

STANDARDS COMMITTEE

26 JANUARY 2015

REPORT OF THE MONITORING OFFICER

A.1 HEARING TO DETERMINE OUTCOME OF EXTERNAL INVESTIGATION – FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

In accordance with the District Council's Complaints Procedure, the Monitoring Officer has considered that it is appropriate to report the external Investigation Report to the Standards Committee to conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

EXECUTIVE SUMMARY

A Complaint was received in February 2014 from a member of the public, Ms Tracey White regarding the actions of District Councillor, Stephen Mayzes under the Members' Code of Conduct and Complaints Procedure (**Appendix 1**), which was adopted by full Council on 26 November 2013. The Complaint was initially received by way of letter, and the Complainant was requested to transfer the content of the Council's Form. Both the original letter and complaint form were provided to the District Councillor.

The Complaint refers to a residents community group, which was formed following the gas explosion in Clacton-on-Sea in February 2014. Councillor Stephen Mayzes met with the admin team of the group on 6th February 2014. Councillor S. Mayzes was to be referred to as the Communications Officer and during the meeting on 6th February; Councillor Mayzes made some telephone calls with Morrisons Store regarding a contribution of diesel for the efforts of the community group.

It is alleged that Councillor S. Mayzes expressly stated, "I have managed to persuade Morrisons to give us a full tank of diesel and also persuaded him to still give you your flowers". This statement was made directly to the complainant but within the meeting of the community group.

It is also alleged that on the basis of this statement, the community group relied on the information and filled the tank up at a cost of £90. It was later confirmed by Morrisons that only £20 had been promised as a donation to the appeal.

It is alleged that Councillor S. Mayzes lied in respect of the donation and as a consequence, the community support fund suffered a loss of £90.

The complaint also makes reference to Councillor S. Mayzes stating he had personally received full tank of petrol from Tesco's.

On the basis of the actions, it is alleged that the Councillor has disregarded two of the Principles of Public Life, being Accountability and Honesty.

When the complaint was received, and after discussing the matter with the Councillor, it was decided, in accordance with the Complaints Procedure, that it merited early informal resolution. Councillor Stephen Mayzes initially offered an apology in February, however the Complainant did not find this acceptable. A further apology was offered by the Councillor in May 2014, however the Complainant still did not accept the apology, as it did not, in her view, address what she saw as the main allegation, being honesty.

Due to the fact that the informal resolution route had been attempted and had not proved successful, the Monitoring Officer issued a Decision Notice on 19th May 2014, confirming the decision to investigate. The Decision Notice and the second apology are attached to this Report as **Appendix 2**.

Both parties were informed of the decision to investigate and that the Council had appointed David Holt, Lead Lawyer within Legal Services at Suffolk County Council to undertake the investigation on the District Council's behalf.

The final report was received on 5th January 2015, which concludes that there is evidence that the Members' Code of Conduct has been breached (**Appendix 3**).

In accordance with the Council's procedures, paragraph 7.1.2, the Monitoring Officer has decided that this matter should be reported to the Standards Committee to conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

In March 2014, the Council's Standards Committee approved the Hearing Procedures, which are to be followed by the Committee when holding a hearing (**Appendix 4**). Both parties have been provided with a copy of the Report and the Procedures.

Consultation with the District Council's Independent Person:

The Independent Person (IP) has queried when the second complaint concerning the tank of fuel from Tesco's directly and personally to Councillor Mayzes is alleged to have taken place, as it was not clear from the Investigator's Report. On this part of the Complaint the IP felt he was unable to comment on whether a breach had occurred or not.

The IP did find that Councillor Stephen Mayzes refusal to agree to his interview being recorded disappointing, as one of the Seven Principles of the Code of Conduct is Accountability, which states "holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this".

In respect of the remaining parts of the Complaint, the IP was satisfied that the Investigator had tested the evidence to find a breach of honesty.

As a general comment the IP wished to add, that as a voice of the general public he considered that the length of time to resolve this matter was longer than he would have liked. Although it was appreciated that there had been an attempt to resolve the matter informally at the outset which took a couple of months, may be deadlines could be imposed during the investigation process to bring the matter to an earlier conclusion for future cases. Having said that, the IP wished to stress, a delay did not reduce the seriousness of a breach of the Code of conduct.

Monitoring Officer Recommendation:

Upon receipt of the Investigators Report, the Monitoring Officer sought to clarify that the evidence supported a failure to comply with the Sixth Principle, being Honesty and Paragraph 3.4 of the Code of Conduct for four of elements of the complaint. The Report concludes in Paragraph 7 that four of the five complaints were proved however, only Paragraph 7.2 made specific references to the Sixth Principle and 3.4 of the Code of Conduct.

The Investigator has confirmed that the reference to the Sixth Principle and Paragraph 3.4(a) should also apply to the findings of the second, third and fifth complaints, as well as the first (paragraphs 7.2, 7.3, 7.4 and 7.6).

The Sixth Principle of Public Life is "Honesty" and is defined, as "Holders of Public Office should be truthful".

Paragraph 3.4(a) of the Members' Code of Conduct states "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute".

The Monitoring Officer does agree with the IP that the summary of the evidence referred to in the Investigator's Report in connection with the element of the complaint regarding the tank of fuel from Tesco's is weaker (see paragraph 7.4 of the Investigators Report) and as it is one word against another, would not recommend a finding of a breach of the Code of Conduct for this allegation.

The Monitoring Officer agrees with the remaining conclusions that District Councillor Stephen Mayzes has failed to comply with the Members' Code of Conduct (paragraphs 7.2, 7.3 and 7.6 - pages 6 and 7 of the Investigation Report).

Members are reminded that the burden of proof for civil matters, which includes standards investigations is 'on a balance of probabilities' and through the investigation, the Investigator has considered the evidence submitted to him and on the balance of probabilities has found 4 of the 5 elements of the complaint proved. The only evidence or information supplied by the District Councillor to the Investigator through the process was the two apologies offered and the Committee when considering their finding should give some weight to this.

The Committee must reach their decision after following the Hearing Procedure, which allows the Investigator and the Councillor to present their cases in a structured manner, with the opportunity for the individuals and Members to ask questions.

The Committee must in accordance with the Localism Act 2011, consider the comments from the Independent Person and if the decision is contrary to the recommendation from both the External Investigator and the Monitoring Officer, the detailed decisions must be recorded and published within the Decision Notice.

If the Committee agree with the recommendation it must consider what action to take where a Member has failed to comply with the Code of Conduct and the available sanctions are referred to in paragraph 8 of the Council's Complaints Procedure.

RECOMMENDATION

That the Standards Committee determines whether Councillor Stephen Mayzes has failed to comply with the Members' Code of Conduct and considers what action, if any, the Committee should take as a result of the failure, after considering all representations.

APPENDICES

- Appendix 1 – Code of Conduct and Complaints Procedure (including the completed Complaint Form)
- Appendix 2 – Monitoring Officer's Decision 19th May 2014 (including the apology dated 6th May 2014).
- Appendix 3 - Investigation Report dated 5th January 2015
- Appendix 4 – Hearing Procedures

TENDRING DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT

1. Introduction

- 1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected office-holders. The Council has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.
- 1.2 The Code of Conduct applies to all elected Councillors, voting co-opted members and appointed members.

2. When does the Code of Conduct apply?

- 2.1 In this Code "meeting" means any meeting of
- (a) Tendring District Council ("the Authority");
 - (b) the Executive of the Authority
 - (c) any of the Authority's or its Executive's committees, sub committees joint committees, joint sub-committees, or area committees (including working parties); or
 - (d) informal meetings with other Members and/or Officers relating to the discharge of the Authority's functions.
- 2.2 The Code of Conduct applies—
- (a) whenever you conduct the business, or are present at a meeting, of the Authority; or
 - (b) whenever you act, claim to act or give the impression you are acting in the role of Member to which you were elected or appointed; or
 - (c) whenever you act, claim to act or give the impression you are acting as a representative of the Authority (including representation on outside bodies); or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a) and 3.5; or
 - (e) in respect of any criminal offence for which you have been convicted during your term of office.
- 2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.

- 2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

3. Rules of Conduct

- 3.1 As a Member of Tendring District Council you shall have regard to the Seven Principles of Public Life.

Selflessness Holders of public office should act solely in terms of the public interest.

Integrity Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty Holders of public office should be truthful.

Leadership Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These general principles are the underlying principles behind the rules of conduct set out below.

3.2 In fulfilling your **Duties and Responsibilities**

You must not:

- (a) breach your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) disrespect others;
- (c) bully or harass any person; or
- (d) do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.

3.3 **Information**

You must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 **Conduct**

You must:

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the Authority.
- (c) comply with any request of the authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

3.5 **Use of your Position**

You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the Authority—
 - (i) imprudently;
 - (ii) in breach of the Authority's requirements;

- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

3.6 Decision Making

You must:

- (a) when participating in meetings or reaching decisions regarding the business of the Authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the Authority's officers, in particular by—
 - (i) the Authority's head of paid service;
 - (ii) the Authority's s.151 Officer/ Chief Finance Officer;
 - (iii) the Authority's Monitoring Officer/ Chief Legal Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3.7 Compliance with the Law and the Authority's Rules and Policies

You must:

- (a) observe the law and the Authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) comply with the provisions of the Bribery Act 2010 or similar;
- (c) comply with the Authority's Gifts and Hospitality Policy;
- (d) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code for Members, or similar.

PART 2 MEMBERS' INTERESTS

4. Disclosable Pecuniary Interests

- 4.1 You have a Disclosable Pecuniary Interest in any business of your authority if it is of a description set out in 4.2 below and is either:
- (a) an interest of yours,
or that of a Relevant Person being:
 - (b) an interest of your spouse,
 - (c) an interest of your civil partner, or
 - (d) an interest of a person you are living with as a spouse or civil partner,

and in the case of paragraphs 4.1(b) – (d) you are aware that the Relevant Person has the interest.

- 4.2 “Disclosable Pecuniary Interests” are defined by *The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* and are:-

Employment, office, trade, profession or vacation

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or provision of any other financial benefit (other than from the relevant Authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a Member, or towards the election expenses of the Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant Authority—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land

Any beneficial interest in land which is within the area of the relevant Authority.

Licences

Any licence (alone or jointly with others) to occupy land in the area of the relevant Authority for a month or longer.

Corporate tenancies

Any tenancy where (to the Member's knowledge)—

- (a) the landlord is the relevant Authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

- (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant Authority; and
- (b) either—
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

5. Other Pecuniary Interests

- 5.1 You have a Pecuniary Interest in any business of the Authority where it relates to or is likely to affect:
- (a) any person or body who employs or has appointed you;
 - (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraphs 6.1 (a)-(b) which has been fully discharged within the last 12 months;

6. Non-Pecuniary Interests

- 6.1 You have a Non-Pecuniary Interest in any business of the Authority where it relates to or is likely to affect –
- (a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
 - (b) any body –
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);of which you are a member or in a position of general control or management;
 - (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

- (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of their family or friends to a greater extent than the majority of:-
 - (i) (in the case of Authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.

7. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 7.1 Subject to sub-paragraphs 7.2 to 7.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 7.2 Sub-paragraph 7.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 7.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 7.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 7.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's Monitoring Officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 7.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 7.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

8. Disclosure of Interests generally

- 8.1 Subject to sub-paragraph 8.2 below, you have a duty to disclose any interest, as set out in paragraphs 5 and 6 above, in considering any business of the Authority, where that interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 8.2 You do not have a disclosable interest in any business of your Authority where that business relates to the functions of your Authority in respect of:
- i. housing, where you are a tenant of your Authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv. an allowance, payment or indemnity given to Members;
 - v. any ceremonial honour given to Members; and
 - vi. setting Council Tax or a Precept under the Local Government Finance Act 1992

9. Effect of Disclosable Pecuniary Interests on participation

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's Monitoring Officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i) exercise executive functions in relation to that business; and
 - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that

function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

10. Effect of Other Pecuniary or Non-Pecuniary Interests on participation

- 10.1 If you have a pecuniary interest (other than a disclosable pecuniary interest) or a non-pecuniary interest in any business of your Authority which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-
- (a) Disclose the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)
 - (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making your representations or in any other case when the business is under consideration, unless you have obtained a dispensation from your authority's Monitoring Officer

PART 3 REGISTER OF MEMBERS' INTERESTS Registration of Members' Interests

11.1 Subject to paragraph 12, you must, within 28 days of—

- a. this Code being adopted by or applied to your authority; or
- b. your election, re-election or appointment or re-appointment to office (where that is later), or co-option onto the authority,

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) disclosable pecuniary interests as referred to in paragraph 4 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- 11.2 Subject to paragraph 12, you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 4 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any interest registered under paragraph 4 above by providing written notification to your authority's Monitoring Officer.

12. Sensitive Information

- 12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 4 or other Pecuniary Interest referred to in paragraph 5, and the nature of the interest is such that you and your authority's Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 18.1 is no longer sensitive information, notify your authority's Monitoring Officer.
- 12.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

TENDRING DISTRICT COUNCIL COMPLAINTS PROCEDURE

1. Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member (with voting rights) of this Authority (‘Tendring District Council’ or of a Town or Parish Council within its area (see 1.3.below)) has failed to comply with the Member Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Member Code of Conduct.
- 1.2 Under **Section 28(6) and (7) of the Localism Act 2011**, Tendring District Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the Authority (*or of a Town or Parish Council within the authority’s area*), or of a Committee or Sub-Committee of the Authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Town and Parish Councils within the Tendring District are set out on the Council’s website.
- 1.4 Such arrangements must provide for the District Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation against a Member, which it has decided shall be investigated, and whose views can be sought by the District Council at any other stage. The Council has adopted an Independent Person Protocol which sets out some general principles.

2. The Member Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available on the website or on request from reception at the Council Offices.
- 2.2 Each Town or Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should visit the website operated by the Town or Parish Council or request the Town or Parish Council Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3. Making a complaint

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

The Monitoring Officer, Tendring District Council
Corporate Services, Town Hall, Station Road
Clacton-on-Sea Essex CO15 1SE

standards@tendringdc.gov.uk

The Complaints Form can be downloaded from the website.

3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the system in respect of complaints of member misconduct. This information will be retained by the Council for a period of two years in accordance with its Retention and Destruction Policy. The Council has adopted a Monitoring Officer Protocol which sets out some general principles.

3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form which is available on request from the reception at the Council Offices or via the website. You must also include all relevant information relating to the complaint which you have to enable it to be fully considered.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. The name and address of a complainant will be provided to the member that is the subject of the complaint. In exceptional cases, we may agree to withhold your name and address from the member. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form along with the reasons why you feel it is necessary for your name and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.

3.4 The authority does not normally investigate anonymous complaints, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

3.5 Following receipt of your complaint, the Monitoring Officer will: -

- (a) acknowledge receipt of your complaint within 5 working days of receiving it;
- (b) notify, within 5 working days, the member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless this is to be withheld in accordance with section 3.3 above; and
- (c) keep you and the Member that is the subject of the complaint informed of the progress of your complaint.
- (d) Your complaint will be given a reference number which will appear on complaint documentation to preserve the privacy of the complainant and the subject Member until the complaint outcome is determined.

3.6 The Complaints Procedure Flowchart is set out at the end of this procedure for reference.

3.7 The Complaints Procedure follows the principles of natural justice and the presumption of innocence until proven otherwise.

4. Will your complaint be investigated?

4.1 The Monitoring Officer will review every complaint received and, may consult with one of the Independent Persons before taking a decision as to whether the complaint:

4.1.1 Merits no further action

4.1.2 Merits early informal resolution or mediation

4.1.3 Merits further investigation.

4.2 In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take account of the following factors where appropriate:-

- Was the Member acting in their official capacity?
- Was the Member in office at the time of the alleged misconduct?
- Is the complaint of a very minor or trivial nature?
- Is the complaint vexatious or malicious?
- Are there historical matters?
- Is there a potential breach of the Code?
- Assessment of public interest?
- Is additional information required prior to making a decision?

4.3 The decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria included at **Annex D (set out at the end of this procedure for reference)**.

Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision. The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint. Information may be requested from the member against whom your complaint is directed to enable the Monitoring Officer to take the decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.

Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer *may* also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

Any failure to comply with the time scale by the Monitoring Officer or parties concerned will be notified to the Standards Committee or Sub-Committee together with reasons for the delay and the member subject of the complaint and the complainant will be kept informed of progress and reasons for the delay.

4.4 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally through informal resolution, without the need for a formal investigation. Such informal resolution may involve notifying the Group Leader and the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or

agreeing to mediation and/or other remedial action by the authority. Where the Member or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

Where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required for informal resolution or mediation; this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.

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

5. Referral to the Standards Committee or Sub-Committee and how is the Investigation conducted?

(The Committee and Sub-Committee Terms of Reference are included at **Annex C (set out at the end of this procedure for reference)**).

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints a summary of which is attached as **Annex E (set out at the end of this procedure for reference)**.

The Council has a Town and Parish Councils' Standards Sub-Committee which has responsibility for dealing with complaints regarding the actions of a Town or Parish Councillor, reference to the Sub-Committee throughout this procedure relates to the Town and Parish Council's Standards Sub-Committee.

- 5.2 If the Monitoring Officer decides that a complaint merits further investigation without referral to the Standards Committee or Sub-Committee, he/she will commission the investigation to be undertaken by a suitably qualified investigator with requisite experience and may include another officer of the Council, a senior officer of another authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained.

When deciding that a complaint merits further investigation, the Monitoring Officer may, in exceptional circumstances, refer the matter to the Council's Standards Committee or Sub-Committee, with a recommendation together with any information received from either the complainant or member who is the subject of the complaint. The Committee or Sub-Committee, upon consideration of this recommendation and information, may decide that the complaint merits no further action, conciliation or similar resolution.

- 5.3 The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet you or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen and who needs to be interviewed.

- 5.4 As referred to in section 3.5, upon receipt of your complaint the member that is the subject of the complaint will ordinarily be informed that you have made a complaint about them and will be provided with details of the complaint. If an investigation is to be undertaken, the Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with full details of your complaint, (including your name and address but excluding any additional or sensitive personal information) and formally ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is felt appropriate to continue to keep your identity confidential or where disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay providing full details of the complaint to the member until the investigation has progressed sufficiently.
- 5.5 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will, in all cases, send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matters in that draft report which you disagree with or which you consider requires more consideration.
- 5.6 Having received and taken account of any comments which you, or the Member that is the subject of the complaint, may make on the draft Investigation Report, the report will be finalised. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer together with a conclusion as to whether the evidence supports a finding of failure to comply with the Code of Conduct.
- 6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- 6.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer’s report and may consult with the Independent Person(s). If he/she is satisfied that the Investigating Officer’s report is sufficient, the Monitoring Officer will write to you and to the member concerned (*and, if appropriate, to the Town and Parish Council, where your complaint relates to a Town or Parish Councillor*), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigation Final Report. The Monitoring Officer will also notify the Standards Committee or Sub-Committee and the relevant Independent Person.
- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

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

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either refer the matter for a hearing before the Standards Committee or Sub-Committee or in consultation with one of the Independent Persons seek an informal resolution or mediation.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with one of the Independent Persons and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or mediation and/or other remedial action by the Authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee or Sub-Committee (*and the Town or Parish Council*) for information, but will take no further action.

7.1.2 Hearing

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

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

The Members of the Standards or Sub-Committee, after hearing all the evidence and information, may adjourn the meeting for a short period and deliberate together in private. The hearing will then be reconvened and the Decision will be announced in public. It is expected that this will usually be on the same day.

The Standards Committee or Sub-Committee, with the benefit of any comments or advice from one of the Independent Persons, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the decision is contrary to a recommendation from the Investigating Officer and/or Monitoring Officer, detailed reasons will be required to be published in the Decision Notice. The Decision of the Standards Committee or Sub-Committee will also be reported to the next meeting of Full Council.

If the Standards Committee or Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Committee or Sub-Committee will then consider what action, if any, the Committee or Sub-Committee should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Committee or Sub-Committee will give the Member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

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

8.1 The Standards Committee or Sub-Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee or Sub-Committee may:-

- 8.1.1 Publish its findings in respect of the Member's conduct on the Council's website;
- 8.1.2 Report its findings to Council (*or to the Town or Parish Council*) for information;
- 8.1.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.1.5 Instruct the Monitoring Officer to (*or recommend that the Town or Parish Council*) arrange training for the member;
- 8.1.6 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that the Member be removed (*or recommend to the Town or Parish Council that the Member be removed*) from all outside appointments to which he/she has been appointed or nominated by the authority (*or by the Town or Parish Council*);
- 8.1.7 Recommend to relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the withdrawal of (*or recommend to the Town or Parish Council that it withdraws*) facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or

- 8.1.8 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the exclusion of (*or recommend that the Town or Parish Council exclude*) the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 In each circumstance, where the Member subject of the complaint is the Group Leader, appropriate alternative arrangements will be required, this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.
- 8.3 In each circumstance, where the Standards Committee or Sub-Committee recommend the Group Leaders take action, it is expected that the Group Leader will within 6 weeks of the referral to them, or as soon as reasonably practicable thereafter, submit a report back to the Standards Committee or Sub-Committee giving details of the action taken or proposed to comply with the Committee's direction.
- 8.4 The Standards Committee or Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' special responsibility allowances.

9. What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chairman will state the decision of the Standards Committee or Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee or Sub-Committee resolves to take.
- 9.2 Within 5 days, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the relevant Chairman of the Standards Committee or Sub-Committee, and send a copy to you and to the Member (*and to the Town or Parish Council if appropriate*), make that Decision Notice available for public inspection and, report the decision to the next convenient meeting of the Council for information.
- 9.3 Should a police investigation result in a Member being convicted of a criminal offence the Monitoring Officer in consultation with an Independent will determine whether it is in the public interest for the matter to be reported to Council for information. In such circumstances the Group Leader will also be consulted and notified of the decision accordingly.

10. Who forms the Standards Committee or Sub-Committee?

- 10.1 The Standards Committee will comprise of 7 District Councillors;
- 10.2 The Standards Town and Parish Sub-Committee will comprise of 3 District Councillors and 3 Town and Parish Councillors (nominated by the Association of Local Councils);

- 10.3 At least one of the three Independent Persons must have been consulted on their views and taken into consideration before the Standards Committee or Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who are the Independent Persons?

- 11.1 The Council has appointed three Independent Persons to support the Standards Committee and Sub-Committee.
- 11.2 An Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.
- 11.3 Section 28 (8) of the Localism Act 2011 provides the definition and restriction of the Independent Person. The Council has adopted an Independent Person Protocol which sets out some general principles.

12. Revision of these arrangements

The Council may by resolution agree to amend these arrangements, upon the advice of the Monitoring Officer where it is necessary, fair, proportionate and expedient to do so.

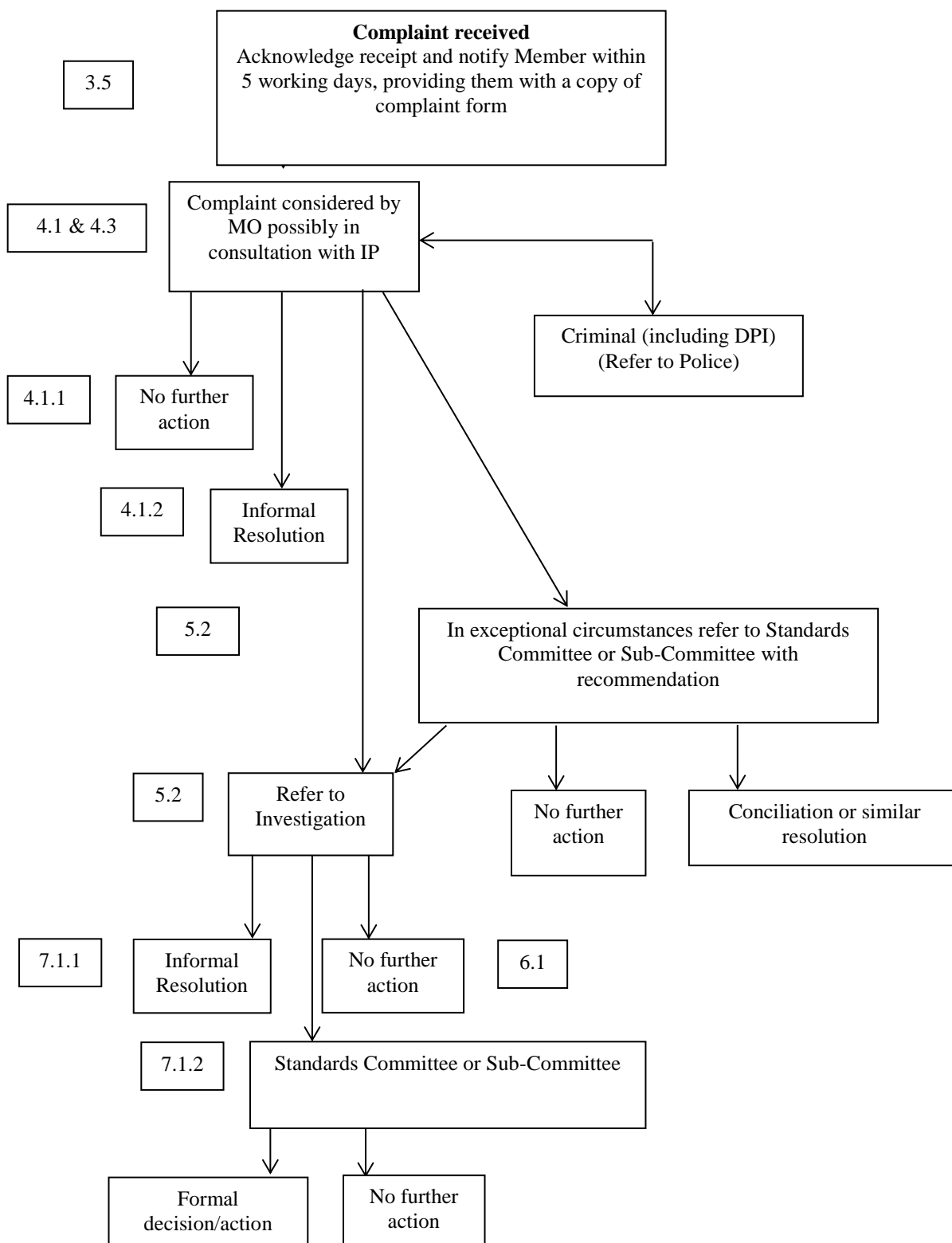
13. Appeals

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

ANNEX B

This Flowchart is to be read in conjunction with the Tendring District Council's Complaints Procedure

(Reference is made to the relevant paragraphs of the Procedure in the boxes on the left hand side)



ANNEX D

CONDUCT COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation or to the Standards Committee or Sub-Committee

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

Complaints which may be referred to the Standards Committee or Sub-Committee

1. It is serious enough, if proven, to justifying the range of sanctions available to the Standards Committee or Sub-Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to consider; or
4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to consider; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to consider.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers’ and Members’ time. This is an important consideration where the complaint is relatively minor.

ANNEX E

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

1. Planning Stage:

Upon receipt of an instruction to carry out an investigation the Investigator should :-

- Acknowledge receipt of the instruction to conduct the investigation.
- Maintain a written record throughout the investigation.
- Assess whether any additional information is required from the complainant.
- Identify the paragraph(s) of the Member Code of Conduct that are alleged to have been breached.
- Identify the facts which will need to be determined to establish if the Member has breached the Member Code of Conduct.
- Identify the evidence that is needed to determine the issues.
- Consider how to undertake the evidence gathering.
- Identify how long it is likely to take to conduct the investigation.

2. Evidence Gathering Stage:

- Contact the complainant to request any supporting or documentary evidence relating to the complaint.
- Contact the subject member with details of the complaint and seek an explanation.

3. Interview Stage:

- Identify witnesses.
- Arrange interview dates.
- Conduct interviews (with complaint, subject member and witnesses).

4. Report Stage:

- Review evidence from interviews and any documentary evidence provided.
- Draft the report to contain :-
 - Agreed facts
 - Facts not agreed and corresponding conflicting evidence
 - Conclusions as to whether a breach has occurred.
 - Where a draft report is issued this will be supplied to both the complainant and subject member for comment.

In all cases the Investigator will issue a final report and the Monitoring Officer will then determine appropriate action to be taken in line with the report conclusion



**Complaint alleging a breach of the Members' Code of Conduct
by a Tendring District Councillor or Town/Parish Council**

COMPLAINTS FORM

YOUR DETAILS

Name:

TRACEY WHITE

Address:

11 PURLEY WAY

CLACTON-ON-SEA

ESSEX

Post Code: CO16 8YX

Telephone (day): 01255 224391 Telephone (eve): 01255 224391

E-mail address: BERYLTHERPERYK2@sky.com

Please identify which complainant type best describes you:

- A member of the public
- An elected or co-opted member of an authority
- A Standards Committee Independent Person
- Member of Parliament
- Local Authority Monitoring Officer
- Other council officer or authority employee
- Other (please specify):

Confidentiality

A copy of your complaint (as set out in this form), together with your name and address will be provided to the Member that is the subject of your complaint. In exceptional cases, we may agree to withhold your name and address from the Member. If you want to keep your name and address confidential, please indicate this in the space provided below along with the reasons why you feel it is necessary for the name



and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

Please note that the Monitoring Officer is unlikely to withhold your identity or the details of your complaint unless you have a good reason to believe that not to do so would impede the Council's ability to deal with your complaint or would have personal safety or other serious implications for you or your family.

If you make a request for your name and address to be withheld, the Monitoring Officer will advise you of the decision on this before disclosing your details to the Member that is the subject of your complaint.

Please insert your reasons requesting your name and address to remain confidential in the box below:

The Council will not normally accept an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

As with all personal data provided to the Council, your personal data will be held in accordance with the Data Protection Act 1998.



YOUR COMPLAINT

Please state which Councillor(s) your complaint is about			
Title	First name	Last name	Council name
MR	STEPHEN	MAYZES	COUNCILLOR

Please indicate below which paragraph(s) of the Code of Conduct you believe have been breached. Please note that it is not possible to proceed without reference to Code:

SECTION 3, 3.1

ACCOUNTABILITY: HOLDERS OF PUBLIC OFFICE ARE ACCOUNTABLE TO THE PUBLIC FOR THEIR DECISIONS AND ACTIONS AND MUST SUBMIT THEMSELVES TO THE SCRUTINY NECESSARY TO ENSURE THIS

SELFLESSNESS: HOLDERS OF PUBLIC OFFICE SHOULD ACT SOLELY IN TERMS OF THE PUBLIC INTEREST

HONESTY: HOLDERS OF PUBLIC OFFICE SHOULD BE TRUTHFUL

3.3 INFORMATION (A) YOU MUST NOT DISCLOSE CONFIDENTIAL INFORMATION, WHICH SHOULD BE REGARDED AS BEING OF A CONFIDENTIAL NATURE ~~INFORMATION~~ WITHOUT THE EXPRESS CONSENT OF A PERSON AUTHORIZED TO GIVE CONSENT, UNLESS REQUIRED TO DO SO

Please explain below (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct.

If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.



It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when they decide whether to take any action on your complaint. For example:

- You should be specific, wherever possible; about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said and how that affected you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information including any evidence you hold which supports the complaint.

.....
ON WEDNESDAY 5TH FEBRUARY 2014, THERE WAS A GAS
EXPLOSION IN CLOES LANE, CLACTON-ON-SEA, MR STEPHEN
MAYZES BECAME INVOLVED DUE TO THIS BEING HIS CONSTITUENCY.
AT ONE POINT ON DAY 2 (6TH FEB) ONE OF THE ADMIN TEAM
(WHO HAD BECOME PART OF THE FACEBOOK PAGE APPEALING FOR
SUPPORT AND DONATIONS) SAID THAT HE HAD MANAGED TO
BORROW A VAN FOR USE IN PICKING UP DONATIONS, BUT WOULD
HAVE TO SUPPLY THE DIESEL WE USED. I HAD BEEN DEALING
WITH MORRISONS AT LITTLE CLACTON, REGARDING A SEPARATE ISSUE
AND THEY HAD PROMISED ME SOME FLOWERS AND WINE. I SUGGESTED
THAT I PHONE MORRISONS AND ASK IF THEY WOULD EXCHANGE MY
FLOWERS AND WINE FOR £20 WORTH OF DIESEL. I TELEPHONED
THE MANAGER (STEVE LEADER) WHO SAID HE WOULD HAVE TO CHECK
THAT THIS WAS OK, AND WOULD CALL ME BACK. WHEN HE CALLED
BACK, STEPHEN MAYZES WAS STANDING NEAR ME, AND AS HE
WAS BILLING HIMSELF AS THE 'COMMUNICATIONS OFFICER' ON
THE DAY, HE TOOK THE PHONE FROM ME TO EXPLAIN WHAT WAS
GOING ON. STEPHEN MAYZES THEN DISCONNECTED THE CALL,
HANDING ME BACK THE PHONE (AFTER WALKING AWAY SO I DID NOT
HEAR HIS CONVERSATION) AND SAID "I HAVE MANAGED TO PERSUADE
MORRISONS TO GIVE US A FULL TANK OF FUEL, AND TOLD HIM



THAT YOU STILL DESERVED TO GET YOUR FLOWERS BECAUSE OF YOUR HARD WORK'. HE THEN WENT INTO THE OTHER ROOM AND REPEATED THE STORY TO AT LEAST 6 DIFFERENT PEOPLE. SHORTLY AFTER THIS, STEPHEN MAYZES DISAPPEARED, AND APART FROM CALLING INTO COPINS HALL FOR A COUPLE OF MINUTES, WE (NOR THE FAMILIES INVOLVED IN THE INCIDENT) HAVE ^{NOT} SEEN HIM SINCE.

WHEN THE VAN NEEDED TO BE REFUELED, THE VAN WAS FILLED UP, AND THE DRIVER WENT INTO MORRISONS PETROL STATION, EXPECTING THE FUEL TO BE FREE. HE WAS TOLD THAT THERE WAS NO AGREEMENT FOR A FULL TANK OF FUEL, ONLY £20 THAT I ~~HAD~~ HAD ORIGINALLY ASKED FOR. DANNY MAYZES THEN CONTACTED ANOTHER ADMIN. TO ASK WHY I HAD TAKEN SO LONG TO TAKE MORRISONS UP ON THEIR OFFER AND IT WAS MY FAULT WE HAD LOST THE FULL TANK OF FUEL! I RANG THE MANAGER OF MORRISONS, AND HE CONFIRMED THAT IT WAS ONLY EVER AN OFFER OF £20, AND THAT HE HAD SAID I WOULD STILL GET MY FLOWERS AS THAT WAS A SEPARATE ISSUE.

SO WITHIN SECONDS OF STEPHEN MAYZES PUTTING DOWN THE PHONE, HE HAD LIED THAT MORRISONS HAD AGREED TO A FULL TANK OF FUEL AND HE LIED WHEN HE SAID THAT HE HAD PERSUADED THE MANAGER TO STILL GIVE ME FLOWERS, AND HE THEN REPEATED THE LIE IN FRONT OF OTHER PEOPLE. WHAT ALSO ANNOYS ME IS THAT I HEARD THAT TESCO'S DONATED A FULL TANK OF PETROL FOR HIS CAR FOR 'ALL THE RUNNING AROUND' HE WOULD BE DOING. I HAVE SPOKEN TO THE FOUR MAIN FAMILIES INVOLVED, AND APART FROM SENDING THE CHILDREN INVOLVED ON AN ADVENTURE DAY (AT HIS OWN PRIVATE BUSINESS) HE HAS NOT CONTACTED ANY OF THE FAMILIES TO SEE IF THEY NEEDED HELP OR ADVISE. P.T.O.



.....
TO THEN RECEIVE A MESSAGE VIA DANNY TO ANOTHER ADMIN
IS DISCOSTING, AS STEPHEN MAYZED HAD ALL OF MY
CONTACT DETAILS, AND COULD HAVE CALLED OR MESSAGED
ME DIRECTLY
HE ALSO PUBLISHED PART OF THE MINUTES OF A PRIVATE COUNCIL
MEETING ON OUR FACEBOOK PAGE, THANKING EVERYONE FOR THE
COMMUNITY EFFORT INVOLVED IN THE AFTERMATH OF THE EXPLOSION,
BUT HAD NOT BEEN GIVEN PERMISSION BY THE COUNCIL TO DO
THIS
.....
.....

Please continue on a separate sheet if there is not enough space on the form.

Signed: ...*[Signature]*..... Dated : ...07/03/14...
(To be signed by the person making the complaint)

Additional Information

Further details can be found in the Code of Conduct Complaints Procedure, which is available on the Council's website or by emailing or telephoning the Council's Monitoring Officer (details below).

- If you wish to make a complaint, please complete the official complaints form and send or email it to:

The Monitoring Officer,
Tendring District Council
Corporate Services,
Town Hall, Station Road
Clacton-on-Sea
Essex CO15 1SE

standards@tendringdc.gov.uk

- Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.



We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

- Following receipt of your complaint, the Monitoring Officer will: -
 - a) Acknowledge receipt of your complaint within 5 working days of receiving it;
 - b) Notify, within 5 working days, the Member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless the Monitoring Officer has agreed to this being withheld;
 - c) Keep you and the Member that is the subject of the complaint informed of the progress of your complaint.

- Your complaint will be given a reference number which will appear on complaint documentation.

- The Monitoring Officer will review every complaint received and may consult with one of the Independent Persons before taking a decision as to whether it:
 - a) Merits no further action
 - b) Merits early informal conciliation
 - c) Should be referred for further investigation or to the Standards Committee with a recommendation.

- The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint.

- The Monitoring Officer may request Information from the Member against whom your complaint is directed to help him to come to a decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.

- This decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria (which are appended to



the Complaints Procedure). Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision (Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation).

- Further detail on what will happen if the Monitoring Officer decides that a complaint merits further investigation is contained in the Complaints Procedure.
- There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer has the power to call in the Police or other regulatory agencies.
- If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman www.lgo.org.uk/making-a-complaint.

Monitoring Officer (Tendring District Council)

Decision Notice

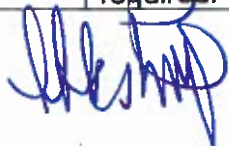
This Decision records the outcome of the Decision taken by the district Council's Monitoring Officer on 16th May 2014 in accordance with the Tendring District Council's arrangements for dealing with an allegation that an elected member has failed to comply with the Members' Code of Conduct.

These arrangements were approved by full Council on 26th November 2013.

Councillor:	Stephen Mayzes - Tendring District Council
Complainant:	Ms Tracey White
Relevant Paragraph(s) of the Members' Code of Conduct:	Paragraph 3 of the Code of Conduct is alleged to have been breached, with both Accountability and Honesty being compromised.
Summary of Complaint:	<p>A community group was formed by residents following the gas explosion in Clacton-on-Sea in February 2014. Councillor Stephen Mayzes met with the admin team of the group on 6th February 2014. Councillor Mayzes was referred to as the Communications Officer and during the meeting on 6th February, some telephone calls were made with Morrisons Store regarding a contribution of diesel for the efforts of the community group.</p> <p>It is alleged that Councillor Mayzes expressly stated "I have managed to persuade Morrisons to give us a full tank of diesel and also persuaded him to still give you your flowers".</p> <p>It is also alleged that on the basis of this statement, the community group relied on the information and filled the tank up at a cost of £90. It was later confirmed by Morrisons that only £20 had been promised as a donation to the appeal.</p> <p>It is alleged that Councillor Mayzes lied in respect of the donation and as a consequence, the community support fund suffered a loss of £90.</p> <p>The complaint also makes reference to Councillor Mayzes stating he had personally received full tank of petrol from Tesco's.</p> <p>On the basis of the actions, it is alleged that the Councillor has disregarded two of the Principles of Public Life, being Accountability and Honesty.</p>
Councillors Response:	<p>Councillor Mayzes has issued an apology stating:</p> <p><i>"I apologise that we have been unable to provide you with the level of service that you would normally expect on this occasion and apologise for any inconvenience that may have been caused.</i></p> <p><i>It was with the best intentions that a donation was brokered. However,</i></p>

	<p><i>unfortunately, due to a breakdown in communication the actual donation was much less than the donation that we endeavoured to achieve.</i></p> <p><i>Again, it is important to pay gratitude to every business that donated towards the Clacton Gas Explosion cause and to recognise the role that every individual played in the effort."</i></p>
Monitoring Officer Recommendation	<p>Due to the content of the complaint, involving a community group set up to assist an unfortunate and distressing event, the actions of the Councillor in supporting the group and the Councillor not addressing the truthful aspect of the complaint in his apology, it is reasonable and appropriate that this matter merits further investigation.</p> <p>An investigation will reveal whether the statements made by the complainant are correct or not, and therefore, whether the Code has been breached.</p>
Relevant Paragraph of Complaints Procedure and assessment criteria:	4.1, 4.2 and 4.4
Reasons for Decision:	<p>When the complaint was received, a decision was taken that it merited early informal resolution. An apology was initially offered by councillor Mayzes, however the Complainant did not find this acceptable. A further apology was offered, a copy of which is attached, however the Complainant alleged that the statement "<i>due to a breakdown in communication the actual donation was much less than the donation that we endeavored to achieve</i>" was incorrect, as the Councillor spoke to her personally immediately after coming off the phone to Morrisons.</p> <p>Throughout the informal resolution process, the Complainant has maintained that Councillor Mayzes has been dishonest. Honesty is a principle of Public Life and it alleged that this has been compromised and therefore, a potential breach of the Code of Conduct, as paragraph 3 expressly requires Members to have regard to the Seven Principles.</p> <p>Due to the fact that the informal resolution route has been attempted and has not proved successful, it was not considered necessary to consult with the Independent Person, before deciding to that further investigation is required.</p>

Signed:



Monitoring Officer

Dated:

19th May 2014

Dear Ms. White

I apologise that we have been unable to provide you with the level of service that you would normally expect on this occasion and apologise for any inconvenience that may have been caused.

It was with the best intentions that a donation was brokered. However, unfortunately, due to a breakdown in communication the actual donation was much less than the donation that we endeavoured to achieve.

Again, it is important to pay gratitude to every business that donated towards the Clacton Gas Explosion cause and to recognise the role that every individual played in the effort.

Yours truly

Signed by personal email.

For and on behalf of
Councillor Stephen Mayzes
Member of Tendring District Council for Rush Green

06/05/2014

OFFICIAL

Private and Confidential

Reports of an investigation carried out by David Holt, Suffolk County Council in to an allegation concerning Cllr Stephen Mayzes.

Date: 5th January 2015

1. Introduction

- 1.1 I have been instructed to carry out an independent investigation in relation to this complaint. My name is David Holt and I am a solicitor employed by Suffolk County Council in the role of Lead Lawyer (Commercial Practice Group). I have no direct connection with the Tendring area or with the people and issues involved in this complaint.
- 1.2 I have been provided with documentation both before and during this investigation and I shall refer to that where appropriate.
- 1.3 I have been provided with a meeting room at the Town Hall, Clacton-on-Sea to carry out interviews where necessary.

2. The Complaint

- 2.1 On 27 February 2014, the Monitoring Officer received a letter dated the previous day from Ms Tracey White of Purley Way, Clacton-on-Sea, complaining about the conduct of the Tendring Councillor for the Rush Green area of the District, Councillor Stephen Mayzes.
- 2.2 The letter runs to two and a half pages and explains in some detail recent dealings she and others had been involved in with Stephen Mayzes arising out of the aftermath of a gas explosion which took place in Cloes Lane, Clacton-on-Sea. Ms White and others had been involved in the public response and appeal to support the victims of the incident.
- 2.3 The letter also refers to Danny Mayzes, who I understand is also a Councillor and the brother of Stephen Mayzes. For the avoidance of doubt I shall refer to each by their full names in this report, if necessary, and I should also make it clear at this stage that Danny Mayzes is not the subject of this complaint.
- 2.4 The letter expresses dissatisfaction regarding Stephen Mayzes' involvement in the appeal and more particularly that he lied on two occasions in relations to his dealings with the manager of Morrisons at Little Clacton on behalf of the appeal.

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- 2.5 Relevant to this investigation are the 'Tendring District Council Members' Code of Conduct' which I understand is the relevant Code of Conduct in force, having been adopted by the Council on 26 November 2013 and the 'Tendring District Council Complaints Procedure' which complements it and was adopted at the same time. Taken together they are intended to provide a clear statement of obligations and process for Councillors, members of the public, council employees and other organisations, who deal with the council or are subject to the Code.
- 2.6 In line with the arrangements within the Complaints Procedure, following receipt of the letter, the Monitoring Officer proceeded to require further information from both Ms White and Stephen Mayzes. Stephen Mayzes replied with two emails and a short apology while Ms White completed a formal complaints form amplifying the contents of her letter of 25 February.
- 2.7 The monitoring officer then contacted the complainant Ms White and in discussion with her and Stephen Mayzes endeavoured to resolve the complaint by informal resolution in accordance with clause 4 of the Complaints Procedure.
- 2.8 Following the informal resolution discussions, Stephen Mayzes issued a further apology dated 6 May 2014. However, that further apology was not acceptable to the complainant as it did not, in her view, address what she saw as the main allegation, namely that Stephen Mayzes had lied to her.
- 2.9 On 19 May 2014 the Monitoring Officer issued a Decision Notice in accordance with Paragraph 4.3 of the Complaints Procedure and sent it to Councillor Stephen Mayzes.
- 2.10 On 18 June 2014 I was instructed by letter to investigate the complaint and produce a report for the monitoring officer in accordance with the Complaints Procedure.

3. The relevant law

- 3.1 The Localism Act 2011 brought into effect, on 1 July 2012, a requirement for local authorities to adopt a new Code of Conduct in accordance with the requirements of the Act.
- 3.2 The Code of Conduct relevant to this complaint was adopted by the Council on 26 November 2013 and is the same Code of Conduct as is currently in force.
- 3.3 At its core it has the Seven Principles of Public Life, set out in Paragraph 3.1 and reproduced below:-

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Rules of Conduct:

As a Member of Tendring District Council you shall have regard to the Seven Principles of Public Life.

Selflessness Holders of public office should act solely in terms of the public interest.

Integrity Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty Holders of public office should be truthful.

Leadership Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These general principles are the underlying principles behind the rules of conduct set out below.

3.4 Relevant to this complaint are also the requirements of paragraphs 3.3 and 3.4 of the Code of Conduct which are set out below.

Information

You must not:

- a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- b) prevent any person from gaining access to information to which that person is entitled by law.

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Conduct

You must:

- a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- b) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the Authority.
- c) comply with any request of the authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.

4. The Complaint

- 4.1 As previously indicated, the complaint by Ms Tracey White was first set out in her letter of 26 February 2014 and further amplified in her complaint form dated 7 March 2014. As part of the informal resolution stage of the complaint she also wrote an email to the Monitoring Officer dated 6 May 2014 in which she raised two further issues as part of the same complaint.
- 4.2 Based on the information provided, the complaints made by Ms White against Stephen Mayzes are as follows:-
 1. That he lied to her and others in claiming that he had persuaded Morrisons to donate a full tank of diesel to the support project.
 2. That he lied to her and others in claiming that he had persuaded Morrisons to give her a bunch of flowers.
 3. That he lied about receiving a free tank of petrol from Tesco's.
 4. That he disclosed minutes of a confidential meeting on Facebook.
 5. That by his behaviour he failed to support the project supporting the victim of the Clacton gas explosion.

5. Interviews

- 5.1 I have interviewed or received information regarding the complaint from the following people.

Ms Tracey White, the complainant.

Mrs Mowatt

Mrs Tina Symonds

I have also been provided with information from Facebook conversations carried on with Jon Dawrant and Maureen Smith in support of the allegations contained in the complaint.

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I have also been provided with the details of a further witness, Kerry Jones-Montague, although in view of the contents of the remainder of the report, I have decided not to interview her for now. She created the Facebook page for the support project. I would interview her if it became necessary.

- 5.2 I carried out a digitally recorded interview of Ms White, with her consent at Clacton Town Hall on Wednesday 20 August. Subsequent to completing the recording, I also asked her further questions and made a written note of her response and recorded the further information she provided me with.
- 5.3 Her evidence about the incident which led to the first two parts of the complaint was consistent with what she had said previously and I formed the view that she was a truthful witness. Her version of events was supported by the other information she provided, namely that Stephen Mayzes carried on the conversation by telephone with the manager of Morrisons and announced the outcome within the hearing of others to the effect that the project would receive a full tank of fuel and Ms White would still receive her bunch of flowers.
- 5.4 Her evidence about the third part of the complaint is that Stephen Mayzes told her not to approach Tesco as he had already been given a tank of fuel by them for his "running around". She says this was said in her hearing. He says, in an email dated 7 March, he was not given free fuel. This issue is problematic. There are two possibilities. Either that statement was never made by him, or it was made and he thought better of it later.
- 5.5 Her evidence about the fourth part of the complaint relates to the publication on Facebook by Stephen Mayzes of statements made at a Council meeting on 11 February. Ms White was told that the minutes were confidential. She has provided a copy of what was published.
- 5.6 Regarding the fifth part of the complaint, in her interview, Ms White provided further information of the location of the gas explosion and the properties and people affected by it. Because the Rush Green ward boundary goes along the middle of Cloes Lane, properties affected were in two different wards. Stephen Mayzes had led the group to believe that all the people affected were in his ward. She says he told the support project that he was going round the properties that were affected and had left a message to the effect that only four houses were affected and that nobody else needed help. That was not correct. There were other people in hotels with no spare clothing as well as a lady who owned four dogs, two of which had to be put down. The project also has access to fresh food for the victims but could not pass it on as they didn't know where they were staying. This is supported by Tina Symonds' statement.

6. Interview with Councillor Stephen Mayzes

- 6.1 I arranged to see Stephen Mayzes at Clacton Town Hall on Thursday 13 November 2014. He said he could only make himself available on Thursday mornings.
- 6.2 I informed him that I intended to record our interview as I normally would for investigations. The purpose of doing so is to ensure accuracy and reduce the time spent in taking notes. Ms White had not objected to having her interview recorded.

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- 6.3 Stephen Mayzes replied that he did not consent to the interview being recorded. I therefore did not record it. He also informed me that he intended to complain to the Monitoring Officer about delay in the investigation.
- 6.4 On 11 November he emailed me to say that he would not be adding any further comments other than (sic) the two statements already provided to the Monitoring Officer.
- 6.5 Nevertheless I continued to attend and keep the appointment to be clear about what he was saying. I explained the nature of the investigation and clarified that he was referring to the short apologies he made on 7 March and 6 May. He added that he thought it was positive that a local business donated an amount rather than argue about what the amount should be. He said that he did not receive any fuel himself.
- 6.6 He did not attempt to address further the issues raised by the complaint so I concluded the interview.

7. Conclusions

- 7.1 Taking the complaints in turn as itemised in paragraph 4.2, I find as follows:-
- 7.2 **First complaint** – that he had lied to Ms Tracey White and others in claiming that he had persuaded Morrisons to donate a full tank of diesel to the support project.

I find this proved. The allegation has been consistent throughout the process and is supported by witnesses. Conversely, Stephen Mayzes has never taken the opportunity to provide a satisfactory response to the allegation.

This is contrary to the sixth principle and paragraph 3.4 of the Code of Conduct.

- 7.3 **Second complaint** – that he lied to Ms White and others in claiming that he had persuaded Morrisons to give her a bunch of flowers.

I find this proved for the same reasons as the first complaint.

- 7.4 **Third complaint** – that he lied about receiving a free tank of petrol from Tesco's.

I find this proved. I do not believe Ms White would invent an allegation that he had received fuel from Tesco and am therefore drawn to conclude he did tell her that. Conversely, the only evidence that he received such a benefit would appear to come from his own mouth.

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- 7.5 **Fourth complaint** – that he disclosed minutes of a confidential meeting on Facebook.

I find this not proved. I have read the Council minutes for 11 February 2014 which report an announcement from the Chairman about the gas explosion and a statement from Councillor D R Mayzes. This was made in the public part of the meeting, where press and public may normally be present and is therefore capable of being repeated with no burden of confidentiality. Some care has to be taken as the minutes would not be approved until the following meeting on 25 March.

- 7.6 **Fifth complaint** – that by his behaviour he failed to support the project supporting the victims of the Clacton gas explosion.

I find this proved. His refusal to engage fully with the process means I have to accept what the complainant and her witnesses say and indeed the limited nature of his two apologies acknowledge some culpability on his part.

8 **Additional observations**

- 8.1 For whatever reasons Councillor Stephen Mayzes has decided not to engage fully with the process which is regrettable for all involved. The purpose of the code is to deal with such issues in a structured and open manner for the benefit of the public and the Council.
- 8.2 I am grateful to those who have assisted in any way with producing this report.
- 8.3 I will provide further information if needed.

David Holt
Lead Lawyer, Commercial Practice Group
Suffolk County Council

5th January 2015

HEARING PROCEDURE (approved March 2014)

**STANDARDS COMMITTEE &
TOWN & PARISH COUNCILS' STANDARDS SUB-COMMITTEE**

This procedure supplements Section 7.1.2 of the Council's Complaints Procedure and a copy will be provided to the both the Complainant and the Member the subject of the Complaint ("Councillor").

All Hearings will be held in Public unless the relevant paragraph of Schedule 12A of the Local Government Act 1972 applies, however the public interest test must be considered and therefore it would only be in exceptional circumstances that the hearing will be held in Private. The Council's Monitoring Officer will provide the relevant advice.

Where District Councillors were required to make a decision in respect of a hearing, they have due regard to, and take into account any views expressed by Town and Parish Councillors in reaching their decision.

<u>Item No.</u>	<u>Procedure</u>
1	<p style="text-align: center;"><u>Quorum</u></p> <p>1.1. Three Members must be present throughout the hearing to form a quorum.</p> <p>1.2. Where the complaint refers to a Town or Parish Councillor a non-voting Town and Parish representative of the Town and Parish Councils' Standards Sub-Committee must be present.</p> <p>1.3. The Committee or Sub-Committee shall nominate the Chairman for the meeting in accordance with the terms of reference of the relevant Committee.</p>
2	<p style="text-align: center;"><u>Opening</u></p> <p>2.1 The Chairman explains that:</p> <p>(i) The hearing has been convened in accordance with the Council's Complaints Procedure and that an investigation has been conducted, the outcome of which is that it is considered there is evidence of a failure to comply with the Members' Code of Conduct.</p> <p>(ii) The Parties have been aware of the content of the Investigator's Report and this has been circulated to all Members of the Committee.</p>

	<p>(iii) The Monitoring Officer has referred the matter for a hearing either because upon conclusion of the investigation, informal resolution has not been successful or it is not appropriate to do so, for the reasons given within the Committee Report.</p> <p>(iv) Purpose of the Hearing is to consider the Investigators Report, the evidence in support and representations from the Parties. If the Committee or Sub-Committee depart from the recommendation from either the Investigating Officer and/or Monitoring Officer detailed reasons are required and published in the Decision Notice.</p> <p>2.2 The Chairman asks all present to introduce themselves.</p>
<p>3</p>	<p style="text-align: center;"><u>The Complaint</u></p> <p>3.1 The Investigating Officer or Monitoring Officer shall be invited to present their report including:</p> <ul style="list-style-type: none"> (i) any documentary evidence or other material; (ii) call such witnesses as considered necessary; and (iii) make representations to substantiate the conclusion that the Councillor has failed to comply with the Code of Conduct <p>This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>It is only under 3.1 (ii) that the Complainant will take part in the hearing.</p> <p>3.2 The Councillor (or their representative) may question:</p> <ul style="list-style-type: none"> (i) the Investigating Officer upon the content of their report and/or; (ii) any witnesses called by the Investigating Officer. <p>This is the Councillor’s opportunity to ask questions rising from the Investigators report and not to make a statement.</p> <p>3.3 Members of the Committee or Sub-Committee may question:</p> <ul style="list-style-type: none"> (i) the Investigating Officer upon the content of their report and/or (ii) any witnesses called by the Investigating Officer. <p>This is the Committee or Sub-Committees’ opportunity to ask questions rising from the Investigators report and not to make statements.</p>
<p>4</p>	<p style="text-align: center;"><u>The Councillor’s case</u></p> <p>4.1 The Councillor (or their representative) may:</p>

	<ul style="list-style-type: none"> (i) present their case; (ii) call any witnesses as required by the Councillor or their representative and (iii) make representations as why they consider that they did not fail to comply with the Code of Conduct. <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>4.3 Members of the Committee or Sub-Committee may question the Member and/or any witnesses.</p> <p>In all instances, only questions will be permitted relating to the allegation and the Councillor’s case and no statements should be made.</p>
5	<p style="text-align: center;"><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the Complaint.</p> <p>5.2 The Councillor (or their representative) may sum up their case.</p>
6	<p style="text-align: center;"><u>Decision</u></p> <p>6.1 Members of the Committee or Sub-Committee will deliberate in private to consider the complaint (if required, in consultation with the Independent Person) prior to reaching a decision.</p> <p>6.2 Upon the Committee or Sub-Committee’s return the Chairman will announce the Committee or Sub-Committee’s decision in the following terms:-</p> <ul style="list-style-type: none"> (i) The Councillor has failed to comply with the Code of Conduct; or (ii) The Councillor has not failed to comply with the Code of Conduct <p>The Committee or Sub-Committee will give detailed reasons for their decision, which will be included within the published Decision Notice.</p> <p>6.3 If the Committee or Sub-Committee decides that the Councillor has failed to comply with the Code of Conduct they will then consider any representations from the Investigator and/or the Councillor as to:</p> <ul style="list-style-type: none"> (i) The appropriate sanction, as set out in Section 8 of the Complaints Procedure. (ii) Based on relevance to the breach, being proportionate and necessary to promote and maintain high standards of conduct.

	<p>6.4 The Committee or Sub-Committee will then deliberate in private to consider what action, if any, should be taken. The Committee or Sub-Committee is required by law to do so in consultation with the Independent Person</p> <p>6.5 On the Committee or Sub-Committee's return the Chairman will announce the Committee or Sub-Committee's decision as to what actions they resolve to take (in relation to a Town or Parish Councillor a recommendation to their Council).</p> <p>6.6 The Committee or Sub-Committee will consider whether it should make any specific recommendations to the Council or in relation to a Town or Parish Councillor to their Council with a view to promoting and maintaining high standards of conduct among Members.</p> <p>6.7 The Chairman will confirm that a full written Decision Notice shall be issued within 7 working days following the hearing and that the Committee or Sub-Committee's findings will be published on the Council's website and reported to the next full Council.</p>
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