstone Drive, Coldham, by virtue of ownership of a property in Overstone Drive
 - Councillor Johnson remained in the room for the item, but abstained from voting
 - Councillor Johnson's property has two boundaries with the application site
 - Councillor Johnson has a liability to pay a proportionate part of the maintenance for part of the access to the application site;
- the Investigating Officer concluded that Councillor Johnson had breached the Code of Conduct as a result of the proximity of the application site to her own property, Councillor Johnson not only had a personal interest but also had a prejudicial interest under the Code and in having a prejudicial interest she did not leave the room for the relevant agenda item.

The Investigating Officer circulated a colour copy of the plan showing Overstone Drive and explained to members the various locations on this plan. The Investigating Officer informed members that:

- in relation to Overstone Drive being brought up to adoptable standards, he sought advice from a Planning Officer, which is included within his report, and, in his opinion, the hatching area numbered 8 on the plan should have been included on the planning application;
- as a result of the investigation and looking at the Land Registry documents, it can be confirmed that the only area that Councillor Johnson had a shared responsibility for is numbered 2 on the plan and she would have been gaining a benefit from the application at this point;
- in relation to Mr Keeble's complaint, an area of contention was whether Councillor Johnson had voted at the meeting. The minutes did not reflect this and he is satisfied from his discussions with the complainant, Councillor Johnson and the Parish Clerk that she did not vote on this decision;
- with regard to improperly influencing the decision, there is a difference of opinion between the complainant and Councillor Johnson as to what was said at the meeting. Councillor Johnson states that she took no part in the discussion and the Clerk cannot recollect the meeting in great detail, and the Investigating Officer would not expect him to as the event took place two months previous to his discussion with the Clerk;
- there were three allegations made by the complainant and three paragraphs of the Code identified by the Initial Assessment Sub-Committee that the Councillor may have breached.

In reaching his decision, he considered representations made by the complainant, Councillor Johnson, the Parish Clerk and a Planning Officer and he concludes that Councillor Johnson only breached one part of the Code in that she should have declared a prejudicial interest as she had two land boundaries with the application site;

- Councillor Johnson states, as set out in the report, that "I agree with hindsight I should have withdrawn from the room but at the time I did not feel I was influencing the decision";
- as far as he can determine Councillor Johnson would only benefit from this planning application in relation to the area numbered 2 on the plan and, therefore, he does not believe she brought her office into disrepute and for the same reasons he does not think she used her position as a member improperly to confer or secure an advantage or disadvantage.

Councillor Ridley asked the Investigating Officer if Councillor Johnson would not have benefitted if the entire road was made up, not just from the area numbered 2 on the plan? The Investigating Officer stated that as a user of Overstone Drive she would benefit, but the way the application was submitted she would only have benefitted from the area numbered 2. Councillor Johnson is a Parish Councillor and is on the Parish Council to represent other members of the community, but she should have declared a personal and prejudicial interest and she could have spoken as a member of the public and it is in her remit to secure a benefit for all the residents in the area. However, Mr Keeble stated that she would have received a financial benefit and she tried to offload this financial benefit.

Members made comments, asked questions and received responses as follows:

- Councillor Yeulett referred to this complaint demonstrating the pitfalls that councillors experience when they do not declare appropriately at Council meetings, especially in respect of Planning issues, and this message needs to be conveyed to councillors so that they do declare appropriately. The Investigating Officer agreed that this is a very important point, councillors had been offered training on the new Code and it is not known whether this Councillor took up this training, but additional training could be offered to the member concerned as one of the sanctions if members felt it appropriate;
- Councillor Humphrey referred to the sanctions available to the committee, he feels the case is proven that Councillor Johnson should have declared a prejudicial interest and that following sanctions are appropriate:
 - formal letter of reprimand
 - offer additional training for the member
 - publication of formal notification of breach in a newspaper circulating in the area;
- Councillor Russell expressed the opinion that he would have hoped the Parish Clerk would have reminded the member that she had an interest, although he appreciates that it is the councillor's responsibility. The Chairman made the point at the end of the day it is the member's responsibility and the Clerk can only use the information that they are given. Councillor Humphrey expressed the view that whilst he recognises that it is the member's responsibility to declare an interest, he would have expected the Clerk to offer guidance, but he does not feel it should be a reflection on the Clerk;
- Councillor Sutton referred to the comments from Councillor Johnson, as reported above by the Investigating Officer and within the report, and can members take this as an apology? The Investigating Officer stated that he found Councillor Johnson to be open, honest and accepted her mistake, which is a credit to her. Councillor Humphrey made the point that the committee does not have a formal apology from the councillor and acceptance of a formal apology is not a sanction that the committee can apply;

- Councillor Skoulding expressed the view that he thinks that the councillor should receive some training;
- the Independent Person expressed the opinion that Councillor Johnson did the right thing by abstaining from voting, she does not think that she influenced the decision and whilst she may not have done so, it does highlight that training is required;
- Councillor Humphrey made the point that one of the sanctions is to offer additional training, but asked officers to confirm that there is no onus on the councillor to accept or undertake the training? The Monitoring Officer confirmed this to be the case.

The Independent Person advised members that her recommendation would be for Councillor Johnson to receive a formal reprimand and the offer of additional training, she does not think that it is necessary to place a notice in the press as they are present at the meeting and the matter would be reported.

Decided that Councillor Johnson had breached Paragraph 12 of the Code of Conduct by her failure to declare a prejudicial interest in a planning application discussed at the Elm Parish Council meeting on 19 January 2012 and that she receives a formal letter of reprimand and the offer of additional training.

CND24/12 DETERMINATION - COMPLAINT 20120417/32

Further to minute CND8/12, members considered the findings of the Investigating Officer's report regarding complaint 20120417/32, which was referred for investigation by the Initial Assessment Sub-Committee of the former Standards Committee, and determination of the complaint in accordance with the Conduct Committee process. Members were informed that:

- a complaint was made by Mr B Tilley concerning the alleged conduct of Councillor Mrs French, a member of Fenland District Council. The complaint alleged that Councillor Mrs French acted inappropriately by advising a business operating in the area to enable them to avoid the actions of the Planning Enforcement Team, which undermined the team creating difficulties for their work;
- the Initial Assessment Sub-Committee referred the complaint for investigation, identifying the following paragraphs of the Code of Conduct which may have been breached:
 - failing to treat others with respect
 - bullying
 - compromising the impartiality of those who work for, or on behalf of, the authority
 - bringing an office or authority into disrepute
 - using your position as a member improperly to confer or secure an advantage or disadvantage for a third party;
- the Investigating Officer reports the following facts:
 - at the material time Councillor Mrs French was the Portfolio Holder with responsibility for Planning Enforcement
 - Mepal Motocross was operating at Block Fen and was subject to planning enforcement
 - the operational Planning Enforcement Officer relevant to the case was Mr Tilley;

- the Investigating Officer concluded that Councillor Mrs French did breach the Code of Conduct and the Local Code of Conduct on Planning Matters as follows:
 - failing to treat others with respect (Paragraph 3(1) of the Code)
 - compromising the impartiality of officers (Paragraph 3(2)(d) of the Code)
 - that through her behaviour she could reasonably be regarded as having brought the Authority into disrepute (Paragraph 5 of the Code)
 - advocating for a party in an enforcement matter and attempting to influence other members (Paragraph 4 of the Code on Planning Matters);

- the Investigating Officer concluded that Councillor Mrs French did not bully Mr Tilley and did not release confidential information.

The Investigating Officer informed members:

- of the background to the complaint, including the statement from the complainant drawing members' attention to particular paragraphs and supplementary correspondence;
- that the issue in relation to the alleged dealings between Councillor Mrs French and a Mr Villis, with details of a telephone conversation reproduced in the report, show, if correct, that Councillor Mrs French is advocating and supporting someone who has submitted an application and enforcement action is being taken against;
- of the statement from Councillor Mrs French in relation to the complaint drawing members' attention to particular paragraphs, which shows it is a case of one person's word against another, however, he feels that:
 - Councillor Mrs French was heavily involved in this particular enforcement matter to an extent that might be regarded as unusual and, in his view, is inappropriate notwithstanding her role as portfolio holder
 - Mr Tilley, despite his role as Enforcement Officer, having been heavily involved in actions concerning Block Fen was quite suddenly excluded from the enforcement process once Councillor Mrs French started taking a close personal interest in planning and enforcement issues relating to the Block Fen quarry area and he feels that Mr Tilley does appear to have had his role undermined
 - Mr Villis was well informed in terms of the enforcement actions which the Council were considering and were taking and that Councillor Mrs French provided various information to Mr Villis to explain the position to him
 - it appears that Councillor Mrs French, whilst having a number of discussions with Mr Villis, had very little contact with individual local residents who had concerns, which gives an impression of bias
 - there seems to be very little direct contact between Councillor Mrs French and Mr Tilley as part of this particular matter and there is no evidence that any incidences of bullying occurred
 - it is clear that Mr Tilley feels that he has not been treated with respect and alleges that this has had an effect on his personal sense of well-being causing him to suffer stress for which he has been on extended absence from work
 - it has been suggested, particularly by Councillor Mrs French, that the complainant was motivated by other factors, but this is speculation and beyond the scope of the report
 - it is understood that Councillor Mrs French thought it appropriate to discuss this matter with the Head of Planning and Mr Tilley's manager. This is a common and accepted approach, but did have the effect of undermining Mr Tilley
 - there is a suggestion made that Councillor Mrs French was undermining officers and sought to defer the making of a decision and that she encouraged Mr Villis to appeal against the decision of the Council to refuse planning permission. This could be

taken to undermine officers of the Council;

- of his reasoning on his findings that there have been failures to comply with the Code of Conduct.

Councillor Mrs French stated that:

- she acknowledges that the job of an Enforcement Officer is not easy and she has great respect for them and what they do. She was of the opinion that she had a great rapport with Mr Tilley and was surprised by his allegation;
- she was contacted by Mr Tilley after her appointment as Portfolio Holder at the Council meeting on 19 May 2011 and she was in post only five days before 24 May 2011, so is amazed that she had so much power after five days;
- the Head of Planning, Mr McKenzie, arranged to meet Mr Villis, she was only in attendance as an observer and it was Mr McKenzie's decision not to include Mr Tilley in this meeting. At the meeting, a decision was made that Mr Villis should submit an application to regularise the situation;
- her son was nearly killed in July 2011, so she took a step back from the Block Fen issue due to this personal matter and was given the permission of Leader to do so;
- Mr Tilley served a notice on Block Fen, which Mr Villis stated that he would not accept and he also had a meeting with Alison Callaby to validate his application, she had no involvement in any of this due to her sitting on Planning Committee. Mr McKenzie and the Developments Manager left the Council, she is not aware who Mr Tilley reported to and who he obtained authority from to issue the notice;
- she did tell Enforcement Officers not to go on the site at Block Fen alone due to Mr Villis' reputation, but she was not aware that the anonymous complainant had been threatened;
- at the same time there was another on-going case where shot guns were being used, her son's shot gun licence was being renewed and she asked about the situation and then went to speak to Mr Tilley regarding it, but at no time did she try to hamper Mr Tilley, she was being pushed by the Leader to get the matter resolved;
- she thinks she has acted in the best interest and feels she has got "caught in the cross fire", being appointed by the Leader to ensure the service improved;
- as a member of the Planning Committee allegations have been made that she tried to influence proceedings and she read an extract from Introduction to Planning Practice on the role of the Planning Committee. The minutes of the meeting of 7 February state that she had no involvement in deferring this application as alleged by Mr Tilley and on the minutes of 7 March she brought it to the attention of members that they had the right to defer if they did not have all the facts, she feels the comments of the County Council representative made a case for the application to be deferred for further investigation and she had no hidden agenda. As a member of Planning Committee there is a right to ask for a deferment;
- she referred to paragraph 7.8 of the Investigating Officer's report and stated that she had no intention of undermining Mr Tilley, she went to Mr McKenzie as Head of Service as she did not want to go direct to Paul Medd, the Monitoring Officer at that time. It was a matter of process and she would have rather resolved it informally;
- in relation to paragraph 8.5, she made the point that she does not control the press, the press will print what they print and she feels that it is extraordinary that although she was not actually involved, she is being accused of bringing the Council into disrepute;
- in relation to paragraph 8.6, she made the point that as a member of Planning Committee it is a right to ask for a deferment and feels this allegation is unfounded.

The Investigating Officer referred to an e-mail in his report to Mr Tilley that highlights that the application would be deferred at the Planning Committee again and asked Councillor Mrs French how Mr Villis would know this? Councillor Mrs French stated that she is not aware, she was contacted by Mr Villis on 2 March, but was in the process of going out and she told Mr Villis to stop

calling her as she would not be able to sit on Planning Committee and this is the last time she spoke to him.

The Investigating Officer referred to Councillor Mrs French's proposal for deferment when the application was considered at the second meeting. Councillor Mrs French stated that she was not proposing a deferment this was merely a suggestion and no firm proposal was made, in fact Councillor Peachey was also in favour of deferral. The Investigating Officer asked why the committee voted against the deferral? Councillor Mrs French stated that this is their right, members will look at the information they have and have the right to disagree.

The Investigating Officer asked why Mr Tilley would feel he had been undermined by her actions? Councillor Mrs French stated that she believed that she had a good rapport and was surprised when the Monitoring Officer informed her of the complaint in May 2012. She felt that they had a honest relationship and if Mr Tilley did feel he was being undermined that he could have approached her, but he never did.

Councillor Humphrey asked Councillor Mrs French why she thinks, if she had such a good relationship with Mr Tilley, did he make a formal complaint? Councillor Mrs French stated that she could not answer this.

Councillor Humphrey referred to Mr Tilley's statement and Paragraph 19 which states that Councillor Mrs French dialled a number and had a conversation and was Councillor Mrs French saying this never happened? Councillor Mrs French stated that she did not say that she did not have a conversation, but could not remember verbatim what this conversation was. Councillor Humphrey made the point that her recollection and view of the facts differ to Mr Tilley and he would have expected that he would have taken a different approach rather than make a formal complaint if they had such a rapport, believing there to be many damning facts in Mr Tilley's statement. Councillor Mrs French made the point that there are also mistakes in this statement as highlighted by the Investigating Officer.

Councillor Ridley asked Councillor Mrs French if she did not find it strange that Mr Tilley had been involved in an issue for two years and was removed by his head of service? Councillor Mrs French stated that there was a verbal complaint that Mr Tilley was bullying Mr Villis.

Councillor Humphrey asked Councillor Mrs French about paragraph 43 and reference to two phone calls. Councillor Mrs French stated that she did make the calls mentioned as there was volatility between Mr Villis and Planning Officers and an unwillingness by Mr Villis to complete the enforcement documents and she wanted to know when the notice was served so she could inform Mr Villis what would happen, but not to hamper enforcement officers. Councillor Humphrey expressed the view that this in itself could be seen as undermining their position. Councillor Mrs French stated that she spoke to Alison Callaby and asked her to explain what the implications of the notice that was to be served were. The Independent Person made the point that Mr Tilley as an Enforcement Officer would have known this already? Councillor Mrs French referred again to the volatility between Mr Tilley and Mr Villis, which could have got out of hand which is why she got involved.

Councillor Ridley made the point that Mr Tilley is ex-Police and Forces and asked Councillor Mrs French if there are any written statements from Mr Villis against Mr Tilley? Councillor Mrs French stated that she is not aware of any, he did not want to make his complaint official.

Councillor Sutton asked Councillor Mrs French how does she not know that it could have been the reverse of the situation, that Mr Villis was aggressive to Mr Tilley? Councillor Mrs French stated that she was not present so it could have been the case.

In summary, the Investigating Officer believes that members have a fair understanding of what

happened on both sides, but facts point to enforcement action being delayed for a number of months and it being delayed by Councillor Mrs French's involvement so that Mr Tilley was undermined. He expressed the opinion that Councillor Mrs French sought to have matters deferred again and there is suspicion on the contact between her and Mr Villis, which seems to be dangerous at worse and inappropriate at best.

In summary, Councillor Mrs French reiterated that as a member of Planning Committee it is any members' right to request deferment of an application, with Councillor Peachey also being of the same view. She believes if this allegation is upheld, members of the Planning Committee would have great difficulty as they would not be protected by this Council and may decide not to make decisions that they would otherwise as they would be concerned they are going to be accused.

The Independent Person stated that from the evidence presented she believes that, whilst it may have been with the best intention, Councillor Mrs French did have far too much contact with Mr Villis, especially with sitting on Planning Committee, with her actions constituting treating Mr Tilley with a lack of respect and undermining him. She does not feel there was enough contact for bullying to be proven, but feels the whole matter has brought the authority into disrepute. She recommended from the sanctions on offer that as Councillor Mrs French is no longer on Planning Committee that a request goes to the Group Leader that she should not stand on Planning Committee in the future.

Members made comments, asked questions and received responses as follows:

- Councillor Sutton stated that it is always with a heavy heart that he has to sit in judgment of a fellow councillor, but he feels the evidence and report from the Investigating Officer is damning and he agrees with the Independent Person;
- Councillor Skoulding stated that he is still concerned that Councillor Mrs French did not have control that Mr Tilley was not at the meeting on 24 May as it was Mr McKenzie that deemed this and how can Councillor Mrs French state that he could not attend?;
- Councillor Ridley questioned whether the Leader appointed Councillor Mrs French to her portfolio holder position due to her strong character and because the service required this? He stated that he is not convinced that the continued use of the land was due to Councillor Mrs French's actions, but by Mr McKenzie not allowing Mr Tilley to do what he normally would do;
- Councillor Humphrey expressed the opinion that he feels that Councillor Mrs French did undermine Mr Tilley, he cannot see any other reason why he would make this complaint, and he does not believe that Mr McKenzie would have taken his action without some suggestion from the portfolio holder. He has to agree with the advice from the Independent Person that there was a breach in some instances. Councillor Mrs French stated that the reason Mr McKenzie stopped the enforcement action from taking place was that it was decided as a way forward that Mr Villis would submit a planning application to regularise the situation on site and if the application had been approved, which it was not, the Council would have been able to monitor the situation in relation to noise. It was held in abeyance to give the applicant the opportunity to submit a planning application;
- Councillor Yeulett summarised that members feel that Councillor Mrs French did go beyond her remit, he is wary of how telephone conversation are interpreted and accounts do differ, there is public concern about this issue and concern about the officer/member relationship, the Investigating Officer made the point that enforcement was delayed, Councillor Mrs French referred to the responsibility put on members and those on Planning Committee should have full backing in the decisions they make and members have referred to respect.

Decided that Councillor Mrs French had breached Paragraphs 3(1), 3(2)(d) and 5 of the Code of Conduct and Paragraph 4 of the Code of Conduct on Planning Matters by her actions in relation to the enforcement matters in respect of Block Fen, Mepal and that she receives a formal letter of reprimand and a request be made to the Group Leader that she be excluded from any future involvement in planning matters.

12.45pm

Chairman