

# **NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

## **ASSESSMENT SUB-COMMITTEE - 25 SEPTEMBER 2018**

Title of report	<b>ALLEGATIONS OF A FAILURE TO OBSERVE THE CODE OF CONDUCT</b>
Contacts	Head of Legal and Commercial Services 01530 454762 <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a>
Purpose of report	<ol style="list-style-type: none"> <li>1. To consider the report of the Head of Legal and Commercial Services and Monitoring Officer.</li> <li>2. To request that the Assessment Sub-committee determine what action should be taken.</li> </ol>
Implications:	
Financial/Staff	There will be resource implications if the matter proceeds to investigation. The costs of an investigation can be met from existing budgets.
Link to relevant CAT	N/A
Risk Management	N/A
Equalities Impact Assessment	N/A
Human Rights	The Act and Regulations thereunder have taken account of human rights.
Transformational Government	The complainant may request a review of the decision of the Assessment Sub-committee to be heard by the Review Sub-committee.
Consultees	N/A
Background papers	<p>Local Government Act 2000 (<a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>).</p> <p>Local Government and Public Involvement in Health Act 2007 (<a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>).</p> <p>Localism Act 2011 (<a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>)</p> <p>Arrangements adopted by Council on 26 June 2012.</p> <p>NWLDC Local Assessment of Complaints Guidance.</p>

Recommendations	<b>THAT THE ASSESSMENT SUB-COMMITTEE MAKES A FINDING ON THE COMPLAINT AS SET OUT AT PARAGRAPH 5 OF THE REPORT.</b>
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## **1. COMPLAINTS**

- 1.1 The Sub-committee is requested to consider two complaints which have been made about Councillor Bridges by Mr Redfern and Mr Sharp. The complaints concern Councillor Bridges' actions in respect of a request to call in a planning application at Measham Road, Moira. Whilst the complaints broadly turn on the same facts, they have been dealt with separately by the Monitoring Officer up until this point. The complaints have been summarised below. The purpose of the summary is to provide members with sufficient information to make a decision about what to do with the complaint. The summary may contain copies of correspondence such as e-mails and letters. It is not intended to be exhaustive and contain every piece of correspondence on the matter. The correspondence would be made available to an investigator should the Sub-committee decide to request that the Monitoring Officer commission an investigation.
- 1.2 There is a history over a number of years of applications being submitted for the Measham Road site, of objections being made by local residents and ongoing concerns about the construction of the development particularly in relation to flooding. This report focuses on the allegations about Councillor Bridges' conduct in relation to application 17/01327 and the request to call-in the application to Committee, not the merits or otherwise of the planning applications on the site. The complainants' principal issue is that Councillor Bridges failed to call-in the application to Committee thus depriving them of the opportunity to make representations. In addition, it is alleged that Councillor Bridges was dishonest and mislead the complainants and others by providing various versions of the sequence of events surrounding call-in. The complainants believe both issues are breaches of the Members' Code of Conduct.

## **2. COMPLAINT 1 - MR SHARP**

- 2.1 Mr Sharp lives close to the Measham Road application site. The Monitoring Officer initially became aware of Mr Sharp's concerns in early 2018. Mr Sharp had written to the Chief Executive raising concerns about the development, potential breaches of planning conditions by the developers, the response and service from the Council's enforcement and planning teams and the actions of Councillor Bridges. The Monitoring Officer was asked to make some initial enquiries into the concerns raised about Councillor Bridges and respond to Mr Sharp on that point. The other issues raised by Mr Sharp were dealt with separately by other officers.
- 2.2 Mr Sharp's complaint was that Councillor Bridges had breached the Members' Code of Conduct by failing to call-in planning application 17/01327 on a request from Ashby Woulds Town Council and that had the effect of depriving the public of the opportunity to address the Planning Committee.
- 2.3 A copy of Mr Sharp's letter to the Chief Executive dated 8 December 2017 is attached at Appendix 1. A copy of the initial response from the Monitoring Officer is attached at Appendix 2.

- 2.4 Mr Sharp confirmed that he would like to make a formal complaint about Councillor Bridges on 2 April 2018.
- 2.5 The Monitoring Officer met with Mr Sharp on 1 May 2018 (a meeting which had been scheduled for 30 April 2018 had to be rescheduled due to the availability of the Monitoring Officer). Mr Sharp provided the Monitoring Officer with a Powerpoint presentation to explain his complaint. A copy of the presentation is attached at Appendix 3. The presentation set out the history of the development site, longstanding concerns from Mr Sharp's point of view, as well as details of the complaint about the call-in. Mr Sharp considered that Councillor Bridges had been dishonest, not supported the Nolan Principals and brought the Council into disrepute as a result.
- 2.6 During the meeting the Monitoring Officer explained the process for dealing with complaints which was adopted by the Council in 2012 (see below). Mr Sharp stated that he did not wish to take part in the informal resolution process. This was confirmed in an e-mail from Mr Sharp on 4 May 2018. The e-mail exchange between Mr Sharp and the Monitoring Officer is attached at Appendix 4.
- 2.7 The Monitoring Officer provided a status update to Mr Sharp on 12 June 2018. A copy of the e-mail is attached at Appendix 5.
- 2.8 Mr Sharp requested a further meeting with the Monitoring Officer on 7 August 2018. Mr Sharp wanted to update the Monitoring Officer on some information he had received from Ashby Woulds Town Council. Mr Sharp provided the Monitoring Officer with a Powerpoint presentation which is attached at Appendix 6.
- 2.9 Mr Sharp remained concerned about the sequence of events surrounding the call-in of application 17/01327. He is concerned that there are different versions of what happened. Initially Councillor Bridges stated that he had received the request to call-in the application from Ashby Woulds Town Council. He forwarded that to the Development Control Team on 10 October 2017 and on receipt of the draft planning report concluded that there were not sufficient grounds to call the application into Committee. Effectively, the potential grounds from the parish did not crystalize into grounds on which he was prepared to exercise call-in. Mr Sharp was concerned that the response from the Town Council set out a different version of events. It stated that Councillor Bridges believed that he had called in the application, having used the same procedure on other occasions.

### **3. COMPLAINT 2 - MR REDFERN**

- 3.1 Mr Redfern lives close to the Measham Road application site. The Monitoring Officer initially became aware of Mr Redfern's concerns in early 2018. Mr Redfern had been in correspondence with the then Head of Planning, raising concerns about the way that planning application 17/01327 had been dealt with. On 15 January 2018 Mr Redfern e-mailed the Monitoring Officer and requested that Councillor Bridges' involvement in the call-in of the application be looked into. Mr Redfern provided an extract from the minutes of Ashby Woulds Town Council (from 08.01.2018) in which Councillor Bridges stated that the application had been called in. A copy of the e-mail from Mr Redfern dated 15 February 2018 is attached at Appendix 7.
- 3.2 On 15 February 2018 the Monitoring Officer also received an e-mail from the clerk to Ashby Woulds Town Council requesting that the issue of call-in be clarified (Appendix 8).

- 3.3 Following the correspondence from Mr Sharp, Mr Redfern and Ashby Woulds Town Council, the Monitoring Officer met with Councillor Bridges and the planning case officer (separately) to establish the sequence of events surrounding the call-in of the application.
- 3.4 The Monitoring Officer responded to Mr Redfern on 21 March 2018 (Appendix 9).
- 3.5 Following further correspondence, Mr Redfern decided that he wished to make a formal complaint about Councillor Bridges' conduct. Mr Redfern met with the Monitoring Officer on 24 April 2018. Mr Redfern provided the Monitoring Officer with copies of annotated e-mail correspondence between himself and Councillor Bridges in support of his complaint. A copy of those papers is attached at Appendix 10. The Monitoring Officer explained the complaints process, invited Mr Redfern to give some thought to the outcomes he was seeking and consider whether he would be prepared to engage in the informal resolution process. Mr Redfern was initially reluctant to engage with the informal resolution process but on further consideration and advice from the Monitoring Officer decided that he would.
- 3.6 The Monitoring Officer met with Councillor Bridges on 1 May 2018. The purpose of that meeting was to outline the complaints which had been made by Mr Redfern and Mr Sharp, to discuss the complaints process and ask Councillor Bridges to consider whether he would be prepared to work with the Monitoring Officer and Mr Redfern to go through the informal resolution process. A copy of the e-mail dated 2 May 2018 from the Monitoring Officer to Councillor Bridges after the meeting is attached at Appendix 11.
- 3.7 The Monitoring Officer e-mailed Mr Redfern dated 2 May 2018 to update him on the meeting with Councillor Bridges and confirming Councillor Bridges' willingness to meet with Mr Redfern as part of the informal resolution process (Appendix 12).
- 3.8 There was an exchange of e-mails between Mr Redfern and the Monitoring Officer in which the wording of Mr Redfern's complaint was clarified as follows:
- "that Councillor Bridges has breached the Code of Conduct as he was not open and honest about the call-in request of the Measham Road application in both a series of e-mails to the complainant and by statements that he had made at Ashby Woulds Town Council meetings".
- 3.9 A meeting took place between Councillor Bridges, the Monitoring Officer and Mr Redfern on 4 June 2018. Mr Sebastian, Legal Team Manager, took notes of the meeting and circulated them to both Councillor Bridges and Mr Redfern afterwards. A copy of the note is attached at Appendix 13.
- 3.10 An outcome of the meeting was that Mr Redfern would set out any specific questions he had about the matter to Councillor Bridges via e-mail. Councillor Bridges would consider them and respond. Mr Redfern would consider the response and decide how he wished to move forward with his complaint.
- 3.11 Mr Redfern sent a list of questions to Councillor Bridges on 7 June 2018, attached at Appendix 14.
- 3.12 The Monitoring Officer contacted Councillor Bridges on 4 July 2018 and 13 August 2018 to find out whether progress had been made towards answering the questions posed by Mr Redfern (Appendix 15).

- 3.13 The Sub-committee will note that the Monitoring Officer requested that Councillor Bridges confirm whether he intended to respond to the questions by 24 August 2018. No response was received from Councillor Bridges and Mr Redfern confirmed that he wanted to pursue his complaint to the Sub-committee stage in an e-mail of 30 August 2018 (Appendix 16).
- 3.14 Subsequently and co-incidentally following a conversation with Councillor Bridges the Monitoring Officer learned that Councillor Bridges had not had access to his e-mails since mid August. He had not been aware of the deadline from the Monitoring Officer.
- 3.15 The Monitoring Officer sought support from IT Services to resolve the e-mail issue and clarified with Councillor Bridges whether he intended to respond to Mr Redfern's questions. Councillor Bridges confirmed that due to his current workload, he did not feel that he would be able to respond to the questions in the near future. He was conscious of the length of time the matter had been ongoing and did not wish to delay the matter further. The Monitoring Officer e-mailed both parties and confirmed the position on 5 September 2018 (Appendix 17).
- 3.16 The Monitoring Officer has concluded that the informal resolution process has not been successful and has therefore referred the matter to the Sub-committee, alongside the complaint from Mr Sharp, for consideration and decision.
- 3.17 The Monitoring Officer has consulted Mr Pearson, one of the Council's appointed independent persons on the matter before referring the complaints to Committee. Mr Pearson was supportive of efforts to resolve the complaints informally but understood that it was likely that the matter would need to be considered by the Assessment Sub-committee.

#### **4. INFORMAL RESOLUTION PROCESS**

- 4.1 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 the informal resolution is 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.
- 4.2 In this case the willingness of Mr Redfern and Mr Bridges to co-operate with the process is noted. However, for the reasons outlined above, informal resolution is has not been successful.

#### **5. INITIAL TESTS**

- 5.1 Councillor Bridges is a current serving member of North West Leicestershire District Council. He was in office at the time of the conduct complained of. The complaint could, if proven, lead to a breach of the Code of Conduct.

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

- 6.1 In response to a request from the Monitoring Officer, Mr sharp and Mr Redfern have confirmed that they have no additional information which they would like to make the

Monitoring Officer and Sub-committee aware of. They have both indicated that they are likely to attend the meeting in an observational capacity. Councillor Bridges has said that he is not able to attend the meeting but asked that an e-mail be brought to the attention of the Sub-committee. The e-mail, dated 13 September, is attached at Appendix 18.

## **7. ASSESSMENT OUTCOMES**

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

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

7.1.2 Request further information from the parties.

7.1.3 Refer the complaint to the Monitoring Officer for investigation.

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

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

8.1 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.

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

8.3 Relevant facts to consider would be:

- the correspondence which gives rise to the complaint or is relevant to it between the parties;
- the issue was raised in a public meeting of Ashby Woulds Town Council and Councillor Bridges' statement to the meeting was minuted;
- the parties have been made aware of the Standards Committee process, including the likelihood of meetings being held in public and have not requested that any documents are kept confidential.

8.4 The Sub-committee will need to decide whether the hearing 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.

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

9.1 The Assessment Sub-committee has the authority to allow or not a right of review of their decision to take no further action.

9.2 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.

- 9.3 This is to ensure a fair process and to avoid frivolous / vexatious appeals.
- 9.4 A request for review can be made at the time the Sub-committee makes its determination or within 30 days of the decision.

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