

Meeting	<b>ASSESSMENT SUB COMMITTEE</b>
Time/Day/Date	10.00 am on Monday, 14 December 2020
Location	Remote meeting via Microsoft Teams
Officer to contact	Democratic Services Officer (01530 454512)

### AGENDA

Item		Pages
<b>1</b>	<b>ELECTION OF CHAIRMAN</b>	
<b>2</b>	<b>APOLOGIES FOR ABSENCE</b>	
<b>3</b>	<b>DECLARATIONS OF INTEREST</b>	
	Members are requested to declare any interests connected to this matter and to identify the nature of that interest as to whether it is pecuniary or non pecuniary under the Code of Conduct.	
<b>4</b>	<b>EXCLUSION OF THE PRESS AND PUBLIC</b>	
	Assessment Sub-Committee to decide whether the press and public should be excluded from the hearing and the grounds for the exclusion based on representations from all parties.	
<b>5</b>	<b>ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT</b>	
	Report of the Head of Legal and Commercial Services and Monitoring Officer	<b>3 - 34</b>
<b>6</b>	<b>ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT</b>	
	Report of the Head of Legal and Commercial Services and Monitoring Officer	<b>35 - 68</b>
<b>7</b>	<b>ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT</b>	
	Report of the Head of Legal and Commercial Services and Monitoring Officer	<b>69 - 96</b>

Circulation:

Councillor John Clarke  
Councillor Michael Hay  
Councillor Keith Merrie MBE

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## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## ASSESSMENT SUB-COMMITTEE - 14 DECEMBER 2020



<b>Title of Report</b>	<b>ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT</b>	
<b>Presented by</b>	Elizabeth Warhurst, Head of Legal and Commercial Services <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a>	
<b>Background Papers</b>	<a href="#">NWLDC Members' Code of Conduct</a>	<b>Public Report:</b> No
<b>Purpose of Report</b>	1. To consider the report of the Head of Legal and Commercial Services and Monitoring Officer.  2. To request that the Assessment Sub-committee determine what action should be taken.	
<b>Recommendations</b>	<b>THAT THE ASSESSMENT SUB-COMMITTEE MAKES A FINDING ON THE COMPLAINT AS SET OUT AT PARAGRAPH 5 OF THE REPORT</b>	

**1. COMPLAINT**

- 1.1 On 15 October 2020 the Monitoring Officer received a complaint from Councillor Wyatt regarding Councillor Moulton, both members of Whitwick Parish Council.
- 1.2 In summary, the complaint related to a comment that Cllr Moulton made at a meeting of the Parish Council on 15 October 2020 during the discussion of an item regarding a letter from a local interest group. The meeting was being held remotely via Zoom.
- 1.3 Cllr Wyatt has provided an excerpt from his recording of the meeting. Which can be listened to [here](#). Along with a transcript of the relevant section of the meeting (produced by the Monitoring Officer) which is attached at Appendix A.
- 1.4 The Parish Council Clerk has confirmed that she did not record the meeting. She has provided a contemporaneous note of what happened during that section of the meeting and this is attached to this report at Appendix B. Appendices A and B show that Cllr Wyatt requested an apology for this comment in the parish council meeting.
- 1.5 The minutes of the Parish Council meeting of 15 October are attached at Appendix C.
- 1.6 Whitwick Parish Council's Members' Code of Conduct is attached at Appendix D. Cllr Wyatt considered that this conduct potentially breached the following parts of the Members' Code of Conduct (extracts below):

**“3. Respect****3.1 You must treat others with respect.**

It is the collective responsibility of all Members to create a fair, safe and enjoyable environment for Members, Officers and Residents which is free from discrimination, intimidation and abuse.

**3.2 You must not****3.2.1 bully any person.**

And

## **5. You must not**

- 5.1 conduct yourself in a manner which could reasonably be regarded as bringing your authority into disrepute.“

## **2. INFORMAL RESOLUTION PROCESS**

- 2.1 Under the arrangements for dealing with complaints about councillors adopted by the Council in 2012, the Monitoring Officer has the opportunity, in the early stages of a complaint, to work with parties to see whether it is possible to resolve the matter informally. The process does not involve deciding whether the Code has been breached or not. It is about identifying an issue of concern and looking for ways to resolve it to the satisfaction of both parties. Although informal resolution is generally very successful, there are some cases where it is not possible to resolve the complaint in this way. The Monitoring Officer will make a judgement on a case by case basis about whether and how far the informal route should be pursued before referring a matter to the Sub-committee for consideration.
- 2.2 In this case both Cllrs Wyatt and Moulton agreed to engage in the informal resolution process and the Monitoring Officer thanks both members for their time and co-operation. The Monitoring Officer corresponded and held a number of virtual meetings and telephone calls with both members to try and identify a mutually acceptable outcome. Mr Pearson, Independent Person was invited to and attended a call with the Monitoring Officer and Cllr Moulton.
- 2.3 Cllr Wyatt requested, by way of outcome, that a statement was made by Cllr Moulton at the Parish Council meeting on 19 November 2020 to clarify his clarify his previous comment and apologise for any offence that had been caused to himself of any other members in the meeting.
- 2.4 During the discussions with Cllr Moulton, he was able to offer some additional context to the comment that he made at the meeting. Cllr Moulton said that the meeting had been considering a letter which had been received from the local group which was thanking the parish council and Cllr Moulton for efforts to support their work. Cllr Moulton said that some members of the Council appeared to be laughing and smiling during that item.
- 2.5 Cllr Moulton said that the comment that he made was a colloquialism, intended to enquire whether Cllr Wyatt had found something amusing in what was being said at the meeting. He did not intend it to be offensive to Cllr Wyatt or any others present at the meeting. Cllr Moulton advised that, with hindsight, he could have chosen a better phrase and could have framed the point differently. Cllr Moulton and Cllr Wyatt agreed to work with the Monitoring Officer to agree a statement which Cllr Moulton would read out at the next Council meeting at Whitwick Parish Council.
- 2.6 Cllr Wyatt and Cllr Moulton were not able to agree the wording of the final statement. The final wording proposed by each Councillor is shown attached at Appendix E. The Monitoring Officer has highlighted the differences between the two statements. Cllr Moulton indicated that he intended to make the statement that he had proposed even though it had not been possible to reach agreement with Cllr Wyatt.
- 2.7 At the meeting of the Whitwick Parish Council on 19 November 2020, Cllr Moulton made a statement. A copy of an extract from the draft minutes of the meeting is attached at Appendix F. The statement that he made reflected his final proposed draft statement at Appendix E.
- 2.8 Following the meeting, Cllr Wyatt confirmed that the statement made by Cllr Moulton did not fully address his complaint as it did not include an apology for any offence which may have been caused. Cllr Wyatt has confirmed that he wishes to pursue his complaint.

- 2.9 Cllr Moulton has been advised that Cllr Wyatt does not consider that his complaint has been fully addressed.
- 2.10 On the basis of the above, the Monitoring Officer has concluded that the informal resolution process has not been successful.
- 2.11 The Monitoring Officer is therefore requesting that the Assessment Sub-committee consider the matter and determine whether any further action should be taken by taking into account the criteria and public interest test set out for assessment of complaints. A copy of the criteria for assessment of complaints is attached at Appendix G.
- 2.12 The Monitoring Officer, subject member and complainant can seek guidance from the Independent Person (IP) at any point in the informal resolution process. The Monitoring Officer has briefed the IP and he has been invited to attend the meeting of this Sub-committee for the purpose of offering his perspective on the complaint.

### **3. INITIAL TESTS**

- 3.1 In order for the Members' Code of Conduct and associated complaints process to be engaged, 3 initial tests need to be met:

1. Does the complaint relate to a member within the NWLDC area, in office at the time of the conduct complained of?

Cllr Moulton is a current serving member of Whitwick Parish Council.

2. Was the member acting in their capacity as a councillor at the time of the conduct complained of?

Cllr Moulton was acting in the capacity as Councillor at the time of the conduct complained of as he was in attendance at a council meeting.

3. The complaint, if proven, would be a breach of the Code under which the member operates?

The complaint, if proven, could amount to a breach of the Code.

### **4. INFORMATION FROM THE COMPLAINANT AND SUBJECT MEMBER**

- 4.1 In accordance with the Council's adopted arrangements the complainant and subject members are not party to the Assessment Sub-committee. However, should any further information be provided by either Cllrs Wyatt and Moulton, it will be reported to the Sub-committee.

### **5. ASSESSMENT OUTCOMES**

- 5.1 The following outcomes are available to the Sub-committee under the Arrangements adopted by Council:

5.1.1 Refer the complaint to the Monitoring officer to take other action.

5.1.2 Request further information from the parties.

5.1.3 Refer the complaint to the Monitoring Officer for investigation.

5.1.4 No action to be taken in respect of the complaint.

## **6. PUBLIC INTEREST TEST**

6.1 In considering whether or not to take any further action in respect of the complaint (including requesting an investigation), members are referred to the criteria for the assessment of complaints at Appendix G.

6.2 There is no widely accepted definition of the public interest but has been described as “*something which is of serious concern and benefit to the public*”. In this context, the public interest test requires a public authority to weigh the harm that would be caused by not investigating a complaint against the public interest served by carrying out an investigation. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).

6.3 Examples of factors which would tend to indicate there is not a public interest in investigating a complaint are:

- If the complaint is vexatious;
- Repetitive complaints; and
- Complaints about trivial matters.

6.4 Factors which would tend to indicate there is a public interest in proceeding with an investigation are:

- The complaint relates to a matter which affects a significant part of the district; and
- Complaints about serious misconduct.

6.5 These criteria in Appendix G are not exhaustive and not all are relevant in each case.

## **7. CONSIDERATION AS TO WHETHER THE HEARING SHOULD BE HELD IN PRIVATE**

7.1 The Sub-committee will need to decide whether the meeting should be held in public or private. The Sub-committee will need to consider the public interest test. Is the public interest in holding the hearing in public outweighed or not by the public interest in excluding the press and public? The Sub-committee will need to make this decision at the start of the meeting. The agenda and report for this meeting have been exempt from publication to the press and public under paragraph 1 of Schedule 12A Local Government Act 1972 - information relating to any individual.

7.2 Under the Council’s Arrangements there is a presumption in favour of the hearing being held in public unless it is considered appropriate for it to be held in private.

7.3 In considering this aspect of the hearing the Sub-committee needs to consider what information is being presented before them.

7.4 The substance of the complaint is a statement made in a Council meeting which was minuted and therefore already in the public domain. As was the subsequent statement made at the Council meeting on 19 November 2020.

## **8. REVIEW OF THE DECISION OF THE ASSESSMENT SUB COMMITTEE**

8.1 The Assessment Sub-committee has the authority to allow or not a right of review of their decision to take no further action taking into consideration the views of the Independent Person as referred to in 2.4 above.

8.2 However, the complainant should be advised that no review will be granted unless further / additional evidence is submitted to the Monitoring Officer. It will be the decision of the

Monitoring Officer as to whether such additional evidence warrants another assessment.

8.3 This is to ensure a fair process and to avoid frivolous / vexatious appeals.

8.4 A request for review can be made at the time the Sub-committee makes its determination or within 30 days of the decision.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	Not applicable
Policy Considerations:	Constitution and Relevant Authority's Members' Code of Conduct
Safeguarding:	Not applicable
Equalities/Diversity:	Not applicable
Customer Impact:	Not applicable
Economic and Social Impact:	Not applicable
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Not applicable
Risks:	Not applicable
Officer Contact	Elizabeth Warhurst Head of Legal and Commercial Services <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a>

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## Whitwick Parish Council Meeting - 15 October 2020

- Unknown: I'll need to double check that.
- Cllr Moulton: Yeah, okay.
- Unknown: Contacts for use.
- Cllr Moulton: But I'm sure that, you know, it is known that I am the steer. Mr Wyatt, what's your problem? You got a little feather up your arse or what? Erm, anyway ...
- Chairman: Yeah, Mr Moulton, if we can keep this a professional meeting please and carry on. We will make sure that the steering group has got your email address then for future meetings.
- Cllr Moulton: Yeah, so they can let me know, yes, thank you.
- Cllr Wyatt: Madam Chairman, swearing should not be allowed and I ...
- Cllr Moulton: I am not swearing.
- Cllr Wyatt: I hope Mr Moulton will have the decency to withdraw that comment and apologise because it has been recorded. Members of the public will be able to see this, it will have to go to the Standards Board if you do not withdraw it and apologise.
- Unknown: Yeah, agreed.
- Chairman: Mr Moulton?
- Cllr Moulton: Fine.
- Cllr Wyatt: Mr Moulton, you have to apologise and withdraw ...
- Cllr Moulton: I don't have to do anything Mr Wyatt.
- Cllr Wyatt: Okay then, Mr Cllr Moulton, it will go to the Standards Board.
- Cllr Moulton: Fine.
- Chairman: Alright, can we carry on? This is beginning to turn out like the meeting that I saw on You Tube. Alright, the last item on this section is the Royal British Legion Council report. Whether or not you want to wait until we bring that up in section 2288, Peter, and do your report then and tie it in with that comment.
- Cllr Moulton: Erm ...
- Chairman: I just think ...
- Cllr Moulton: Yeah, the, the ..
- Chairman: We're referring to item 2288 ..

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Extract from a note of the Whitwick Parish Council meeting on 15 October 2020 from the Parish Clerk.

(Note – these are not the minutes of the Parish Council)

Extract:

**“2285.k Hermitage Leisure Centre Steering Group Link Councillor –** Cllr Moulton had not received any information but Cllr S Gillard said a meeting had been held; the Parish Manager undertook to check if details of Cllr Moulton’s appointment had been passed on;”

*Cllr S Gillard said Cllr Moulton didn’t attend the meeting [of the Steering Group] but the name has been changed on the building. [This had been reported by Cllr S Gillard at the last meeting and was not new information.] Cllr Moulton said he would like to be informed of the meeting. He had not been contacted. The Parish Manager said she would check if contact information had been sent to the Steering Group [following the change of appointment at the parish annual meeting held in July] and let him know. Cllr Moulton asked Cllr Wyatt what was tickling him [he could be seen on screen and was laughing]. Cllr Moulton said was he sitting on something or had he got a feather up his arse? Cllr Wyatt said withdraw that comment and apologise. Cllr Moulton did not reply. Cllr Wyatt repeated you have to withdraw that comment and apologise or it goes to Standards and this is being recorded. Cllr Moulton said fine. The Chairman said let’s carry on with the meeting and be civil. Cllr Moulton said could he ask a question, through the Chair, – who was recording it? Cllr Wyatt said Cathy is [Parish Manager]. [Clarification from Parish Manager: the Zoom meeting was not being recorded. I take a record of the resolutions voted upon using my notes for the minutes but this is not the same as a recording.] The Chairman [having muted and clarified with the Parish Manager] said anyone can record a meeting. The Chairman said this was enough of this and moved to the next agenda item, asking for people to be clearly seen when they were voting – [some members without explanation or declaring technical difficulties have at times turned off cameras or moved to be slightly out of view during September/October full council meetings].*

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**MINUTES of the MEETING of WHITWICK PARISH COUNCIL held VIRTUALLY ONLINE (via Zoom) on THURSDAY 15 OCTOBER 2020 at 7 pm** under Local Authorities (Coronavirus) Flexibility of Local Authority Meetings (England) Regulation effective 04.04.2020

Present: Councillor L Collins (Chairman)

Cllrs A Barker [Item 2281 - end], L Gillard [Items 2280-2289 only], S Gillard, T Gillard [Item 2281 - end], P Moulton, T Oldham, L Spence, J Straw, R Woodward and M Wyatt

In Attendance:

Mrs C Tibbles PSLCC, Parish Manager/Responsible Finance Officer

2 members of the public

The Chairman reminded members to mute their connection if they were not in a quiet location.

**2280. APOLOGIES FOR ABSENCE**

None.

**2281. DECLARATIONS OF INTEREST**

Cllr Collins declared a disclosable non-pecuniary interest as a member of Whitwick Historical Group.

Cllr Moulton declared a disclosable non-pecuniary interest as a Link Councillor and member of Belton and Whitwick Royal British Legion, as a Link Councillor and member of Whitwick Historical Group, as a Link Councillor and member of Whitwick Bowls Club, Link Councillor for Thornborough Road Allotment Society and a member of Leisure Centre Steering Group.

Cllr J Straw declared a disclosable non-pecuniary interest in all planning matters regarding the Green Wedge as a member of Whitwick Action Group and a disclosable non-pecuniary interest as a member of Whitwick Historical Group.

Cllr Barker declared a disclosable non-pecuniary interest as a signatory at Walkers Flats Allotment Group and as a member of Whitwick Historical Group.

See also Item 2282.

[Cllr Barker joined the meeting at 7.02 pm]

[Cllr T Gillard joined the meeting at 7.05 pm]

**2282. MINUTES**

**Resolved that the minutes of the meeting held on 17 September 2020 be approved as a correct record.** The minutes of the meeting held on 24 September 2020 had not yet been circulated and were deferred.

Following a question, discussion and on the instruction of Cllr T Gillard, Cllr S Gillard declared a non-pecuniary interest in all planning matters.  
Cllr T Gillard declared a non-pecuniary interest in all planning matters.  
Cllr Wyatt declared a non-pecuniary interest in all planning matters.

### **2283. PUBLIC QUESTION AND ANSWER SESSION**

A member of the public asked for a statement of thanks from the Woodstock in Whitwick Committee to be given to JR Landscaping contractors for fixing the Wheelchair Roundabout in Whitwick Park at no cost. This gesture of repairing the latest vandalism to the item was appreciated by the local community.

A member of the public asked Cllr T Gillard for an update on a previous question regarding getting a replacement post box at the end of St. Bernards Road. Cllr T Gillard replied he had emailed Royal Mail about this and in anticipation of a question had tried to call them – however it would cost £3.45 per minute to speak to them so he had not been able to do so.

### **2284. PARISH MANAGER'S DELEGATED DECISIONS**

Delegated decisions had been taken on planning matters and detailed later under that item. The Parish Manager anticipated taking a delegated decision regarding the operation of Park Hall and council buildings if the anticipated change to coronavirus guidance was introduced.

### **2285. PARISH PROJECTS – WORKING PARTY/LINK COUNCILLOR REPORTS**

#### **Resolved/noted:**

- a) Project Working Party – VAS (Vehicle Activated Signs) – Cllr Barker reported this was not happening very quickly and 3 posts were still awaiting installation. A resident had emailed his utter disappointment with the County Council's lack of enthusiasm to address speeding in the village as he felt the project that started in May 2019 should have been finished a year ago. Cllr T Gillard agreed to chase this matter;
- b) Christmas Lights – the Parish Manager said she would need to submit the Licence Application for this;
- c) Standing Orders Review meeting – the Parish Manager to set a meeting date for November;
- d) Finance Working Party–meeting held on 8/10/20, notes circulated and recommendations considered later in the meeting;
- e) Civic Protocols Link Councillor – the Chairman was still revising the draft;
- f) Defibrillator Link Councillors – Cllr Barker had received an interesting email from a company;
- g) Flood Action Plan Link Councillor – Cllr Woodward reported that water courses seemed to be running well;
- h) Quarry Link Councillor – no meeting had been held;
- i) Website Link Councillors – the Parish Manager said the new company had been communicating regularly with Ms Mabey;
- j) Whitwick Historical Group Link Councillor(s) – Cllr Moulton reported the building would open to the public soon and an AGM booked for 5

November; repairs were in progress this week and the boiler being replaced on 27 October; the Group Chairman's report had thanked Cllr Moulton, as Link Councillor, for his assistance and the Parish Manager for her help and advice to the Historical Group;

- k) Hermitage Leisure Centre Steering Group Link Councillor – Cllr Moulton had not received any information but Cllr S Gillard said a meeting had been held; the Parish Manager undertook to check if details of Cllr Moulton's appointment had been passed on;

Comments were made by members and the Chairman called the meeting to order;

- l) Royal British Legion Link Councillor – see item 2288

## **2286. CONSULTATIONS**

**Resolved/noted:**

- a) **having considered the consultation carried out by the Department for Transport (DfT) on Pavement parking that legislative change to introduce a London-style pavement parking prohibition throughout England was the preferred option;**
- b) **that the parish response to the government's new white paper 'Planning for the Future' should be based on the draft provided by NWLDC, providing there was no detriment to the parish of Whitwick, with the Parish Manager liaising with the Chairman and Cllr Woodward;**

## **2287. BYELAWS**

The Parish Manager had no update on this matter from NWLDC Legal Services.

## **2288. COMMUNITY EVENTS**

**Resolved/noted**

- a) Remembrance Parade and service (organised by Royal British Legion) – Cllr Moulton reported that the Whitwick Parade and Service would not be going ahead. On behalf of the Parish Council, the Chairman welcomed Rev. Joanne Dyer to the village and confirmed that she would privately lay a poppy wreath at the Whitwick memorial. Cllr Moulton reported the Legion branch had discussed handing over ownership of the event due to insurance and road closure responsibility. He felt the parish council would have to consider costs and implications before making a decision.
- b) **Poppies on Lampposts (parish organised event) – resolved that members who could safely do this within social distancing guidelines would start putting them up on 25 October;**
- c) to encourage residents to put a coloured picture of a poppy in their windows to show their support for Remembrance Sunday and/or 11 November;
- d) **to set the provisional date, subject to the coronavirus restrictions next year, of Sunday 23 May 2021 for Picnic in the Park to celebrate the 10<sup>th</sup> birthday of the Parish Council;**

- e) **as requested by the Finance Working Party, the Chairman and Cllr Woodward agreed to form an Event Working Party for the Picnic In The Park;** the Chairman invited Cllr Wyatt, with his experience of Coalville's Party In The Park, to attend a meeting when one was arranged; Cllr Wyatt replied he would speak to the Parish Manager; the Chairman would also contact Ms. Colledge for ideas from her experiences with Woodstock in Whitwick;

## **2289. BUDGET PLANNING - 2021/2022 AND BEYOND**

**Resolved/noted**

- a) **the Parish Manager to canvass members for their written improvements/suggestions of what they wished to see in the parish as a tool for budget planning (e.g. playground refurbishment, biodiversity compliance, memorial garden and parish anniversary event);**
- b) **on the recommendation of the Finance Working Party meeting (as reported earlier), resolved to establish a new earmarked reserve of £10,000 towards unknown cost of riparian ownership and liabilities;**
- c) there were no suggested refinements to the budget structure.

[Cllr L Gillard left the meeting at 7.52 pm]

## **2290. PROPERTY MANAGEMENT AND GENERAL PURPOSES COMMITTEE**

The minutes of the meeting held on 1 October 2020 had not yet been circulated and were deferred.

## **2291. STAFFING COMMITTEE**

The minutes of the meeting held on 8 October 2020 had not yet been circulated and were deferred.

Following annual review of the Terms of Reference at July Council meeting, no requests were made by the Committee for any amendments.

## **2292. PLANNING MATTERS**

### **a) Applications**

**The Council had been consulted by NWLDC on the following applications and the recommendations resolved:**

REF 20/01378/FUL - 188 Thornborough Road - Demolition of existing bungalow and erection of two storey dwelling – **no objection**

REF 20/01354/FUL – 7 Clarke Close - Erection of a two-storey side and single-storey rear extension (Re-consultation) – **no objection**

REF 20/01312/FUL – 18 Stinson Way - Demolition of existing side extension and erection of replacement single storey side extension – **no objection**

**Applications received and delegated decisions taken by Parish Manager after consultation with parish councillors:**

REF 19/02486/FUL - 52 - 66 Silver Street - Demolition of existing buildings and erection of 8 dwellings and 1 no. flat over garaging, to include the creation of a vehicular access, parking provision and landscaping  
**Delegated decision made by Parish Manager – no objections raised**

**b) Decisions**

**NWLDC had approved** the following applications:

REF 20/01304/FUL – 47 Barr Crescent - Erection of a single-storey rear extension

REF 20/01256/FUL - 10 Torrington Avenue - Erection of a single-storey side extension to provide for a garage

REF 20/01179/TPO – 11 Hervey Woods - Works to 1no. Oak tree (Protected by Tree Preservation Order)

REF 20/01012/FUL – 53 Bonchurch Road - Erection of a single storey rear extension

REF 20/01031/PNH – 118 Talbot Street - Erection of a single storey rear extension measuring 3.6m in length, 2.95m in height to the eaves and 3.95m in height to the ridge

REF 20/01104/VCI - Land To The Rear Of 74 And 76 North Street - Variation of conditions 2,4,5 and 8 of planning permission 17/00775/FUL to reposition the dwelling and garaging

**2293. DISTRICT COUNCILLORS' REPORTS**

Cllr T Gillard reported that District Council matters continued to be mainly dealing with Covid.

Cllr Barker had wished to ask a question to Cllr L Gillard but, in her absence, it was responded to by Cllr T Gillard, who confirmed the broken glass on the bus shelter at Howe Road had been reported by Cllr L Gillard the previous day.

**2294. COUNTY COUNCILLOR'S REPORT**

Cllr T Gillard reported that County Council matters continued to be mainly dealing with Covid and gave an update on figures and support material.

**2295. PARISH MANAGER'S REPORT AND MATTERS PENDING**

Noted.

**2296. ACCOUNTS FOR PAYMENT**

**Resolved/noted that:**

**a)** following a request by the Responsible Financial Officer, an allocation had been made by NWLDC from the Business Support Grant received from central government of £10,000 for Park Hall. It was noted that this allocation did not cover loss of income and costs incurred by staff

managing and responding to the many coronavirus issues being experienced.

- b)** income received of £152,405.32 for the latest period, including the second instalment of the precept of £140,176.00 (as circulated);
- c) to approve the payments of £6,878.58, including salaries of £4,616.40 for the latest period (as circulated);**
- d)** the latest income and expenditure account for 2020/21 (as circulated);
- e)** the quarterly financial checks by the Chairman as part of the system of internal control had taken place;
- f)** the latest bank balances at the last month end as Unity current a/c £319,655.82; Unity Deposit a/c £12,214.94 and CCLA Public Sector Deposit Fund £145,000;

Members wished to return to earlier discussions as the Chairman was closing the meeting. The Chairman said that the agenda had been completed and with no more decisions to be made the meeting was duly closed. The virtual meeting was ended by the Parish Manager.

Full signature of Chairman: ..... Date: .....

The meeting terminated at 8.06 pm

Cllr Barker joined the meeting at 7.02 pm  
Cllr T Gillard joined the meeting at 7.05 pm  
Cllr L Gillard left the meeting at 7.52 pm

*Date of next council meeting: Thursday 19 November 2020 at 7 pm*



## CODE OF CONDUCT OF WHITWICK PARISH COUNCIL

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should be borne in mind when interpreting the meaning of the Code:-

- i. **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- ii. **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- iii. **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- iv. **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v. **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- vi. **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- vii. **Leadership** Holders of public office should promote and support these principles by leadership and example.

## PART 1

### GENERAL PROVISIONS

#### 1. Introduction and Interpretation

- 1.1 This Code applies to **you** as a member of Whitwick Parish Council.
- 1.3. It is **your** responsibility to comply with the provisions of this Code and ensure all obligations are met.
- 1.4 In this Code:
- “Meeting”** means any meeting of:
- (a) the Authority;
- (b) any of the Authority’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
- 1.5 **“Member”** means any person being an elected or co-opted member of the Authority.
- 1.6 References to an authority's Monitoring Officer and an authority's Standards Committee shall be read, respectively, as references to the Monitoring Officer and the Standards Committee of the North West Leicestershire District Council which has functions in relation to the parish council for which it is responsible under Section 55(12) of the Local Government Act 2000.

#### 2. Scope

- 2.1 You must comply with this Code whenever you
- 2.1.1 act, claim to act or give the impression you are acting as a representative of your Authority
- 2.1.2 conduct the business of your Authority (which, in this Code, includes the business of the office to which you are elected or appointed)
- 2.2 Where you act as a representative of Whitwick Parish Council
- 2.2.1 on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct
- 2.2.2 on any other body, you must, when acting for that other body, comply with this Code of Conduct except in so far as it conflicts with any other lawful obligations to which that other body may be subject.

- 2.3 In addition to having effect in relation to conduct in your official capacity, the Code also has effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- 2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

### **3 Respect**

#### **3.1 You must treat others with respect**

It is the collective responsibility of all Members to create a fair, safe and enjoyable environment for Members, Officers and Residents which is free from discrimination, intimidation and abuse.

#### **3.2 You must not:-**

- 3.2.1 do anything which may cause the Authority to breach the Equality Act 2010;
- 3.2.1 bully any person
- 3.2.3 intimidate or attempt to intimidate any person who is or is likely to be:-
- (i) a complainant;
  - (ii) a witness; or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct;
- 3.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority; or

### **4. Confidentiality**

- 4.1 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- 4.1.1 you have the consent of a person authorised to give it;
- 4.1.2 you are required by law to do so;
- 4.1.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

4.1.4 the disclosure is:

- (aa) reasonable and in the public interest; and
- (bb) made in good faith and in compliance with the reasonable requirements of the Authority; or

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

## 5. **You must not**

5.1 conduct yourself in a manner which could reasonably be regarded as bringing your authority into disrepute.

5.2 place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

5.3 use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage including providing or offering to provide a reference for any candidate for employment or promotion with the Authority.

5.4 use or allow to be used Council resources improperly for political purposes (including party political purposes) and act in accordance with the Council's reasonable requirements.

## 6. **You must**

6.1 when reaching decisions on any matter have regard to any relevant advice provided to you by:

6.1.1 Statutory Officers; or

6.1.2 Senior Officers,

where that officer is acting pursuant to his or her statutory duties.

6.1.3 Any advice from a third party

6.2 give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

6.3 make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit

6.4 be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions, notwithstanding your other obligations under this Code.

## 7. **Accountability**

- 7.1 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office.

## PART 2

### INTERESTS

## 8. **Disclosable Pecuniary Interests**

- 8.1 Subject to Paragraph 12 (sensitive interests), you must within 28 days of
- (a) this code being adopted or
  - (b) your election or appointment (where that is later)

Notify the Monitoring Officer of any Disclosable Pecuniary Interests where such interest is

- i yours,
- ii your spouse's or civil partner's
- iii somebody with whom you are living as husband and wife or civil partners
- iv that of your family,
- v close associate.

and you are aware that that person has the interest

- 8.2 Subject to Paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Monitoring Officer in writing of that new interest or change pursuant to Paragraph 8.1
- 8.3 You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State
- 8.3 Where such an interest exists and has or has not been entered onto the authority's register, you must disclose the interest to any meeting of the authority at which you are present, where you have a Disclosable Interest in any matter being considered and where the matter is not a 'sensitive interest' or where no dispensation has been given.
- 8.4 Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.

- 8.5 Where you have a Disclosable Pecuniary Interest you must not remain in the meeting or participate in the discussions on the matter on which you hold that Interest, unless members of the public are allowed to make representations, give evidence or answer questions about the matter.

## **9 Disclosable Non-Pecuniary Interests**

- 9.1 Subject to Paragraph 12 (sensitive interests), you must within 28 days of

- (a) this code being adopted or
- (b) your election or appointment (where that is later)

notify the Monitoring Officer of any Disclosable Non-Pecuniary Interests.

- 9.2 You have a Disclosable Non-Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State

- 9.3 Where you have a Disclosable Non-Pecuniary Interest you may remain in the meeting, speak and vote on the matter unless to do would compromise your impartiality obligations or any other obligations set out in this Code.

## **10. Conflict of Interests**

- 10.1 Where you have, or the general public may reasonably feel that you have, a Conflict of Interest you should declare it.
- 10.2 Where you have declared a Conflict of Interest you may remain in the meeting, speak and vote on the matter unless to do would compromise your impartiality obligations or any other obligations set out in this Code.

## **11 Dispensations**

- 11.1 Dispensations may be granted by the Monitoring Officer for one meeting only on request in writing from you.
- 11.2 Requests for Dispensations must be made in writing detailing what the interest is, why it is required and for what meeting.
- 11.3 Requests must be made 5 days prior to the meeting at which the Dispensation is required.
- 11.4 Further Dispensations must be sought from the Audit and Governance Committee or its Sub Committee.
- 11.5 Dispensations will only be granted where there are reasonable grounds for doing so and where such grounds are in the public interest.

## **12. Sensitive Interests**

- 12.1 A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

## **GUIDANCE ON THE CODE OF CONDUCT**

In accepting these Obligations you are committed to behaving in a manner that aims to achieve best value for our residents and maintain public confidence in this authority by the character and behaviour you present while acting in the course of your public duty.

In your role as a Member for Whitwick Parish Council you must address the principles of the Code of Conduct by

- Championing the needs of residents – the whole community and in a special way your constituents, including those who did not vote for you - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Parish Council's area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a member/co-opted member of this authority.
- Being accountable for decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other members to account but restricting access to information when the wider public interest or the law requires it

- Behaving in accordance with all legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

***(Adopted by the Parish Council on 28 June 2012, revised on 20 September 2018)***

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## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## ASSESSMENT SUB-COMMITTEE - 14 DECEMBER 2020



<b>Title of Report</b>	<b>ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT</b>	
<b>Presented by</b>	Elizabeth Warhurst, Head of Legal and Commercial Services and Monitoring Officer <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a>	
<b>Background Papers</b>	<a href="#">NWLDC Members' Code of Conduct</a>	<b>Public Report:</b> No
<b>Purpose of Report</b>	1. To consider the report of the Head of Legal and Commercial Services and Monitoring Officer.  2. To request that the Assessment Sub-committee determine what action should be taken.	
<b>Recommendations</b>	<b>THAT THE ASSESSMENT SUB-COMMITTEE MAKES A FINDING ON THE COMPLAINT AS SET OUT AT PARAGRAPH 5 OF THE REPORT</b>	

**1. COMPLAINT**

- 1.1 On 8 September 2020 the Monitoring Officer received a complaint from Councillor Johnson regarding Councillor Smith, both members of North West Leicestershire District Council.
- 1.2 In summary, the complaint related to comments that Cllr Smith made at meeting of Council on 8 September 2020 in the debate on a motion regarding the economy. Cllr Johnson's complaint was that Cllr Smith's statement inferred that Labour members of the Planning Committee had been whipped in relation to an application regarding Land at M42, Junction 11, Stretton-en-le-Field, Leicestershire, DE12 8AA which had been considered at the Planning Committee meeting on 3 September 2019. Cllr Johnson considered that this conduct breached paragraph 3 of the Members' Code of Conduct:

**“3. Respect****3.1 You must treat others with respect.**

It is the collective responsibility of all Members to create a fair, safe and enjoyable environment for Members, Officers and Residents which is free from discrimination, intimidation and abuse.”

- 1.3 A copy of the motion considered by Council at the meeting on 8 September and the minutes of that meeting are attached at Appendices A and B respectively. A recording of the meeting is available on the Council's website via the MS Teams Live Event. It can be accessed by following the link below:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ZmYxZjEyMzEtZDI0NS00Yjg5LTk4NGYtODY3ZTlzMjdhODdm%40tHread.v2/0?context=%7b%22Tid%22%3a%22ee70a64e-9df9-43f5-806b-751f09c3cd88%22%2c%22Oid%22%3a%22094390c9-a254-4399-b3a4-c8c71b9aaf05%22%2c%22IsBroadcastMeeting%22%3atrue%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZmYxZjEyMzEtZDI0NS00Yjg5LTk4NGYtODY3ZTlzMjdhODdm%40tHread.v2/0?context=%7b%22Tid%22%3a%22ee70a64e-9df9-43f5-806b-751f09c3cd88%22%2c%22Oid%22%3a%22094390c9-a254-4399-b3a4-c8c71b9aaf05%22%2c%22IsBroadcastMeeting%22%3atrue%7d)

- 1.4 A transcript of the statement made by Cllr Smith at the meeting is attached at Appendix C.

## 2. INFORMAL RESOLUTION PROCESS

- 2.1 Under the arrangements for dealing with complaints about councillors adopted by the Council in 2012, the Monitoring Officer has the opportunity, in the early stages of a complaint, to work with parties to see whether it is possible to resolve the matter informally. The process does not involve deciding whether the Code has been breached or not. It is about identifying an issue of concern and looking for ways to resolve it to the satisfaction of both parties. Although informal resolution is generally very successful, there are some cases where it is not possible to resolve the complaint in this way. The Monitoring Officer will make a judgement on a case by case basis about whether and how far the informal route should be pursued before referring a matter to the Sub-committee for consideration.
- 2.2 In this case both Cllrs Smith and Johnson agreed to engage in the informal resolution process and the Monitoring Officer thanks both members for their time and co-operation. The Monitoring Officer corresponded and held a number of virtual meetings and telephone calls with both members to try and identify a mutually acceptable outcome.
- 2.3 Cllr Johnson requested, by way of outcome, that a statement was made by Cllr Smith at the Council meeting on 17 November 2020 to clarify his clarify his previous comment and apologise for any inference that the Labour Members of Planning Committee had been whipped.
- 2.4 Cllr Smith said that it he had not intended to infer that the Labour Group had been whipped and that was not a view that he held. He had intended to express his surprise that the members who were in support of the motion in front of Council had voted against a planning application which promised to bring more jobs to an area much in need of new employment opportunities. He confirmed that he was prepared to make a statement at the Council meeting on 17 November to clarify the position when the minutes of the previous meeting were discussed. The Monitoring Officer offered some advice to Cllr Smith on how that statement could be worded, based on her understanding of Cllr Johnson's concerns. Cllr Smith confirmed that he would consider the advice was able to draft the statement without further assistance.
- 2.5 At the meeting of Council on 17 November 2020, Cllr Smith made a statement under the item - Minutes of the Meeting Held on 8 September 2020. A copy of the draft minutes of the meeting and a transcript of Cllr Smith's statement are attached Appendices D and E respectively.
- 2.6 A recording of the meeting is available on the Council's website via the MS Teams Live Event. It can be accessed by following the link below.
- [https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F\\_%23%2FI%2Fmeetup-join%2F19%3Ameeting\\_NWM1ZWU1NDAtYjhIZS00NDViLWlwZTQtYmJkYmNiMDAzNTFk%40thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522ee70a64e-9df9-43f5-806b-751f09c3cd88%2522%252c%2522Oid%2522%253a%2522094390c9-a254-4399-b3a4-c8c71b9aaf05%2522%252c%2522IsBroadcastMeeting%2522%253a%2522true%2527d%26anon%3Dtrue&type=meetup-join&deeplinkId=a1b6716e-e16c-4099-a585-c83e8b6f2bf9&directDl=true&msLaunch=true&enableMobilePage=true&suppressPrompt=true](https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F_%23%2FI%2Fmeetup-join%2F19%3Ameeting_NWM1ZWU1NDAtYjhIZS00NDViLWlwZTQtYmJkYmNiMDAzNTFk%40thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522ee70a64e-9df9-43f5-806b-751f09c3cd88%2522%252c%2522Oid%2522%253a%2522094390c9-a254-4399-b3a4-c8c71b9aaf05%2522%252c%2522IsBroadcastMeeting%2522%253a%2522true%2527d%26anon%3Dtrue&type=meetup-join&deeplinkId=a1b6716e-e16c-4099-a585-c83e8b6f2bf9&directDl=true&msLaunch=true&enableMobilePage=true&suppressPrompt=true)
- 2.7 Following the meeting, Cllr Johnson has confirmed that the statement made by Cllr Smith did not fully address his complaint as, whilst it sought to clarify the statement made on 8 September, it did not include an apology for any offence which may have been caused. Cllr Johnson confirmed that he wishes to pursue his complaint.
- 2.8 Cllr Smith has been advised that Cllr Johnson does not consider that his complaint has been fully addressed.

- 2.9 On the basis of the above, the Monitoring Officer has concluded that the informal resolution process has not been successful.
- 2.10 The Monitoring Officer is therefore requesting that the Assessment Sub-committee consider the matter and determine whether any further action should be taken by taking into account the criteria and public interest test set out for assessment of complaints. A copy of the criteria for assessment of complaints is attached at Appendix F.
- 2.11 The Monitoring Officer, subject member and complainant can seek guidance from the Independent Person (IP) at any point in the informal resolution process. The Monitoring Officer has briefed the IP and he has been invited to attend the meeting of this Sub-committee for the purpose of offering his perspective on the complaint.

### **3. INITIAL TESTS**

- 3.1 In order for the Members' Code of Conduct and associated complaints process to be engaged, 3 initial tests need to be met:

1. Does the complaint relate to a member within the NWLDC area, in office at the time of the conduct complained of?

Cllr Smith is a current serving member of NWLDC.

2. Was the member acting in their capacity as a councillor at the time of the conduct complained of?

Cllr Smith was acting in the capacity as Councillor at the time of the conduct complained of as the situation arose during a formal council meeting.

3. The complaint, if proven, would be a breach of the Code under which the member operates?

The complaint, if proven, could amount to a breach of the Code.

### **4. INFORMATION FROM THE COMPLAINANT AND SUBJECT MEMBER**

- 4.1 In accordance with the Council's adopted arrangements the complainant and subject members are not party to the Assessment Sub-committee. However, should any further information be provided by either Cllrs Smith or Johnson, it will be reported to the Sub-committee.

### **5. ASSESSMENT OUTCOMES**

- 5.1 The following outcomes are available to the Sub-committee under the Arrangements adopted by Council:

5.1.1 Refer the complaint to the Monitoring officer to take other action.

5.1.2 Request further information from the parties.

5.1.3 Refer the complaint to the Monitoring Officer for investigation.

5.1.4 No action to be taken in respect of the complaint.

### **6. PUBLIC INTEREST TEST**

- 6.1 In considering whether or not to take any further action in respect of the complaint (including requesting an investigation), members are referred to the criteria for the assessment of complaints at Appendix F.

- 6.2 There is no widely accepted definition of the public interest but has been described as “*something which is of serious concern and benefit to the public*”. In this context, the public interest test requires a public authority to weigh the harm that would be caused by not investigating a complaint against the public interest served by carrying out an investigation. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).
- 6.3 Examples of factors which would tend to indicate there is not a public interest in investigating a complaint are:
- If the complaint is vexatious;
  - Repetitive complaints; and
  - Complaints about trivial matters.
- 6.4 Factors which would tend to indicate there is a public interest in proceeding with an investigation are:
- The complaint relates to a matter which affects a significant part of the district; and
  - Complaints about serious misconduct.
- 6.5 These criteria in Appendix F are not exhaustive and not all are relevant in each case.

## **7. CONSIDERATION AS TO WHETHER THE HEARING SHOULD BE HELD IN PRIVATE**

- 7.1 The Sub-committee will need to decide whether the meeting should be held in public or private. The Sub-committee will need to consider the public interest test. Is the public interest in holding the hearing in public outweighed or not by the public interest in excluding the press and public? The Sub-committee will need to make this decision at the start of the meeting. The agenda and report for this meeting have been exempt from publication to the press and public under paragraph 1 of Schedule 12A Local Government Act 1972 - information relating to any individual.
- 7.2 Under the Council’s Arrangements there is a presumption in favour of the hearing being held in public unless it is considered appropriate for it to be held in private.
- 7.3 In considering this aspect of the hearing the Sub-committee needs to consider what information is being presented before them.
- 7.4 The substance of the complaint is a statement made in a public Council meeting which was minuted and available on the MS Teams Live Event and therefore already in the public domain. As was the subsequent statement made at the Council meeting on 17 November.

## **8. REVIEW OF THE DECISION OF THE ASSESSMENT SUB COMMITTEE**

- 8.1 The Assessment Sub-committee has the authority to allow or not a right of review of their decision to take no further action taking into consideration the views of the Independent Person as referred to in 2.4 above.
- 8.2 However, the complainant should be advised that no review will be granted unless further / additional evidence is submitted to the Monitoring Officer. It will be the decision of the Monitoring Officer as to whether such additional evidence warrants another assessment.
- 8.3 This is to ensure a fair process and to avoid frivolous / vexatious appeals.

- 8.4 A request for review can be made at the time the Sub-committee makes its determination or within 30 days of the decision.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	Not applicable
Policy Considerations:	Constitution and Relevant authority's Members' Code of Conduct
Safeguarding:	Not applicable
Equalities/Diversity:	Not applicable
Customer Impact:	Not applicable
Economic and Social Impact:	Not applicable
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Not applicable
Risks:	Not applicable
Officer Contact	Elizabeth Warhurst Head of Legal and Commercial Services <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a>

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## **COUNCIL - 8 SEPTEMBER 2020**

### **MOTION RECEIVED FROM COUNCILLOR S SHEAHAN**

The UK economy shrank by an unprecedented 20.4% in April this year compared to the previous quarter. By June, Gross Domestic Product (GDP) was one sixth below its level in February.

Between April and June, the number of people in work fell by 220,000, but these figures do not include millions of people who are furloughed, those on zero-hours contracts but not getting shifts or people on temporary unpaid leave from a job.

140,000 redundancies across England, Wales and Scotland were notified to the Government in June and with the furlough scheme ending in October, the outlook for millions more is very worrying.

This Council believes that urgent action needs to be taken to tackle the threat to jobs, businesses and livelihoods, We therefore call upon the Government to -

- Target help to the industries and areas that need it most.
- Give our public services the resources to prepare for any second wave
- Get test, trace and isolate functioning properly to build public confidence
- Reform the furlough scheme so it helps people in the worst-hit sectors and targets funding to struggling industries
- Back businesses by setting up a £1.7 billion fightback fund to prevent firms going under and save our high streets
- Leave no-one behind by providing additional support to areas forced into local lockdowns, supporting the self-employed and helping those left out of existing schemes
- Keep workers safe by protecting workers rights, boosting sick pay, making workplaces safe and giving our NHS and care services the resources to avoid a second wave
- Drive job creation by investing in infrastructure, accelerating progress towards a zero-carbon economy and increasing access to skills and training opportunities.

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MINUTES of a meeting of the COUNCIL held in the Remote Meeting using Microsoft Teams on TUESDAY, 8 SEPTEMBER 2020

Present: Councillor V Richichi (Chairman)

Councillors J Hoult, E G C Allman, R Ashman, R D Bayliss, C C Benfield, D Bigby, A S Black, R Blunt, R Boam, A J Bridgen, J Bridges, R Canny, J Clarke, D Everitt, T Eynon, M French, J Geary, L A Gillard, S Gillard, T Gillard, D Harrison, B Harrison-Rushton, M D Hay, G Hoult, R Johnson, J Legrys, K Merrie MBE, N J Rushton, A C Saffell, C A Sewell, S Sheahan, N Smith, J Windram and M B Wyatt

Officers: Mr J Arnold, Mrs T Bingham, Mrs M Long, Mr A Barton, Mrs B Smith, Miss E Warhurst and Mr T Delaney

## **18. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D Tebbutt and A Woodman.

## **19. DECLARATION OF INTERESTS**

A non-pecuniary interest was declared by Councillor Sheahan with regard to any reference in reports to HS2 on the proviso that if any verbal reference is made to it in the meeting, he would declare a pecuniary interest and leave the meeting.

Councillors R Bayliss and T Eynon both declared non-pecuniary interests in item 17 – Appointments to Community Bodies, as they are both trustees of the Alderman Newton Education Foundation, with Councillor Bayliss being the Chairman.

Councillor R Johnson declared a non-pecuniary interest in item 11 - Seeking approval to remove NWLDC byelaws from parcels of land owned by Whitwick Parish Council, as reference is made to Hugglestone & Donington le Heath Parish Council of which he is the Chairman.

## **20. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman advised Council that he had not undertaken many duties due to the COVID pandemic but he was proud to announce that he had laid a wreath to commemorate Victory in Japan (VJ) Day and the event had gone very well with social distancing having been observed.

## **21. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS**

The Leader of the Council, Councillor R Blunt welcomed Councillor E Allman to the Conservative Group adding that Councillor Allman had already developed a reputation as a hard working individual and he would be a great addition to the Group.

The Leader shared details of the work which had been undertaken to date to help support local people and local businesses in light of the COVID-19 pandemic. He thanked local people for all their efforts adhering to the rules, particularly given the recent national and local pictures which were seeing a rise in the infection rates. He went on to advise Council of the recovery work which was ongoing making reference to the Economic Recovery Plan which will set out how the district will thrive over the next two years and beyond. It was reported that over £20m in grant funding had been provided to 1644 local businesses and work will continue to help support these by encouraging people to shop locally and support their local businesses.

In terms of the Council's staff, the Leader reported that from the 587 staff, 249 were working in the community and of the 388 located in the offices, 96% of these were working from home and all key services were being continued which was a testament to how the recovery plans were working.

The Leader advised Council that the Council had been awarded a silver star by the Ministry of Defence in respect of the Employer Recognition Scheme in its support and alignment of values in relation to Defence and the Armed Forces Community.

Council was advised by the Leader that in July, a ground breaking ceremony was held to recognise the start of the works on the new Whitwick and Coalville Leisure Centre with a completion date anticipated as being July 2022. There were more than 40 local companies working on the project and over 60% of the construction materials were being sourced locally.

A number of questions were raised by Members in response to Councillor Blunt's announcements. These related to loss of income to the Council, the political stance of a councillor joining a Group after being elected, the potential to overtax staff who are working additional hours and the cost implications to the Housing Revenue Account from the climate change commitments.

Councillor Blunt advised Council that the questions should be directed more appropriately at the relevant portfolio holder through the scrutiny process. He acknowledged that councillors changing their political stance was not uncommon and was down to individual choice, and recognised that care needed to be taken to ensure the wellbeing of staff and that this was being constantly monitored by the Head of Paid Service.

Councillor Bayliss shared with Council the details relating to the recent completion of the next phase of the council house new build programme, with another 8 new homes being completed and let to tenants in the Greenhill area of Coalville. The new development known as Woodbrook Court provides 3 three bedroom and 4 two bedroom houses together with a one bedroom bungalow and all have been let to applicants from the Council's waiting list. It was noted that new build council housing formed just one part of the Council's approach to increasing the supply of new affordable Council housing within the District, which has seen the completion of 56 new homes over the last three and a half years, with plans for 34 more already well advanced. The Council was also taking advantage of other opportunities, including the acquisition of Section 106 planning agreement properties and purchasing homes in the open market in areas of high housing need, using funding retained through the

Governments 1 for 1 replacement funding scheme, with 48 new properties already acquired.

The amounts to a total of 104 additional affordable rented homes for tenants in need, and the future pipeline of schemes now details an additional 48 new homes on the way.

Councillor Bayliss concluded by advising Council that he will be presenting a report to Cabinet in October regarding the progress on the acquisition of additional properties, and a subsequent report to give further details on the new build and acquisitions programmes going forward.

## **22. QUESTION AND ANSWER SESSION**

There were no questions received.

## **23. QUESTIONS FROM COUNCILLORS**

Two questions had been received.

The Chairman invited Councillor D Everitt to ask his question addressed to Councillor R Blunt.

“The on street retail industry is under threat from internet traders especially during the lockdown. Everything must be done to restore and maintain the pleasure of human contact and real informed choice which is the joy of street shopping. To achieve this it is important that the needs of shoppers especially young mother and senior citizens are addressed and provided.

Can you assure me that an adequate toilet facility with attendant and a baby changing will be incorporated at the Marlborough square development when it is opened?”

The Chairman invited Councillor R Blunt to respond.

“Cllr Everitt’s observations about the importance of the high street retail sector are well placed. A strong retail offer in Coalville can contribute to the capturing of greater wealth and prosperity within the local economy. The aspiration to make Coalville a desirable shopping destination once more, lies at the root of a number of recent commitments of time and money by this council into projects such as Newmarket, Marlborough Square Public Realm and the numerous schemes we hope to deliver as part of the Future High Streets Fund Bid. The provision of public toilets in Coalville town centre has been a sustained commitment of this council at a time when other councils have been closing their facilities. Coalville’s public toilet facilities are currently located at the market hall and will continue to be provided from that building until such time as a decision otherwise is made by the council. As part of the delivery of the Newmarket project fronting on to Marlborough Square, additional toilets are being provided which will be “accessible” and include a baby changing facility. It is hoped these will be popular with town centre users. Further opportunities to enhance public facilities in the town will also be explored as part of the planned regeneration projects”.

The Chairman invited Councillor D Everitt to ask a supplementary question. There was none.

The Chairman invited Councillor J Geary to ask his question addressed to Councillor R Bayliss.

“At Scrutiny earlier this year I expressed my concerns with regards the current conditions at the Appleby Magna Caravan Site. I was pleased to read in last week’s Members Bulletin you have held a virtual meeting with residents regarding site improvements. Could you now please update members on the outcome of that meeting, what improvements have been decided upon, time scale for implementation and estimated costs”.

The Chairman invited Councillor R D Bayliss to respond.

“Following Scrutiny and Cabinet approval in May this year I am pleased to say that we are progressing well will addressing the caravan site redevelopment.

- All necessary surveys have now been completed;
- Request for quotation has been sent to three selected suppliers for specialist project management support to support the progress of the plans through Planning determination, assist with the procurement of a building contractor and ensure the needs of the residents are being met;
- The meeting in August went through proposed designs for the scheme which include siting all pitches outside of the flood risk area, a new amenity block and upgraded site security and general facilities. Plans are now being updated following residents views with a view to applying for planning permission by end of October.

- With the future of the 1st Appleby with Measham Scouts at the site now being secured, plans have progressed to ensure that they have a long-term lease, which will allow them to seek grant funding for which the Council has offered its support. Proposed Heads of Terms have been shared with the Scouting Association for a 25-year lease.
- Costs are still in line with our initial estimations c£500k which are already set out in the Council's Capital programme.

The Chairman invited Councillor J Geary to ask a supplementary question. There was none.

## 24. MOTIONS

Councillor S Sheahan moved the following motion in relation to issues surrounding the UK economy.

“The UK economy shrank by an unprecedented 20.4% in April this year compared to the previous quarter. By June, Gross Domestic Product (GDP) was one sixth below its level in February. Between April and June, the number of people in work fell by 220,000, but these figures do not include millions of people who are furloughed, those on zero-hours contracts but not getting shifts or people on temporary unpaid leave from a job. 140,000 redundancies across England, Wales and Scotland were notified to the Government in June and with the furlough scheme ending in October, the outlook for millions more is very worrying.

This Council believes that urgent action needs to be taken to tackle the threat to jobs, businesses and livelihoods, We therefore call upon the Government to

- Target help to the industries and areas that need it most.
- Give our public services the resources to prepare for any second wave
- Get test, trace and isolate functioning properly to build public confidence
- Reform the furlough scheme so it helps people in the worst-hit sectors and targets funding to struggling industries
- Back businesses by setting up a £1.7 billion fightback fund to prevent firms going under and save our high streets
- Leave no-one behind by providing additional support to areas forced into local lockdowns, supporting the self-employed and helping those left out of existing schemes
- Keep workers safe by protecting workers rights, boosting sick pay, making workplaces safe and giving our NHS and care services the resources to avoid a second wave
- Drive job creation by investing in infrastructure, accelerating progress towards a zero-carbon economy and increasing access to skills and training opportunities.”

He asked the Council to call on the Government to act to protect jobs, key industries and public institutions.

A full debate was held which received mixed views both in favour and against the motion. There was disappointment expressed in what was deemed to be a party political motion being brought to Council with an attempt to use the pandemic to score political points whilst elsewhere there was support with regard to reference to specific local businesses and the people that work there. References to the motion being party political and critical of the Council were strongly disputed. Reference was also made to the work which was being done both locally and nationally, referring to the Economic Recovery Plan but also to the apparent failure of the track and trace system. Comments were made in relation to a recent Planning Committee where it was suggested that everyone from the same party had voted in the same way when considering an application in respect of a large company settling in the area. When challenged as a point of order as to whether this was an

allegation of whipping, this allegation was refuted by the Member in question. Further comments were made in relation to this being a motion which was largely addressed to central government with a suggestion made that any issues with national policy should be addressed through the local MP. Elsewhere it was noted that achieving the status quo was not a reality and that efforts should be focussed on a new working model with collaborative working to enable redeployment. A further comment was made that confusion and fear arising from the Government's advice should be replaced by certainty and clarity. Some members argued that, as they have a responsibility to local residents, this motion, whilst addressing national policy, was aimed at protecting local jobs and businesses.

The Chairman invited Councillor Sheahan to respond to exercise his right to reply.

He felt strongly that if local councillors considered the Government was not acting in the best interests of the local community, then they had a duty to point this out. He also disputed an earlier claim regarding the voting at a recent Planning Committee and reiterated how he had supported the application. Councillor Sheahan urged those who were minded to vote against the motion to consider what would happen when the furlough scheme ends; whether they really believed the track and trace system was working and how they would answer the complaints from one of the District's largest employers, East Midlands Airport, that the Government wasn't doing enough?

The Chairman then put the motion to the vote and subsequently declared it LOST with a vote of 21 against and 14 for the motion.

## **25. PETITIONS**

No petitions were received.

## **26. MINUTES**

Consideration was given to the minutes of the meeting held on 23 June 2020.

The Chairman advised that he was aware that Councillor S Sheahan expressed a wish to make some amendments to the minutes and was invited to speak to the proposed changes, as set out in the additional papers.

Councillor Sheahan advised that he was not happy with the quality of the minutes and had therefore listened to the recording and submitted a verbatim record for complete accuracy.

As the relevant portfolio holder, Councillor Ashman was invited to respond. He advised that he was surprised at a request to have the minutes as a verbatim record, particularly given that the entire proceedings were available on-line to anyone who wished to listen to the transcript. He also referred to the best practice guide for local authority meetings which states that minutes should be a summary of the proceedings and not a verbatim record, including only an essence of the discussion. Councillor Ashman advised that he was not minded to change the style and format of the minutes but acknowledged that the Chief Executive and Leader had agreed to discuss at a future meeting.

Councillor Sheahan withdrew his proposed amendments.

It was moved by Councillor V Richichi, seconded by Councillor G Hault and by affirmation of the meeting it was

RESOLVED THAT:

The minutes of the meeting held on 23 June 2020 be approved.

## **27. UPDATE OF THE COUNCIL'S CONSTITUTION**

Councillor N Rushton presented the report to Members.

Members supported the recommendations but sought further guidance on virtual meetings and, in particular, raising points of order with the lack of the 'hands up' facility provided by MS Teams Live Events. Councillor Rushton agreed to address this and get back to Members via the Cross Party Working Group.

It was moved by Councillor N Rushton, seconded by Councillor L Gillard and by affirmation of the meeting it was

RESOLVED THAT:

- (1) The amendments to the Council's Constitution set out in this report be adopted;
- (2) That the Council functions relating to the issue of Pavement Licences pursuant to Sections 1-7 of the Business and Planning Act 2020 (Pavement Licences) be delegated to the Director of Place;
- (3) The Council authorises the Monitoring officer to make the agreed amendments and any consequential amendments to the Constitution and reissue the document.

## **28. SEEKING APPROVAL TO REMOVE NWLDC BYELAWS FROM PARCELS OF LAND OWNED BY WHITWICK PARISH COUNCIL**

Councillor R Blunt presented the report to Members.

It was moved by Councillor R Blunt, seconded by Councillor N Rushton and by affirmation of the meeting it was

RESOLVED THAT:

- (1) Council approve the removal of NWLDC byelaws from Whitwick Parish Council owned land;
- (2) Council delegates authority to the Head of Community Services in liaison with the Portfolio Holder for Community Services to respond to and address any points raised through the consultation process.

## **29. ALLOCATION OF SEATS ON COMMITTEES (POLITICAL BALANCE)**

Councillor T Gillard presented the report to Members.

Councillor Wyatt advised that his group would be voting against this in principle.

The recommendations were moved by Councillor T Gillard, seconded by Councillor N Smith and put to the vote. The Chairman declared the vote as being 31 for and 4 against the recommendations. It was therefore

RESOLVED THAT:

- (1) The changes to the political proportionality of the Council be noted;
- (2) Councillor E Allman retain his seats on the Licensing Committee and the Corporate Scrutiny Committee as a Conservative Member;

- (3) Councillor S Gillard to be appointed as an additional substitute member of the Corporate Scrutiny Committee as the Conservative Group is entitled to one more seat;
- (4) Councillor C Benfield be removed as a substitute member of the Corporate Scrutiny Committee as the Independent Group is no longer entitled to a seat;
- (5) Councillor R Canny be removed as a substitute member of the Licensing Committee as the Independent Group is entitled to one less seat;
- (6) Councillor T Saffell be appointed as replacement Independent Group substitute member on the Planning Committee and Community Scrutiny Committee;
- (7) Councillor C Benfield be appointed as replacement Independent Group substitute member on the Investigatory Committee;
- (8) The above changes take immediate effect.

### **30. SCRUTINY CROSS PARTY WORKING GROUP PROGRESS REPORT**

Councillor R Ashman presented the report to Members.

The report was welcomed by Members and all were encouraged to engage in the workshops that had been organised off the back of the work undertaken by the Cross Party Working Group.

It was moved by Councillor R Ashman, seconded by Councillor K Merrie and by affirmation of the meeting it was

RESOLVED THAT:

The progress report of the Cross Party Scrutiny Working Group be noted

### **31. URGENT DECISIONS TAKEN BY CABINET/PORTFOLIO HOLDERS IN QUARTER 1 2020/21**

Councillor R Blunt presented the report to Members.

It was moved by Councillor R Blunt, seconded by Councillor R Ashman and by affirmation of the meeting it was

RESOLVED THAT:

The report be noted.

### **32. MEMBER CONDUCT ANNUAL REPORT 2019-20**

Councillor R Ashman presented the report to Members.

It was moved by Councillor R Ashman, seconded by Councillor B Harrison-Rushton and by affirmation of the meeting it was

RESOLVED THAT:

The report be endorsed

**33. APPOINTMENT OF PARISH REPRESENTATIVES TO THE AUDIT & GOVERNANCE COMMITTEE**

Councillor S Gillard presented the report to Members.

It was moved by Councillor S Gillard, seconded by Councillor L Gillard and by affirmation of the meeting it was

RESOLVED THAT:

The nomination process be received and noted and the appointments, as set out in the report, be approved.

**34. APPOINTMENT OF REPRESENTATIVES ON COMMUNITY BODIES**

Councillor T Gillard presented the report to Members.

It was moved by Councillor T Gillard, seconded by Councillor R Ashman and by affirmation of the meeting it was

RESOLVED THAT:

- (1) A representative be appointed to serve on the Alderman Newton Education Foundation in accordance with paragraphs 2.3 and 2.4 of the report;
- (2) Council notes the appointment of Councillor A Woodman to the CCTV Operations Management Group, as the appropriate Portfolio Holder.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 8.20 pm

## **Extract from Full Council 08 September 2020**

Chairman: Councillor Nigel Smith, would you like to try again?

Cllr Smith: Hello Chairman, can you hear me?

Chairman: \*Inaudible\*

Cllr Smith: I take that as a yes. I just wanted to make a few comments, I'm not going to go through every point. I notice that the motion says "to save the High Streets". Now as somebody who has been involved in running a business on the High Street for many, many years, could I suggest that the Labour Group get together and have a go themselves at running a business then they'll just realise how difficult it is. I also point out that the Government invested more money in this pandemic than has ever been invested before in the history of this country. Then we look at the, another point I just want to bring up. "Drive job creation". Now we're told and I understand it's correct, that Riverway in Measham is one of the most deprived areas in North West Leicestershire and in fact in the Midlands. I therefore find it absolutely unbelievable that when one of this country's most important and most famous companies, Jaguar Land Rover, wanted to build their state of the art international distribution centre, everyone on the Labour Party voted against it. In fact, Measham Parish Council, I had a telephone call from their Chairman saying "take no notice of that lot. I'm a socialist, they don't know what they're talking about, we need the jobs and Jaguar Land Rover have agreed-

Cllr Legrys: Chair, I have a point of order with Councillor Smith's speech, Chair.

Chairman: Yes, please Cllr Smith, stick to the motion please.

Cllr Legrys: Chair, I-

Cllr Smith: The motion was referencing job creation. You only create jobs by creating businesses and to vote against creating businesses is completely wrong. Thank you.

Cllr Legrys: Chair, I have made a point of order and I would like to make that point of order please.

Chairman: Yes please.

Cllr Legrys: Thank you Chair. I'm deeply concerned that the Labour Members, the few Labour Members on the planning committee are- being- making public allegations that we are being whipped. Can I have a clarification please Chair?

Chairman: From who do you wish clarification, Councillor Legrys?

Cllr Legrys: I'd like a clarification from Councillor Smith, please, Chair.

Chairman: Would you like to respond Councillor Smith?

Cllr Smith: Yes, by all means Chairman. I at no time said that the Labour Group were being 'whipped'. What I said was that the Labour group, to a man voted against one of the most important, potentially largest job creating companies moving into this area. And I never ever said that they were whipped.

Chairman: Thank you Councillor Smith, we'll leave it at that and please get back to the motion. Could I bring in Councillor Carl Benfield?

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MINUTES of a meeting of the COUNCIL held in the Remote meeting using Microsoft Teams on TUESDAY, 17 NOVEMBER 2020

Present: Councillor V Richichi (Chairman)

Councillors J Hoult, E G C Allman, R Ashman, R D Bayliss, C C Benfield, D Bigby, A S Black, R Blunt, R Boam, A J Bridgen, J Bridges, R Canny, J Clarke, D Everitt, T Eynon, M French, J Geary, L A Gillard, S Gillard, T Gillard, D Harrison, B Harrison-Rushton, M D Hay, G Hoult, R Johnson, J Legrys, K Merrie MBE, N J Rushton, A C Saffell, C A Sewell, S Sheahan, N Smith, J Windram, A C Woodman and M B Wyatt

Officers: Mr J Arnold, Mrs T Bingham, Mrs M Long, Miss E Warhurst, Mrs C Hammond and Mr T Delaney

### **35. APOLOGIES FOR ABSENCE**

No apologies for absence were received.

### **36. DECLARATION OF INTERESTS**

Councillor N Smith declared a non-pecuniary interest in agenda item 13 – Appointments to the Independent Remuneration Panel - for reasons of one of the Panel members being a customer at his wife's shop.

Councillor C Sewell declared a non-pecuniary interest in agenda item 10 – Council Delivery Plan - for reasons of her being a parish councillor on Kegworth Parish Council.

Councillor M Wyatt declared a non-pecuniary interest in agenda item 10 – Council Delivery Plan - for reasons of him having local businesses in Coalville Town Centre.

They all remained in the meeting for the decision and vote on these items.

### **37. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman delivered a very poignant address and reflected on his own personal experiences in relation to his past and his association with some of the veterans who had had an influence on his life.

### **38. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS**

Councillor R Ashman, Deputy Leader reported that he was standing in for the Leader who had tested positive for COVID-19 and although still unwell, was making a good recovery; and on behalf of the Council sent his best wishes. The Deputy Leader went on to recognise the efforts of all the volunteers, community workers and staff who were helping to support the local communities and those most in need. He reported that North West Leicestershire District Council was continuing to deliver its vital services and expressed, on behalf of the Council, his sincere apologies to those who had lost family members, friends and colleagues to this virus. He referred also to the sad death of Geoff Bushell who was known to many due to him being instrumental in the campaign on the opening of the Ivanhoe line. Thoughts and prayers were conveyed to his family.

The Deputy Leader recognised the impact that COVID-19 was also having on the business community in the run up to Christmas and advised that work was currently underway on assessing the impact of the business grants and how these can be utilised to help local businesses during this difficult time.

Members echoed the sentiments conveyed by the Deputy Leader.

### **39. QUESTION AND ANSWER SESSION**

No questions were received.

### **40. QUESTIONS FROM COUNCILLORS**

The Chairman advised that he had received three questions ahead of the meeting and that he would take them in the order they had been received.

- (1) The Chairman invited Councillor M Wyatt to ask his question addressed to Councillor A Woodman.

“Since early 2020 I have been supplying the Council’s planning enforcement team with information concerning unauthorised and illegal use of land off Baker Street in Coalville. The recorded incidents are for dumping of waste, a wheel wash, a lorry park as advertised on the A511, removal, burial and disposal of contaminated soil along with daily burning of plastic and other toxic items. I would also point out that it was reported and confirmed by officers who visited the site that there was someone living on the site in a caravan, which to date is continuing to do so.

It is now November, and still complaints are being received concerning this site. Can I ask for a full and detail explanation to why action as not yet been taken concerning a number of issues which I have set out. Also can I ask if you agree with your officers comments which were sent to me, that one of the reasons why action was not being taken to address the illegal activity at the site is because the council are awaiting a possible planning application for this site, which in my opinion, is absolutely ridiculous and should never be an excuse to why illegal action is not acted upon?”

The Chairman invited Councillor A Woodman to respond.

“The Planning Enforcement Team was first made aware of the potential breaches of planning legislation by Cllr Wyatt on 17th February 2020, and an enforcement case was duly opened. A site visit was conducted on 5th March 2020, the outcome of which was that the activities should either cease, or retrospective applications should be submitted for each use. On the 10th March 2020 Cllr Wyatt was informed that the other activities alleged to be taking place fell under the jurisdiction of the Environment Agency and were not a matter for the district council. The other matters raised concerned the importation of waste and the removal and disposal of contaminated soil on the site. These were reported on the same day to the Environment Agency.

A further site visit was conducted on 26th May 2020 to establish the current activities and officers were able to confirm that in addition to the earlier reported activities there was a fleet vehicle washing business operating from the site. The outcome was that the owner of the business was instructed by officers to submit retrospective planning applications for the additional business uses.

A reasonable period of time was given to allow the owner to submit a planning application. Since a reasonable time had elapsed and no application had been received, a further site

visit was conducted on 5th November 2020. The visit confirmed that the lorry/wheel washing/fleet cleaning business and the lorry park business had both ceased and left site. The alleged unauthorised occupation of the caravan relates to a static caravan which investigations have concluded. Its purpose is to provide 24 hour security for the site. The individual that occupies the caravan is employed as a security guard for the site and therefore the siting of the caravan is considered ancillary to the established factory/warehouse use at the site and therefore no breach of planning control exists.

The planning enforcement case has now been closed since the site complies with that of storage/warehouse and no breach of planning control exists.

In relation to the point regarding action not being taken due to a proposed new application being submitted for the re-development of the area as a whole. I can confirm that this case has been investigated in line with the council's Planning Enforcement Policy and government guidance which provides for a graduated approach. Careful consideration needs to be given to each planning enforcement case and each case balanced on its own merits, consideration needs to be given with regards to expediency, public interest, negotiation, proportionality and that both the council and developer have acted reasonably.

In this case although an application was not received, when the compliance check was made all activities had ceased. If they had not ceased then more formal action would have been considered."

The Chairman invited Councillor M Wyatt to ask a supplementary question.

Councillor Wyatt expressed his disappointment that the issues he had raised had not been properly addressed. He asked Councillor Woodman to confirm that he had received additional photographic evidence that the site was still being used 3 days after the site visit and asked if this would be properly investigated. He also asked for an update on the action being undertaken by the Environment Agency to address the issues of dumping waste on the site.

Councillor Woodman confirmed that he had very recently received the photographic evidence and that he would investigate this thoroughly with officers and, if safe to do so would visit the site in person. He also confirmed that he would check with officers regarding the update from the Environment Agency.

(2) The Chairman invited Councillor J Geary to ask his question addressed to Councillor R Ashman.

"Council announced during summer 2018 that work would start on the reconstruction of Marlborough Square in October 2018. Following tender returns, Council found that costs exceeded allocated Budget and paused all works. During 2019 Councillors were informed that negotiations with County Highways to agree legal and operational arrangements were "ongoing". It is now November 2020 and there is no indication when the paused Marlborough Square reconstruction works will be completed. What are the reasons for this extended delay and what are the current projected start and completion dates for these works?"

The Chairman invited Councillor R Ashman to respond.

"Discussions with LCC Highways at the end of 2019 / beginning of 2020 identified that the proposed redevelopment of Marlborough Square would require A Section 278 Agreement and a Change Of Use planning consent secured sequentially in that order. No works can commence legally until these two consents are in place.

A S278 Application was submitted to Leicestershire County Highways in April 2020. Substantial comments / queries and requests for further information started to be returned to us from the end of May with the final replies received in August. In total there are almost 100 queries that require us to either: refine our proposals, amend our drawings, provide more supporting evidence or engage in further discussion with the Highways Authority or other statutory bodies.

The comments received have been collated onto a "Tracker Document" and officers and consultants are now working to resolve and close out each issue.

The ability to close out some issues, particularly those requiring further traffic survey have been hampered by Covid restrictions (LCC Highways are not prepared to validate any traffic figures gained during lockdown as they argue that traffic levels are below the norm) and therefore progress has not been as swift as desired. At present we are targeting making a resubmission of the S278 by the end of the year however this may be delayed if vehicle swept path analysis requires any significant redesign.

Until all the details submitted as part of the S278 have been agreed by LCC Highways we are unable to provide a clear date upon which construction works will commence. Councillors will have the opportunity to review in detail the progress being made on this project at the Coalville Members Meeting scheduled for 30th November".

The Chairman invited Councillor J Geary to ask a supplementary question.

Councillor Geary asked that this matter be brought back before Scrutiny as soon as possible.

Councillor Ashman advised that this was not within his remit but within the gift of the Chairs of the Scrutiny Committees but he was sure that they would take these comments on board and include the item on their work plan as necessary.

- (3) The Chairman invited Councillor D Bigby to ask his question addressed to Councillor R Ashman.

"Ashby residents are increasingly concerned about the dereliction of one of their most important historic buildings, the Grade 2\* listed Royal Hotel, which is approaching its 200th anniversary and was closed for business in March 2018. When did the Council last inspect the premises, what repair work was found to be required to protect the fabric of the building and what steps are the council taking to ensure that the necessary repairs are carried out and that further deterioration is prevented"?

The Chairman invited Councillor R Ashman to respond.

"Officers have been carrying out regular inspections of the Royal Hotel for the last two years, other than a period during the first national lockdown this year, and have secured a number of repair works where necessary and additional security measures including the provision of steel ventilated window guards on all windows and doors, the introduction of CCTV and improved boundary heras fencing. More recently, the Council last inspected the premises on 6th November 2020, as a follow up to inspections carried out on 3rd August and 30th September where the owner had agreed to carry out a number of repair works identified by the Council by the end of October.

At the inspection on 6th November, it was confirmed that the owner has undertaken some remedial measures as requested including the erection of scaffolding around a number of chimneys, repair work to chimneys, replacement of defective roof tiles and some guttering. However, a number of repairs that the owner agreed to have carried out by the end of October had not been completed. As such, the Council has now served an Urgent Works Notice which requires the owner to ensure removal of the 'tank room', repair the

defective chimney stack, eaves, gutters and fasciae within four weeks of the date of the notice. If the owner does not carry out the necessary works within the specified timescale then the Local Planning Authority can undertake the works and claim back the costs.

Some of the repair works identified by officers are not proposed to be included on the Urgent Works Notice at this stage until such time as further high level investigations are carried out, and in recognition that the updated Condition Survey that is currently being carried out by the owner of the Royal Hotel will provide further clarity on these outstanding matters. However, all other outstanding actions identified will continue to be monitored at regular on-site monthly meetings by officers and further Urgent Works Notices may be necessary in the future.

In terms of the current planning application, the updated Condition Survey currently being undertaken will help inform the applicants enabling development proposals. In addition, the applicants are currently working up amended drawings for the proposed new buildings either side of the hotel and officers have been advised that it is anticipated that a revised package of information including amended plans for the proposed new buildings will be submitted by mid-December and once received, will be sent out for re-consultation.

The latest "Royal Hotel Building Condition and Planning Position Update Report November" 2020 has been circulated to all the Ashby ward members, the Leader and Deputy Leader of the Council and the Chairman of Planning Committee."

The Chairman invited Councillor D Bigby to ask a supplementary question.

Councillor Bigby asked that, given the failure of the owners to date to progress their plans to refurbish the Royal Hotel, and their apparent reluctance to carry out even the bare minimum of works needed to avoid an Urgent Works Notice, is it not time that the Council started a process of moving towards a CPO which would allow for the serving of a Repairs Notice which could be used to require regular repairs and routine maintenance?

Councillor Ashman advised that he would continue to put pressure on the owners and he would also speak with officers with a view to investigating the points made and provide a response later in the week.

#### **41. MOTIONS**

The Chairman advised that he had received two motions for consideration at the meeting and that he would take them in the order they had been received.

- (1) Councillor S Sheahan moved the following motion, the wording of which had changed from that which was published in the agenda and was circulated in the additional papers.

"This Council notes that Commonwealth and Nepalese veterans have a long and proud history of service in the British military. From conflicts of old, such as World War Two, to recent conflicts such as Iraq and Afghanistan, these veterans have served with distinction alongside British-born veterans.

However when their service is complete, many are left with charges to remain in the UK, which in some cases are extremely high. This Council also notes many such veterans state that the Army failed to inform them that they needed to make an immediate application to the Home Office for leave to remain in the UK when their service was complete. Many thought the process was automatic yet this is not the case.

This Council acknowledges the excellent campaign organised by the Royal British Legion to resolve such cases and agree a fairer system for the future, which has gathered all party support. Whilst welcoming the fact that the Ministry of Defence is in communication with the Home Office on this matter, this Council resolves to make their Armed Forces Champion and lead officers aware of the difficulties experienced by Commonwealth and Nepalese veterans and to ensure that those who are currently experiencing problems, whether financial or immigration difficulties, are not disadvantaged whilst their applications are ongoing.

This Council requests that the Leader of the Council write to the Prime Minister, the Parliamentary Under Secretary of State (Minister for Future Borders and Immigration,) Kevin Foster MP and the Parliamentary Under Secretary of State (Minister for Defence People and Veterans,) Johnny Mercer MP, outlining our support for all Commonwealth and Nepalese veterans who have served a minimum of 4 years to be granted the automatic and free of charge right to remain in the UK.

Furthermore, This Council calls upon the Leader of the Council to write to Andrew Bridgen MP for North West Leicestershire, on the behalf of this Council, to ask that he press the Government for a change in the legislation that affects those that have served diligently and honourably for this Country.”

This motion was second by Councillor K Merrie

A full debate was held which received full support for the motion.

The Chairman invited Councillor Sheahan to respond to exercise his right to reply.

Councillor Sheahan thanked Members for their supportive comments and hoped that by accepting this motion it would make a real difference.

By affirmation of the meeting, the motion was carried.

(2) Councillor D Everitt moved the following motion

“That this Council -

- recognises that there is a housing crisis with too few genuinely affordable homes to rent and buy;
- further recognises that the number of new social rented homes built in recent years has been too low;
- notes that the Government has set a target to build 300,000 homes a year, which is unlikely to be achieved without building more social homes;
- further notes that Shelter’s recent report, A Vision for Social Housing, concluded that 3.1 million new social rented homes need to be built over the next 20 years;

and calls on the Government to adopt a target of building 155,000 social rented homes, including at least 100,000 council homes, each year from 2022.”

This motion was second by Councillor S Sheahan.

A full and lengthy debate was held which received mixed views both in favour and against the motion.

An amendment to the motion asking that the social housing be carbon neutral, both in terms of embodied energy and operation energy, was moved by Councillor C Benfield and seconded by Councillor D Bigby.

The Chairman put the amendment to the vote and subsequently declared it LOST with a vote of 24 against and 12 for.

The Chairman invited Councillor Everitt to respond to exercise his right to reply and he challenged some of the views made by members and echoed those which supported the motion.

The Chairman then put the original motion to the vote and subsequently declared it LOST with a vote of 24 against, 11 for and 1 abstention.

#### **42. PETITIONS**

No petitions were received.

#### **43. MINUTES**

Consideration was given to the minutes of the meeting held on 8 September 2020.

Councillor Nigel Smith referenced a comment he had made at that meeting which he believed had been misunderstood. The inference made by some members was not his intention and he reiterated that he did not believe that any whipping had taken place at a meeting of the Planning Committee.

It was moved by Councillor V Richichi, seconded by Councillor J Hault and by affirmation of the meeting it was

RESOLVED THAT:

The minutes of the meeting held on 8 September 2020 be approved, subject to a minor amendment as set out in the additional papers.

#### **44. COUNCIL DELIVERY PLAN 2020/21**

Councillor N Rushton presented the report to Members.

A full and lengthy debate was held which received some support but some reservations were expressed over the detail and what some members felt were omissions.

It was moved by Councillor N Rushton, seconded by Councillor V Richichi and by a vote of 19 for, 4 against and 12 abstentions it was subsequently

RESOLVED THAT: The Council Delivery Plan 2020/21 be adopted.

#### **45. ESTABLISHMENT OF COMPANY TO BE KNOWN AS 'EM DEVCO LIMITED'**

Councillor R Ashman presented the report to Members.

A full and lengthy debate was held which received much support but some reservations were expressed, particularly over the costs, sourcing of funding for the Council's

contribution, and on deliverability of the proposals considering external factors such those relating to HS2. But in the main it was felt it was better to be 'in the tent' than 'outside of it' in order that the Council can have some influence on the outcomes.

It was moved by Councillor R Ashman, seconded by Councillor D Harrison and by a vote of 30 for and 4 against it was subsequently

RESOLVED THAT: Council

- (1) Notes the work that has been done to date on this project and the recommendations from Cabinet at its meeting on 10th November 2020 as detailed in the update report;
- (2) Approves making a financial contribution of £500,000 to support the Interim Vehicle over the next 3 years, with the additional funding required to be allocated through the reallocation of existing economic development earmarked reserves no longer required and subject to the agreed funding contributions from other affected local authorities and Government funding being secured;
- (3) Approves the Council to join the Interim Vehicle and participate in the incorporation of it;
- (4) Approves in principle to the Council entering into the Members' Agreement and participating in the incorporation of the Interim Vehicle CLG and delegates authority for agreeing the final form of the Members' Agreement and articles of association to the Strategic Director (Place) in consultation with the Planning and Infrastructure Portfolio Holder;
- (5) Notes the proposal to appoint the Portfolio holder for Planning and Infrastructure as Director of the Interim Vehicle by Cabinet at its meeting on 10 November 2020.

#### **46. NOTIFICATION OF URGENT DECISIONS**

Councillor R Ashman presented the report to Members.

It was moved by Councillor R Ashman, seconded by Councillor N Rushton and by affirmation of the meeting it was

RESOLVED THAT:

The report be noted.

#### **47. APPOINTMENTS TO THE INDEPENDENT REMUNERATION PANEL**

Councillor R Ashman presented the report to Members.

It was moved by Councillor R Ashman, seconded by Councillor T Gillard and by affirmation of the meeting it was

RESOLVED THAT:

The appointments of the members of the Independent Remuneration Panel be agreed for a term of office of 18 November 2020 to 17 November 2024.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 9.22 pm

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1:34:29

Chairman: We'll now move onto Item 8, petitions. No petitions have been received. 9, item 9, the minutes. Before I deal with this item, I understand that Councillor Smith wants to say a few words. Councillor Smith could you please speak to this item.

Cllr Nigel Smith: Thank you Chairman. Councillors, there seems to be some confusion regarding comments made by myself on planning issues and any whipping of Labour Members to vote in a specific way. The minutes of the last full Council plainly stated that this was refuted by myself. So to make matters completely clear I do not believe that any members of the Labour Group are whipped to vote for or against any applications. I hope this statement puts to an end any confusion. Thank you.

Chairman: Thank you very much Councillor Smith. I will now move to confirm the minutes from the meeting of the Council held on 8 September 2020 are an accurate record of the proceedings, subject to a slight amendment to one sentence as set out in your additional papers. Could I have a seconder please?

Cllr Jim Hoult: Happy to second that, Chairman

Chairman: Who was that? Councillor-

Cllr Jim Hoult: Jim Hoult-

Chairman: Councillor Johnson?

Cllr Jim Hoult: Jim Hoult-

Chairman: Yes, Councillor Johnson, proceed.

Cllr Russell Johnson: Thank you Chair. I thank Councillor Smith for that... strange one. I raised this, what you said. The inference, it was the inference Nigel, what you made. Now what you've got to learn about it is not everybody might agree with you. We have difference of opinion on all Committees but the inference was that we-

Chairman: Councillor Johnson-

Cllr Russell Johnson: were whipped-

Chairman: Councillor Johnson I'm sorry. Sorry I have got to stop you there. Apparently it's inappropriate what you are about to say or what you are saying so we must leave it at that. Thank you. I do beg your pardon. Do we have a seconder? That was Jim Hoult. I believe you did second it didn't you Jim? Yeah.

Cllr Jim Hoult: I did Chairman, I did.

Chairman: I will assume that the minutes are agreed by all Councillors unless someone indicates now in which case I will take it to a recorded vote.

1:37:08

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**ASSESSMENT SUB-COMMITTEE**  
**CRITERIA FOR ASSESSMENT OF COMPLAINTS**  
**PUBLIC INTEREST TEST**

The following criteria ensure that only the most serious of cases which are in the public interest and appropriate should be referred for investigation or other action. The criteria sets a high threshold for considering complaints and should be adhered to by the Assessment Sub-committee (as well as the Review Sub-committee).

The following initial tests must be met:

- Does the complaint relate to a member within the NWLDC area in office at the time of the conduct complained of.
- Was the member acting in their capacity as a councillor at the time of the conduct complained of.
- The complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct. (The relevant District or Parish / Town Council Code.)

The Monitoring Officer will provide the Committee with relevant information concerning this issue as part of the report to the Assessment Sub-committee.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

If the complaint meets all of these tests the Monitoring Officer will attempt to resolve the complaint by Informal Resolution. If, for whatever reason, the informal resolution process is not successful, the Monitoring Officer will refer the complaint to the Assessment Sub-committee. The Assessment Sub-committee will be asked to decide whether to take further action on the complaint. In making that decision the Assessment Sub-committee should consider the following criteria and checklist to decide whether it is in the public interest to take further action:

Considering the public interest test means looking at all the relevant information in the round and deciding whether it is reasonable and proportionate to take further action on the complaint.

There is no widely accepted definition of the public interest but has been described as "*something which is of serious concern and benefit to the public*". In this context, the public interest test requires a public authority to weigh the harm that would be caused by not investigating a complaint against the public interest served by carrying out an investigation. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).

Examples of factors which would tend to indicate there is not a public interest in investigating a complaint are:

- If the complaint is vexatious;

- Repetitive complaints; and
- Complaints about trivial matters.

Factors which would tend to indicate there is a public interest in proceeding with an investigation are:

- The complaint relates to a matter which affects a significant part of the district; and
- Complaints about serious misconduct.

These criteria in are not exhaustive and not all are relevant in each case.

- Is there **enough information** to satisfy the Sub-committee that the complaint should be referred for investigation or other action? If there is insufficient information, the decision of the Assessment Sub-committee should be to take no further action and inform the complainant that if they wish to provide further information, it will be considered afresh. This includes:
  - Contact details for the complainant.
  - Specifics about the conduct complained of - dates and times (where possible) and any potential witnesses.
- Has the complaint **already been the subject of an investigation** or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities? Is there anything to gain by a further investigation?
- Is the complaint about something that **happened so long ago** that there would be little benefit in taking action now?
- Is the complainant **too trivial** to warrant further action?
- Does the complaint appear to be simply **malicious, politically motivated or tit-for-tat**? If so, no further action should be taken.
- Is the conduct part of a **continuing pattern of less serious misconduct** that is unreasonably disrupting the business of the Authority and there is no other avenue left to deal with it, short of investigation?
- Has the complaint been submitted by a persistent complainer?
- Does this complaint indicate a wider problem at the Authority or a **breakdown in relationships**? Is alternative action more appropriate?
- Is the complaint serious enough to justify, if proven, the range of **sanctions available to the Determination Sub-Committee**?
- Does the complaint appear to be actually about the **dissatisfaction with a council decision** rather than member conduct?
- Is the complaint **anonymous**? If so, does it include documentary or photographic evidence indicating an exceptionally serious or significant matter?
- Has the complainant requested that their **identity be withheld**? If so, only grant the request if:

- (a) risk of physical harm to the complainant;
  - (b) risk to the employment of the complainant as an officer or service provider;
  - (c) risk from a serious medical condition relating to the complainant.
- Where the complainant asks to **withdraw their complaint** prior to the Sub-committee having made a decision, the Sub-committee will need to consider the request and in doing so will take into consideration:
    - (a) whether the public interest in taking such action outweighs the complainant's wish to withdraw it;
    - (b) whether such action can be taken without the complainant's participation;
    - (c) the reason for the request.

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## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## ASSESSMENT SUB-COMMITTEE - 14 DECEMBER 2020



<b>Title of Report</b>	<b>ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT</b>	
<b>Presented by</b>	Elizabeth Warhurst, Head of Legal and Commercial Services <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a>	
<b>Background Papers</b>	<a href="#">NWLDC Members' Code of Conduct</a>	<b>Public Report:</b> No
<b>Purpose of Report</b>	1. To consider the report of the Head of Legal and Commercial Services and Monitoring Officer.  2. To request that the Assessment Sub-committee determine what action should be taken.	
<b>Recommendations</b>	<b>THAT THE ASSESSMENT SUB-COMMITTEE MAKES A FINDING ON THE COMPLAINT AS SET OUT AT PARAGRAPH 5 OF THE REPORT</b>	

## 1. COMPLAINT

- 1.1 On 19 September 2020 the Monitoring Officer received a complaint from Councillor Kneale regarding Councillor G Allman, both members of Ashby Town Council. A copy of the complaint letter from Cllr Kneale is attached at Appendix A.
- 1.2 In summary, the complaint centred around the discussion which took place during the public question and answer session at the meeting of Ashby Town Council on 27 July 2020, the way that Cllr Allman had managed the meeting thereafter and that the events at the meeting did not appear to have happened spontaneously and had been planned with and by Cllr Allman. The meeting was being held remotely via Zoom.
- 1.3 Local events which occurred prior to the meeting provide some helpful context. Members will be aware of the international and national events which occurred following the death of Mr George Floyd in America on 25 May 2020. This included a number of anti-racism marches being held around the UK. On 20 June 2020 an anti-racism march was organised and held in Ashby in and around the town centre. The marches were held during the first COVID19 pandemic lockdown when there were restrictions in place governing the movement and gathering of the public.
- 1.4 A member of the public attended the Town Council meeting held on 27 July and asked questions about the anti-racism march which had taken place on 20 June and attendance at the march by some town councillors.
- 1.5 The agenda for the Town Council meeting on 27 July also included an anti-racism motion. A copy of the agenda for the meeting, including the motion is attached at Appendix B to this report. The Town Clerk has kindly provided the Monitoring Officer with an extract from the Zoom meeting which can be accessed via the link below:
- <https://web.microsoftstream.com/video/a6d7730d-f238-4d6a-9119-8401d8913cbf>
- 1.6 The extract is around 1 hour long. The public question and answer session begins at around 4.50 minutes into the recording and the discussion regarding the anti-racism motion at around 19.30 minutes. The Assessment Sub-committee are advised that it would be useful to listen to the extract in full to understand the complaint and relevant context.

- 1.7 In summary, the question from the member of the public led to the agenda item on the anti-racism motion being brought forward and this, in turn, led to a discussion about letters which a member of the town council had received regarding the conduct of two members of the town council, one being Cllr Kneale.
- 1.8 Cllr Kneale was concerned about this as she believed that it was suggested that she had taken place in an unlawful act by being part of the march and also that letters regarding her conduct were discussed in a public meeting. These concerns were exacerbated as Cllr Kneale believed that the discussion was not spontaneous and was planned by Cllr Allman.
- 1.9 A copy of the Ashby Town Members' Council Code of Conduct is attached at Appendix C.
- 1.10 Cllr Kneale has identified her concerns in respect of the following sections of the Town Council Members' Code of Conduct:

**“3. Respect.**

**3.1 You must treat others with respect.**

It is the collective responsibility of all Members to create a fair, safe and enjoyable environment for Members, Officers and Residents which is free from discrimination, intimidation and abuse.

**3.2 You must not:**

3.2.1 do anything which may cause the Town Council to breach the Equality Act 2010;

3.2.1 bully any person;

3.2.3 intimidate or attempt to intimidate any person who is or is likely to be:

- (i) a complainant;
- (ii) a witness; or
- (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct;

3.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Town Council.

**5. You must not.**

5.1 Conduct yourself in a manner which could reasonably be regarded as bringing the Town Council into disrepute.

5.2 Place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

5.3 Use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage including providing or offering to provide a reference for any candidate for employment or promotion with the Town Council.

5.4 Use or allow to be used Town Council resources improperly for political purposes (including party political purposes) and act in accordance with the Council's reasonable requirements.

## **6. You must.**

- 6.1 When reaching decisions on any matter have regard to any relevant advice provided to you by:
  - 6.1.1 Statutory Officers; or
  - 6.1.2 Senior Officers, where that officer is acting pursuant to his or her statutory duties.
  - 6.1.3 Any advice from a third party.
- 6.2 Give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.
- 6.3 Make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit.
- 6.4 Be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions, notwithstanding your other obligations under this Code.”

## **2. INFORMAL RESOLUTION PROCESS**

- 2.1 Under the arrangements for dealing with complaints about councillors adopted by the Council in 2012, the Monitoring Officer has the opportunity, in the early stages of a complaint, to work with parties to see whether it is possible to resolve the matter informally. The process does not involve deciding whether the Code has been breached or not. It is about identifying an issue of concern and looking for ways to resolve it to the satisfaction of both parties. Although informal resolution is generally very successful, there are some cases where it is not possible to resolve the complaint in this way. The Monitoring Officer will make a judgement on a case by case basis about whether and how far the informal route should be pursued before referring a matter to the Sub-committee for consideration.
- 2.2 In this case both Cllrs Allman and Kneale agreed to engage in the informal resolution process and the Monitoring Officer thanks both members for their time and co-operation. The Monitoring Officer corresponded and held a number of virtual meetings and telephone calls with both members to try and identify a mutually acceptable outcome.
- 2.3 An informal resolution meeting was held with the MO, Cllrs Allman and Kneale on 13 November 2020. Cllr Allman provided his initial response to the complaint. A copy of the summary of the informal resolution meeting is attached to this report at Appendix D. This note is not a verbatim record of the meeting but a summary of the key points discussed.
- 2.4 Following the meeting, Cllr Kneale has confirmed that she remains concerned about the issues which she raised under her complaint and that she wishes to pursue her complaint.
- 2.5 Cllr Allman has been advised that Cllr Kneale does not consider that her complaint has been fully addressed.
- 2.6 On the basis of the above, the Monitoring Officer has concluded that the informal resolution process has not been successful.
- 2.7 The Monitoring Officer is therefore requesting that the Assessment Sub-committee consider the matter and determine whether any further action should be taken by taking into account the criteria and public interest test set out for assessment of complaints. A copy of the criteria for assessment of complaints is attached at Appendix E.

- 2.8 The Monitoring Officer, subject member and complainant can seek guidance from the Independent Person (IP) at any point in the informal resolution process. The Monitoring Officer has briefed the IP and he has been invited to attend the meeting of this Sub-committee for the purpose of offering his perspective on the complaint.

### **3. INITIAL TESTS**

- 3.1 In order for the Members' Code of Conduct and associated complaints process to be engaged, 3 initial tests need to be met:

1. Does the complaint relate to a member within the NWLDC area, in office at the time of the conduct complained of?

Cllr Allman is a current serving member of Ashby Town Council.

2. Was the member acting in their capacity as a councillor at the time of the conduct complained of?

Cllr Allman was acting in the capacity as Councillor at the time of the conduct complained of as he was in attendance at a council meeting.

3. The complaint, if proven, would be a breach of the Code under which the member operates?

The complaint, if proven, could amount to a breach of the Code.

### **4. INFORMATION FROM THE COMPLAINANT AND SUBJECT MEMBER**

- 4.1 In accordance with the Council's adopted arrangements the complainant and subject members are not party to the Assessment Sub-committee. However, should any further information be provided by either Cllrs Allman and Kneale it will be reported to the Sub-committee.

### **5. ASSESSMENT OUTCOMES**

- 5.1 The following outcomes are available to the Sub-committee under the Arrangements adopted by Council:

5.1.1 Refer the complaint to the Monitoring officer to take other action.

5.1.2 Request further information from the parties.

5.1.3 Refer the complaint to the Monitoring Officer for investigation.

5.1.4 No action to be taken in respect of the complaint.

### **6. PUBLIC INTEREST TEST**

- 6.1 In considering whether or not to take any further action in respect of the complaint (including requesting an investigation), members are referred to the criteria for the assessment of complaints at Appendix E.

- 6.2 There is no widely accepted definition of the public interest but has been described as "*something which is of serious concern and benefit to the public*". In this context, the public interest test requires a public authority to weigh the harm that would be caused by not investigating a complaint against the public interest served by carrying out an investigation. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter

that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).

6.3 Examples of factors which would tend to indicate there is not a public interest in investigating a complaint are:

- If the complaint is vexatious;
- Repetitive complaints; and
- Complaints about trivial matters.

6.4 Factors which would tend to indicate there is a public interest in proceeding with an investigation are:

- The complaint relates to a matter which affects a significant part of the district; and
- Complaints about serious misconduct.

6.5 These criteria in Appendix E are not exhaustive and not all are relevant in each case.

## **7. CONSIDERATION AS TO WHETHER THE HEARING SHOULD BE HELD IN PRIVATE**

7.1 The Sub-committee will need to decide whether the meeting should be held in public or private. The Sub-committee will need to consider the public interest test. Is the public interest in holding the hearing in public outweighed or not by the public interest in excluding the press and public? The Sub-committee will need to make this decision at the start of the meeting. The agenda and report for this meeting have been exempt from publication to the press and public under paragraph 1 of Schedule 12A Local Government Act 1972 - information relating to any individual.

7.2 Under the Council's Arrangements there is a presumption in favour of the hearing being held in public unless it is considered appropriate for it to be held in private.

7.3 In considering this aspect of the hearing the Sub-committee needs to consider what information is being presented before them.

7.4 The issues arose in a public meeting of the Ashby Town Council and are, to a large extent in the public domain. It is not known whether there are any pending legal proceedings as mentioned in the recording of the Town Council meeting. These events referred to and involved other members of the Town Council who are not party to the Complaint.

## **8. REVIEW OF THE DECISION OF THE ASSESSMENT SUB COMMITTEE**

8.1 The Assessment Sub-committee has the authority to allow or not a right of review of their decision to take no further action taking into consideration the views of the Independent Person as referred to in 2.4 above.

8.2 However, the complainant should be advised that no review will be granted unless further / additional evidence is submitted to the Monitoring Officer. It will be the decision of the Monitoring Officer as to whether such additional evidence warrants another assessment.

8.3 This is to ensure a fair process and to avoid frivolous / vexatious appeals.

8.4 A request for review can be made at the time the Sub-committee makes its determination or within 30 days of the decision.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	Not applicable
Policy Considerations:	Constitution and Relevant Authority's Members' Code of Conduct
Safeguarding:	Not applicable
Equalities/Diversity:	Not applicable
Customer Impact:	Not applicable
Economic and Social Impact:	Not applicable
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Not applicable
Risks:	Not applicable
Officer Contact	Elizabeth Warhurst Head of Legal and Commercial Services <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a>

Likely to contain exempt information under paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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21<sup>st</sup> July 2020

Dear Councillor,

**NOTICE OF MEETING – ASHBY de la ZOUCH TOWN COUNCIL**

A meeting of the Ashby de la Zouch Town Council will be held remotely by Zoom at 6.30 p.m. on **MONDAY 27<sup>th</sup> JULY 2020** for the transaction of the business set out in the agenda below.

All members of the Town Council are hereby summoned to attend for the purpose of considering and resolving the business to be transacted at the meeting as set out below.

Please note: this is a rescheduled meeting following the cancellation of the meeting which was due to be held remotely on Monday 20<sup>th</sup> July 2020.

The Annexes have previously been served on members, by Royal Mail, prior to the cancelled meeting. It is not intended to re-serve these annexes.

Due to the Covid-19 pandemic the Town Council, and all of its Committees, will meet by Zoom for the foreseeable future.

To join the meeting by Zoom please use the following link:

<https://zoom.us/j/98709670125?pwd=M1FSUGoyeHFZSkpNellxcUc0QVpYZz09>

Meeting ID: 987 0967 0125

Passcode: 769956

Members of the public and the press are welcome to attend by using the above details. If you encounter any difficulties please contact the Town Council office by 1.00pm on the day of the meeting.

Yours sincerely,

Jack Fargher

Town Clerk

# AGENDA

1. **APOLOGIES.**

To receive apologies for absence.

2. **PUBLIC PARTICIPATION SESSION.**

Members of the public may ask questions, make representations, answer questions and give evidence in respect of the business on the agenda.

3. **DECLARATIONS OF INTEREST.**

To receive any Declarations of Interest in accordance with the Code of Conduct.

4. **DISPENSATIONS.**

To receive any applications for dispensation.

5. **CHAIRMAN'S REPORT.**

To receive a brief verbal report on the recent activities of the Mayor.

6. **MINUTES OF PREVIOUS MEETINGS.**

**Annex 1.**

To confirm the minutes of the following meetings:

- a. the public minutes of the Town Council held on Monday 27<sup>th</sup> January 2020;
- b. the confidential minutes of the Town Council held on Monday 27<sup>th</sup> January 2020;
- c. the public minutes of the Extraordinary General Meeting of the Town Council held on Monday 9<sup>th</sup> March 2020;
- d. the confidential minutes of the Extraordinary General Meeting of the Town Council held on Monday 9<sup>th</sup> March 2020;

7. **PLANNING & TRANSPORTATION COMMITTEE.**

**Annex 2.**

To receive and to adopt the minutes of the meeting of the Planning & Transportation Committee held on Monday 20<sup>th</sup> January, 24<sup>th</sup> February and 23<sup>rd</sup> March 2020.

8. **PARKS & CEMETERY COMMITTEE.**

**Annex 3.**

To receive and to adopt the minutes of the meeting of the Parks & Cemetery Committee held on Monday 2<sup>nd</sup> March

2020.

**9. ACCOUNTS. Annex 4.**

To approve, retrospectively, the payment of accounts as shown attached:

- i. £40,827.46;
- ii. £4,039.00;
- iii. £19,391.07;
- iv. £29,976.68;
- v. £28,217.71;
- vi. £36,126.71.

in the total sum of £158,578.63.

**10. ANNUAL GOVERNANCE STATEMENT 2019/20. Annex 5.**

To approve the Annual Governance Statement for the financial year ended 31<sup>st</sup> March 2020.

**11. ANNUAL ACCOUNTING STATEMENTS 2019/20. Annex 5.**

To approve the Annual Accounting Statements for the financial year ended 31<sup>st</sup> March 2020.

**12. MEETINGS SCHEDULE FOR THE REMAINDER OF THE YEAR.**

**Annex 6.**

To approve the draft schedule of meetings for the remainder of the municipal year 2020/21.

**13. ANNUAL REPORT 2019/20. Annex 7.**

To receive and note the Town Council's Annual Report for the year 2019/20.

**14. REPORT ON THE EXERCISE OF DELEGATED AUTHORITY. Annex 8.**

- a. To receive and note a written report from the Town Clerk on the exercise of delegated authority during the Covid-19 pandemic suspension of Town Council meetings;
- b. To approve a letter from the leader of the Town Council to all Town Council employees to thank them for their commitment throughout the Coronavirus crisis.

**15. 'ASHBY AGAINST RACISM' MARCH 20<sup>th</sup> JUNE 2020. Annex 9.**

- a. To receive and note a letter dated 23<sup>rd</sup> June 2020 written by the Leader of the Town Council to the organiser of the ‘Ashby Against Racism’ march on Saturday 20<sup>th</sup> June 2020;
- b. To consider the following motion from Councillor Dr. B. Kneale, seconded by Councillor Coxon:

*“Ashby Town Council has shown its commitment to equality, diversity and fairness, endeavouring to promote racial equality in all our activities through our Equality and Diversity policy.*

*Following world events, members of the Ashby de la Zouch community demonstrated its solidarity with “Black Lives Matter” and other anti-racist movements both in the UK and around the world with the peaceful “Ashby Against Racism” march to the Bath Grounds on the 20<sup>th</sup> June 2020.*

*Ashby Town Council welcomes this demonstration of anti-racist solidarity and restates its commitment to opposing all forms of racial discrimination and injustice.”*

**16. PROPOSED PURCHASE OF THE BATH GROUNDS. Annex 10.**

To receive and note a written report from the Town Clerk on progress on the application for a loan from the Public Works Loan Board in accordance with the resolution passed by the Town Council at its meeting on Monday 27<sup>th</sup> January 2020.

**17. MODEL MEMBER CODE OF CONDUCT CONSULTATION. Annex 11.**

To receive and note the Local Government Association Model Member Code of Conduct public consultation and to note that the deadline for responses is Monday 17<sup>th</sup> August 2020.

Ashby de la Zouch



Town Council

**CODE OF CONDUCT.**



LOCAL COUNCIL  
AWARD SCHEME  
QUALITY GOLD



# CODE OF CONDUCT.

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the Town Council.

The Code is underpinned by the following principles of public life (The 'Nolan Principles') which should be borne in mind when interpreting the meaning of the Code:

- (i) **Selflessness.** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
- (ii) **Integrity.** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
- (iii) **Objectivity.** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit;
- (iv) **Accountability.** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
- (v) **Openness.** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands;
- (vi) **Honesty.** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest;
- (vii) **Leadership.** Holders of public office should promote and support these principles by leadership and example.

## PART 1 - GENERAL PROVISIONS

### 1. Introduction and Interpretation.

1.1 You should read this Code in conjunction with the Town Council's Standing Orders and Financial Regulations;

1.2 This Code applies to **you** as a member of Ashby de la Zouch Town Council;

1.3. It is **your** responsibility to comply with the provisions of this Code and ensure all obligations are met.

1.4 In this Code:

**"Meeting"** means any meeting of:

(a) the Town Council;

(b) any of the Town Council's committees, sub-committees, or working parties;

1.5 "**Member**" means any person being an elected or co-opted member of the Town Council;

1.6 References to an authority's Monitoring Officer and an authority's Standards Committee shall be read, respectively, as references to the Monitoring Officer and the Standards Committee of the District Council which has functions in relation to the parish council for which it is responsible under Section 55(12) of the Local Government Act 2000.

## **2. Scope.**

2.1 You must comply with this Code whenever you:

2.1.1 are acting in the capacity of Member of the Town Council;

2.1.2 conduct the business of the Town Council (which, in this Code, includes the business of the office to which you are elected or appointed).

2.2 Where you act as a representative of the Town Council:

2.2.1 on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct;

2.2.2 on any other body, you must, when acting for that other body, comply with this Code of Conduct except in so far as it conflicts with any other lawful obligations to which that other body may be subject.

2.3 In addition to having effect in relation to conduct in your official capacity, the Code also has effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

## **3. Respect.**

**3.1 You must treat others with respect.**

It is the collective responsibility of all Members to create a fair, safe and enjoyable environment for Members, Officers and Residents which is free from discrimination, intimidation and abuse.

**3.2 You must not:**

3.2.1 do anything which may cause the Town Council to breach the Equality Act 2010;

3.2.1 bully any person;

3.2.3 intimidate or attempt to intimidate any person who is or is likely to be:

- (i) a complainant;
- (ii) a witness; or
- (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct;

3.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Town Council.

#### **4. Confidentiality.**

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

4.1.1 you have the consent of a person authorised to give it;

4.1.2 you are required by law to do so;

4.1.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

4.1.4 the disclosure is:

- (i) reasonable and in the public interest; and
- (ii) made in good faith and in compliance with the reasonable requirements of the Town Council.

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

#### **5. You must not.**

5.1 Conduct yourself in a manner which could reasonably be regarded as bringing the Town Council into disrepute.

5.2 Place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

5.3 Use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage including providing or offering to provide a reference for any candidate for employment or promotion with the Town Council.

5.4 Use or allow to be used Town Council resources improperly for political purposes (including party political purposes) and act in accordance with the Council's reasonable requirements.

#### **6. You must.**

6.1 When reaching decisions on any matter have regard to any relevant advice provided to you by:

6.1.1 Statutory Officers; or

6.1.2 Senior Officers, where that officer is acting pursuant to his or her statutory duties.

6.1.3 Any advice from a third party.

6.2 Give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

6.3 Make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit.

6.4 Be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions, notwithstanding your other obligations under this Code.

## **7. Accountability.**

You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office.

## **PART 2 - INTERESTS.**

### **8. Disclosable Pecuniary Interests.**

8.1 Subject to Paragraph 11 (sensitive interests), you must within 28 days of

(a) this code being adopted; or

(b) your election or appointment (where that is later)

Notify the Monitoring Officer of any Disclosable Pecuniary Interests where such interest is

(i) yours;

(ii) your spouse's or civil partner's;

(iii) somebody with whom you are living as husband and wife or civil partner;

(iv) that of your family; or

(v) close associate,

and you are aware that that person has the interest.

8.2 Subject to Paragraph 11, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Monitoring Officer in writing of that new interest or change pursuant to Paragraph 8.1.

8.3 You have a Disclosable Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State.

8.3 Where such an interest exists and has or has not been entered onto the authority's register, you must disclose the interest to any meeting of the authority at which you are present, where you have a Disclosable Interest in any matter being considered and where the matter is not a 'sensitive interest' or where no dispensation has been given.

8.4 Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.

8.5 Where you have a Disclosable Pecuniary Interest you must not remain in the meeting or participate in the discussions on the matter on which you hold that Interest.

## **9. Disclosable Non-Pecuniary Interests.**

9.1 Subject to Paragraph 11 (sensitive interests), you must within 28 days of

(a) this code being adopted or

(b) your election or appointment (where that is later) notify the Monitoring Officer of any Disclosable Non-Pecuniary Interests.

9.2 You have a Disclosable Non-Pecuniary Interest if it is of a description specified in Regulations made by the Secretary of State.

9.3 Where you have a Disclosable Non-Pecuniary Interest you may remain in the meeting, speak and vote on the matter unless to do would compromise your impartiality obligations or any other obligations set out in this Code.

## **10. Dispensations.**

10.1 Dispensations may be granted by the Proper Officer of the Town Council (the Town Clerk or the Deputy Town Clerk in his absence). The power rests with the relevant authority under section 33(1) of the Localism Act 2011 and the basis is set out under section 33(2).

10.2 Any Councillor who wishes to apply for a dispensation should complete a Dispensation Request Form and submit to the Proper Officer of the Town Council as soon as possible before the meeting at which the dispensation is required.

10.3 Applications may also be made at the Town Council meeting itself if the nature of the interest has only become apparent to a Councillor at that meeting.

## **11. Sensitive Interests.**

A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

## **GUIDANCE ON THE CODE OF CONDUCT.**

In accepting these obligations you are committed to behaving in a manner that aims to achieve best value for our residents and maintain public confidence in this authority by the character and behaviour you present while acting in the course of your public duty.

In your role as a Member for Ashby de la Zouch Town Council you must address the principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way your constituents, including those who did not vote for you - and putting their interests first;
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially;
- Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Town Council's area or the good governance of the authority in a proper manner;
- Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a member/co-opted member of the Town Council;
- Being accountable for decisions and co-operating when scrutinised internally and externally, including by local residents;
- Contributing to making the Town Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other members to account but restricting access to information when the wider public interest or the law requires it;
- Behaving in accordance with all legal obligations, alongside any requirements contained within the Town Council's policies, protocols and procedures, including on the use of the Town Council's resources;
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government;
- Always treating people with respect, including the organisations and public you engage with and those you work alongside;
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Town Council.

**Adopted by the Town Council at its meeting on Monday 2<sup>nd</sup> July 2012.**

**Revised at paragraph 10 at the Town Council meeting on Monday 26<sup>th</sup> November 2012.**

**Reviewed and re-adopted on Monday 13<sup>th</sup> May 2019.**

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**CONFIDENTIAL**

**NOTES OF AN INFORMAL RESOLUTION MEETING WITH CLRS KNEALE AND G ALLMAN OF ASHBY TOWN COUNCIL – 13 NOVEMBER 2020**

**(THIS IS A SUMMARY OF THE MAIN POINTS COVERED IN THE DISCUSSION, NOT A VERBATIM RECORD)**

**MEETING FACILITATED BY ELIZABETH WARHURST, HEAD OF LEGAL AND COMMERCIAL SERVICES AND MONITORING OFFICER, NWLDC**

EW introduced the meeting and thanked both Cllrs for attending. The meeting had been arranged by EW in response to a complaint which had been made about Cllr Allman by Cllr Kneale.

In summary, Cllr Kneale's complaint centered around the discussion which took place during the public question and answer session at the meeting of Ashby Town Council in July 2020, when Mr Jarmin was invited to speak. Mr Jarmin was asking questions regarding the Anti-racism march which had recently taken place in Ashby. This led to the agenda item on the anti-racism motion (and letter from Cllr Coxon) being brought forward and details of complaints which had been made about Cllrs Bigby and Kneale being discussed in an open meeting. Cllr Kneale was concerned about this as she believed that it was suggested that she had taken place in an unlawful act by being part of the march and also that the complaints about her and Cllr Bigby were referred to, when they were confidential. These concerns were exacerbated as Cllr Kneale believes that the discussion was not spontaneous and was pre planned.

Cllr Kneale confirmed that this was a good summary of her concern and she had some other questions to ask.

The following matters were discussed:

In response to a question from Cllr Kneale about how the information regarding the complaints about her and Cllr Bigby were shared with Cllr Harrison, Cllr Allman said that he had not seen the complaints which had been made.

In response to a question from Cllr Kneale about contact with Mr Jarmin outside the meeting, Cllr Allman advised that he had never met Mr Jarmin. He had only spoken to him on the telephone to give him some general advice about how to ask a question at a council meeting.

In response to a question from Cllr Kneale about whether Cllr Allman had attended the meeting with prepared statements suggesting that he had been in contact with Mr Jarmin outside the meeting, Cllr Allman said that he Mr Jarmin had asked about the process for asking a question at the meeting and he had prepared his chairmans notes to enable him to manage the meeting, which he had thought could be difficult. He had prepared a typed note to help him manage the meeting and respond to Mr Jarmin.

Cllr Allman said that he had a general discussion with Jack Fargher ahead of the meeting to enable preparations to be made for the meeting.

Cllr Allman said that Mr Jarmin had shared his general concerns about the conduct of Cllrs Kneale and Bigby and he had advised him that any complaint would need to be addressed to EW or JF.

In response to Cllr Kneale's concern regarding the statement he made about the "unlawful" nature of the BLM march, Cllr Allman stated that he made the statement in his role as Mayor of the ATC. The role of Mayor was an important civic role, with it only being second in line to the Crown. As

such he felt that it was important not to be seen as condoning the event and it was important to make a statement at the Council meeting. He advised that he had gone into Ashby on the day to show Leadership in this role.

In response to a question from Cllr Kneale about whether Cllr Allman accepted that his involvement and approach at the meeting had caused upset and distress, Cllr Allman said no.

EW asked whether Cllr Allman could understand that Cllr Kneale was upset and distressed (if he didn't accept a part in that), Cllr Allman said yes.

EW asked whether with the benefit of hindsight, he might have managed the situation at the meeting differently. Cllr Allman said that there were often unexpected situations arising at meetings and he would have preferred it if the complaints had not been mentioned. That said, couldn't think of any changes he would have made to the management of the meeting.

There was a discussion about the use of the term "sub-judice" which was used by Cllr Harrison in the meeting. EW advised that this means a matter which was already under a judicial process, and perhaps Cllr Harrison had meant the comment to refer to the complaints already having been submitted to the MO.

Cllr Kneale advised that she wished to reflect on the meeting and review the notes of the meeting from EW and consider how she wished to proceed with her complaint.

EW thanked both Cllrs Kneale and Allman for their time and attendance at the meeting.

**ASSESSMENT SUB-COMMITTEE**  
**CRITERIA FOR ASSESSMENT OF COMPLAINTS**  
**PUBLIC INTEREST TEST**

The following criteria ensure that only the most serious of cases which are in the public interest and appropriate should be referred for investigation or other action. The criteria sets a high threshold for considering complaints and should be adhered to by the Assessment Sub-committee (as well as the Review Sub-committee).

The following initial tests must be met:

- Does the complaint relate to a member within the NWLDC area in office at the time of the conduct complained of.
- Was the member acting in their capacity as a councillor at the time of the conduct complained of.
- The complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct. (The relevant District or Parish / Town Council Code.)

The Monitoring Officer will provide the Committee with relevant information concerning this issue as part of the report to the Assessment Sub-committee.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

If the complaint meets all of these tests the Monitoring Officer will attempt to resolve the complaint by Informal Resolution. If, for whatever reason, the informal resolution process is not successful, the Monitoring Officer will refer the complaint to the Assessment Sub-committee. The Assessment Sub-committee will be asked to decide whether to take further action on the complaint. In making that decision the Assessment Sub-committee should consider the following criteria and checklist to decide whether it is in the public interest to take further action:

Considering the public interest test means looking at all the relevant information in the round and deciding whether it is reasonable and proportionate to take further action on the complaint.

There is no widely accepted definition of the public interest but has been described as “*something which is of serious concern and benefit to the public*”. In this context, the public interest test requires a public authority to weigh the harm that would be caused by not investigating a complaint against the public interest served by carrying out an investigation. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).

Examples of factors which would tend to indicate there is not a public interest in investigating a complaint are:

- If the complaint is vexatious;

- Repetitive complaints; and
- Complaints about trivial matters.

Factors which would tend to indicate there is a public interest in proceeding with an investigation are:

- The complaint relates to a matter which affects a significant part of the district; and
- Complaints about serious misconduct.

These criteria in are not exhaustive and not all are relevant in each case.

- Is there **enough information** to satisfy the Sub-committee that the complaint should be referred for investigation or other action? If there is insufficient information, the decision of the Assessment Sub-committee should be to take no further action and inform the complainant that if they wish to provide further information, it will be considered afresh. This includes:
  - Contact details for the complainant.
  - Specifics about the conduct complained of - dates and times (where possible) and any potential witnesses.
- Has the complaint **already been the subject of an investigation** or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities? Is there anything to gain by a further investigation?
- Is the complaint about something that **happened so long ago** that there would be little benefit in taking action now?
- Is the complainant **too trivial** to warrant further action?
- Does the complaint appear to be simply **malicious, politically motivated or tit-for-tat**? If so, no further action should be taken.
- Is the conduct part of a **continuing pattern of less serious misconduct** that is unreasonably disrupting the business of the Authority and there is no other avenue left to deal with it, short of investigation?
- Has the complaint been submitted by a persistent complainer?
- Does this complaint indicate a wider problem at the Authority or a **breakdown in relationships**? Is alternative action more appropriate?
- Is the complaint serious enough to justify, if proven, the range of **sanctions available to the Determination Sub-Committee**?
- Does the complaint appear to be actually about the **dissatisfaction with a council decision** rather than member conduct?
- Is the complaint **anonymous**? If so, does it include documentary or photographic evidence indicating an exceptionally serious or significant matter?
- Has the complainant requested that their **identity be withheld**? If so, only grant the request if:

- (a) risk of physical harm to the complainant;
  - (b) risk to the employment of the complainant as an officer or service provider;
  - (c) risk from a serious medical condition relating to the complainant.
- Where the complainant asks to **withdraw their complaint** prior to the Sub-committee having made a decision, the Sub-committee will need to consider the request and in doing so will take into consideration:
    - (a) whether the public interest in taking such action outweighs the complainant's wish to withdraw it;
    - (b) whether such action can be taken without the complainant's participation;
    - (c) the reason for the request.

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