

# AGENDA

## STANDARDS (HEARING) SUB-COMMITTEE MEETING



Date: Thursday 26 April 2012

Time: 10.00 a.m.

Venue: Town Hall, High Street,  
Maidstone

Membership:

Councillor Mrs C Robertson

Independent Member: Mr D Wright (Chairman)

Parish Representative: Councillor B Stead

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1. Disclosures by Members and Officers
2. Disclosures of lobbying
3. To consider whether any items should be taken in private because of the possible disclosure of exempt information
4. Minutes of the meeting held on 18 October 2010

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**Continued Over/:**

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**Issued on 18 April 2012**

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**Alison Broom, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

5. Report of the Monitoring Officer - Hearing into Allegations that Former Parish Councillor Chris Dyke Breached Bearsted Parish Council's Code of Conduct

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## MAIDSTONE BOROUGH COUNCIL

### STANDARDS (HEARINGS AND DETERMINATION) SUB-COMMITTEE

#### MINUTES OF THE MEETING HELD ON 18 OCTOBER 2010

**Present:** Mr D Wright (Independent Member) (Chairman)  
Councillor Mrs W Hinder  
Councillor B Stead (Parish Representative)  
Paul Fisher, Monitoring Officer  
Donna Price, Investigating Officer  
Debbie Snook, Democratic Services Officer

1. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

2. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

3. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed, but the Committee's deliberations as to its findings of fact, whether there has been a breach or breaches of the Code of Conduct and, if so, what sanction is to be imposed, if any, should be taken in private.

4. MINUTES OF THE MEETING HELD ON 20 NOVEMBER 2009

RESOLVED: That the Minutes of the meeting held on 20 November 2009 be approved as a correct record and signed.

5. HEARING INTO ALLEGATIONS THAT PARISH COUNCILLOR HANS REICHERT BREACHED THE LANGLEY PARISH COUNCIL'S CODE OF CONDUCT

The Monitoring Officer submitted a report setting out the background to the hearing. It was noted that the Standards (Assessment) Sub-Committee, at its meeting held on 22 February 2010, considered allegations made by Mr Anthony Monk that Councillor Hans Reichert may have failed to comply with Langley Parish Council's Code of Conduct. Specifically, it was alleged that Councillor Reichert used his position as a Member of Langley Parish Council to secure an advantage for himself (paragraph 6 (a) of the Code of Conduct) and that Councillor Reichert failed to disclose prejudicial interests and withdraw from meetings when matters relating to his company were discussed (paragraphs 9 and 12 of the Code of Conduct). The Sub-Committee agreed to refer the allegations to the Monitoring Officer for investigation. The Monitoring Officer appointed an Investigating Officer to look into the matter and her report was considered by the Standards (Consideration) Sub-Committee at its

meeting held on 1 September 2010. It was agreed that the report should be referred to a hearing by the Standards (Hearings and Determination) Sub-Committee.

The Investigating Officer had considered whether Councillor Reichert failed to comply with paragraphs 6 (a), 9 and 12 of the Code of Conduct of Langley Parish Council. She had concluded that Councillor Reichert did not fail to comply with paragraph 6 (a) of the Code of Conduct, but did fail to comply with paragraphs 9 and 12 of the Code of Conduct.

It was now necessary for the Sub-Committee to hear the matter and decide whether or not there had been a breach, or breaches, of the Code of Conduct, and, if so, what sanction to impose, if any.

### The Hearing

The Investigating Officer advised the Sub-Committee that she wished to add that Councillor Reichert's failure to declare an interest at meetings of the Parish Council when the website was discussed happened on approximately twelve occasions.

The Chairman reminded the Sub-Committee that at an earlier meeting it had agreed with the finding in the Investigating Officer's report that there had been no breach of paragraph 6 (a) of the Code of Conduct. The Chairman then formally asked Councillor Reichert if he admitted to having breached paragraphs 9 and 12 of the Code of Conduct. Councillor Reichert admitted the breaches. He stated that he now realised that he should have declared an interest at every meeting when the website was discussed. In mitigation he explained that until his training on the Code of Conduct in January 2010 he did not fully understand what was required in terms of declaring interests, but he now declared a personal and/or prejudicial interest when the website was discussed. He had been approached by the Parish Council due to his expertise in the area of website provision; in hindsight he had been naïve.

The Sub-Committee then heard briefly from the Investigating Officer as to the way forward. She explained that:-

- During the period May 2007 to November 2008, Councillor Reichert failed to declare an interest at Council meetings when the website was discussed on approximately twelve occasions. At this stage he had not received training on the Code of Conduct and did not have a full understanding of the Code at the time. He believed that the fact that he had declared an interest in relation to his position as a Director of HDR Visual Communications Ltd at the meeting in April 2007 and in the Register of Members' Personal Interests was sufficient to meet the requirements of the Code of Conduct.
- Having considered all of the evidence she did not believe that Councillor Reichert intentionally or maliciously withheld his interest in the company and the website provision at Council meetings.

- In January 2010 Councillor Reichert underwent training on the Code of Conduct and it was clear from his interview and subsequent Minutes that he had learned from the training.
- In the light of this she would recommend that a censure was sufficient sanction in the circumstances.

The Sub-Committee then agreed to exclude the public pursuant to paragraph 7C of Part I of Schedule 12A to the Local Government Act 1972, having applied the Public Interest Test, in order that it could deliberate and reach its conclusions in private as to whether Councillor Reichert had failed to follow the Code of Conduct and, if so, the sanction to be imposed if any.

The Sub-Committee then left the room accompanied by the Monitoring Officer and the Committee Administrator.

Upon the return of the Sub-Committee, the Chairman announced that:-

- The Sub-Committee agreed with the findings of fact as set out in the Investigating Officer's report for the reasons set out in that report.
- The Sub-Committee agreed that there had been no breach of paragraph 6 (a) of the Code, but paragraphs 9 and 12 had been breached, for the reasons set out in the Investigating Officer's report.
- The Sub-Committee had determined that the sanction imposed for the breaches of paragraphs 9 and 12 of the Code of Conduct be that Councillor Reichert be censured.
- The Sub-Committee believed that at the time of the breaches there was a lack of understanding of the Code of Conduct generally within the Parish Council, and usually in such circumstances it would impose a training sanction, but it recognised that Councillor Reichert had taken the initiative to attend training as had other Members of the Parish Council. The Sub-Committee had listened to the advice of the Investigating Officer and had taken into account the guidance on sanctions issued by Standards for England. It considered that there was no intention to breach the Code, that Councillor Reichert had been naïve but not dishonest.

A copy of the Decision Notice is attached as an Appendix to these Minutes.

## 6. DURATION OF MEETING

10.00 a.m. to 11.00 a.m.

## **Decision Notice of the Maidstone Borough Council Standards Sub-Committee**

Name of Authority: Langley Parish Council

Subject Member: Councillor Hans Reichert

Complainant: Mr A Monk

Case Reference Number: MBC/10/01

Chairman: Mr Don Wright

Standards Committee Members: Councillor Wendy Hinder, Parish Councillor  
Bill Stead

Monitoring Officer: Mr Paul Fisher

Investigating Officer: Ms Donna Price

Date of Investigation Report: 19 August 2010

Committee Administrator: Mrs Debbie Snook

Time, Date, Place of Hearing: 10.00am on Monday 18<sup>th</sup> October 2010 at the  
Town Hall, Maidstone

## Summary of Complaint

The complainant alleged breaches of the Code of Conduct of Langley Parish Council. A summary of the allegations is set out below together with the numbered paragraph of the Code of Conduct:-

1. That Councillor Reichert used his position as a member of Langley Parish Council to secure an advantage for himself (Para 6a).
2. That Councillor Reichert failed to disclose prejudicial interests and withdraw from meetings when matters relating to his company were discussed (Paras 9 and 12).

## Relevant Sections of the Code

### Paragraph 6

You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

### Paragraph 9

#### **Disclosure of personal interests**

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority 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.
- (7) 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.

## Paragraph 12

### **Effect of prejudicial interests on participation**

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
  - (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;



(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

#### Summary of the evidence considered and representations made

The Chairman reminded the Sub-Committee that at an earlier meeting it had agreed with the finding in the Investigating Officer's report that there had been no breach of paragraph 6 of the Code.

The Chairman first of all formally asked Councillor Reichert if he admitted to having breached paragraphs 9 and 12 of the Code of Conduct. Councillor Reichert did admit the breaches.

#### Findings of fact including the reasons for them

The Sub-Committee agreed with the findings of fact as set out in the Investigating Officer's report for the reasons set out in that report.

#### Finding as to whether the Member failed to follow the Code

The Sub-Committee agreed that there had been no breach of paragraph 6 of the Code, but that paragraphs 9 and 12 had been breached, for the reasons set out in the Investigating Officer's report.

### Sanctions imposed and reasons for any sanctions

The Sub-Committee determined that the sanction imposed for the breaches of paragraphs 9 and 12 of the Code of Conduct be that the Subject Member be censured.

The Sub-Committee believed that at the time of the breaches there was a lack of understanding of the Code of Conduct generally within the Parish Council, and usually in such circumstances it would impose a training sanction, but it recognised that Cllr Reichert had taken the initiative to attend training as had other members of the Parish Council. The Sub-Committee had listened to the advice of the investigating officer and had taken into account the guidance on sanctions issued by Standards for England. It considered that there was no intention to breach the Code, that the subject member had been naïve but not dishonest.

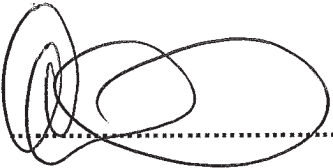
### Right of Appeal

The Subject Member can give Notice of Appeal to the First-tier Tribunal (Local Government Standards England) (the Tribunal) that the Subject Member seeks permission to appeal and if appropriate apply for suspension of the sanction imposed until such time as any appeal is determined.

The Notice of Appeal must be received by the Tribunal within 28 days of the Subject Member's receipt of this Decision Notice.

The Notice of Appeal must specify:-

1. The finding against which the Subject Member seeks permission to appeal;
2. Whether the appeal is against the finding that the Subject Member has failed to comply with the Code of Conduct, or if it is against the sanction imposed, or both;
3. The grounds of the appeal;
4. Whether any application for suspension of any sanction is made; and
5. Whether or not the Subject Member consents to the appeal being conducted by way of written representations.

Signed  .....

Don Wright – Chairman

Date ..... 25.10.10. ....

# Agenda Item 5

## **MAIDSTONE BOROUGH COUNCIL**

### **Standards (Hearing) Sub-Committee**

**26 April 2012**

Report of the Monitoring Officer – Hearing into allegations that former Parish Councillor Chris Dyke breached Bearsted Parish Council’s Code of Conduct

#### Introduction and Background

On the 19 September 2011 the Standards (Assessment) Sub-Committee considered 2 complaints concerning the alleged conduct of Mr Chris Dyke, formerly of Bearsted Parish Council. The decision of the Standards Sub-Committee was to refer the complaints for investigation.

On the 29 February 2012 the Standards (Consideration) Sub-Committee considered the Investigating Officer’s report and decided that it should be referred to a hearing. It therefore now falls to the Standards Sub-Committee to hear the matter and decide whether or not there has been a breach, or breaches, of the Code of Conduct, and if so, what sanction to impose, if any.

Although the Investigating Officer found that there had been no breach of the Code by Mr Dyke, the Sub-Committee referred the matter to a hearing in relation to the allegations that Mr Dyke had brought his office or authority into disrepute; that he had failed to treat others with respect; and that he had compromised the impartiality of those who work for the authority. The Sub-Committee agreed with all of his other findings of no breach.

Following the issue of the Decision Notices, Mr Dyke resigned from the Parish Council on 19 March.

Details of the allegations and the relevant sections of the Code of Conduct are set out in the Pre-Hearing Process Summary attached as Appendix A. The Investigating Officer’s Reports are attached at Appendix B. The Hearing Procedures for the Standards Sub-Committee are attached as Appendix C. Mr Dyke has not responded to requests to complete the hearing documentation setting out which parts of the Investigating Officer’s report he agrees and disagrees with. He has not advised whether he intends to attend the hearing. However, he has advised Maidstone Borough Council’s Chief Executive that he has opted not to be involved in the hearing process, and has requested that the hearing be cancelled whilst investigations are carried out into alleged leaks of the Investigating Officer’s report(s) which he claims will prejudice the hearing process. I have discussed this with the Chairman, and we see no need to postpone the hearing.

## Recommendations

That: -

1. The Standards Sub-Committee conduct the hearing in accordance with the Hearing Procedures for the Standards Sub-Committee and the legislation
2. The Standards Sub-Committee consider the evidence and determine whether there has been any breach, or breaches, of the Code of Conduct by Mr Dyke.
3. If the Standards Sub-Committee find that there has been a breach, or breaches, of the Code of Conduct, it should determine whether to impose the sanction of censure, this being the only remaining available sanction as a result of Mr Dyke no longer holding the position of Parish Councillor.

**Maidstone Borough Council Standards Committee**

**Pre-Hearing Process Summary**

Name of Authority: Bearsted Parish Council

Subject Member: Mr Chris Dyke (former Councillor)

Complainants: Mr G Licence and Mrs W Licence

Case Reference Numbers: MBC/11/4 and MB/11/5

Chairman: Mr Don Wright

Monitoring Officer: Mr Paul Fisher

Investigating Officer: Mr Keith Trowell

Committee Administrator: Mrs Debbie Snook

Time, Date, Place of Hearing: 10:00am on Thursday 26 April 2012 at the Town Hall, Maidstone

Summary of Allegations (with reference to relevant section of the Code of Conduct)

That, whilst in the position of Parish Council Chairman, former Councillor Dyke asked Mrs Licence, in her capacity as relief Parish Clerk, to deal with the appointment process of the Parish Handyman as one of the candidates was married to the Parish Clerk. He then bypassed Mrs Licence and continued to deal with the Parish Clerk thus compromising her impartiality. He failed to meet Mrs Licence to consider her allegations about the process, but then summoned her to a meeting with him, refusing to tell her what it was about. He also made comments at the Parish Council's Finance and General Policy Committee on 19 July 2011 in public contrary to Standing Orders which implied wrongdoing by Mrs Licence.

Relevant Sections of the Code of Conduct

Paragraph 3

3(1) -You must treat others with respect.

3(2)(d) – You must not do anything that compromises or is likely to compromise the impartiality of those who work for your authority.

Paragraph 5

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Findings of Fact in the Investigation Report that are agreed

Mr Dyke has not responded.

Findings of Fact in the Investigation Report that are not agreed

Mr Dyke has not responded.

Attendance at the Hearing

The Investigator (Mr Keith Trowell) has indicated that he will be attending the hearing but former Councillor Dyke has indicated to the Chief Executive that he will not be involved in the hearing process.

Witnesses Attending

Cllr R Ash  
Cllr Mrs P Marshall  
Mr G Licence  
Mrs W Licence

Hearing Procedure

See separate document attached.

Date Pre-hearing Summary completed: 13 April 2012

Signed: Paul Fisher



Complaint – MBC/11/5

REPORT OF AN INVESTIGATION INTO ALLEGATIONS  
CONCERNING PARISH COUNCILLORS CHRISTOPHER DYKE, JON  
HUGHES, RICHARD ASH, PAUL BLACKMORE AND PAUL YOUNG  
OF BEARSTED PARISH COUNCIL

Keith Trowell, Investigating Officer

February 2012

My Ref : TM001486

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I	E-mail response to complaint from Cllr Richard Ash
J	E-mail response to complaint from Cllr Paul Young

K	E-mail response to complaint from Cllr Paul Blackmore
L	Responses to draft Report

## 1. Introduction

- 1.1 This report is submitted in consequence of Maidstone Borough Council's Standard Sub-Committee's decision on 19<sup>th</sup> September 2011 to refer Complaint MBC/11/5 for investigation. On the same date the Committee also referred for investigation a related Complaint MBC/11/4 which is the subject of a second report.
- 1.2 Due to the related nature of the complaints and referrals my investigations have been carried out in tandem and this, in part, has contributed to the delays in submitting the draft Reports.
- 1.3 Throughout this Report I shall abbreviate and refer to the Parish Councillors as "Cllr Dyke", "Cllr Hughes", "Cllr Ash", Cllr Blackmore, "Cllr Young" and "Cllr Licence" respectively, to Bearsted Parish Council's Finance and General Purposes Committee as "F&GP Committee", to Bearsted Parish Council as "BPC" and to the Code of Conduct as "the Code".

## 2. Executive Summary

### The Allegations

- 2.1 Mrs Licence, a 'relief' Clerk to BPC, has made a formal complaint against Cllr's Dyke, Hughes, Ash, Blackmore and Young alleging that they breached the Code in the process of interviewing and appointing a Parish handyman. In addition Mrs Licence alleges that Cllr. Dyke also breached the Code by his conduct during a meeting of the BPC's F&GP Committee on 19<sup>th</sup> July 2011.
- 2.2 Insofar as Cllr Dyke is concerned Mrs Licence states that he asked her to deal with the job applications for the post of Parish handyman as one of the potential applicants was related to the Parish Clerk although having done so he then continued to deal with the Parish Clerk in relation to the matter. Cllr Dyke failed to meet with her to discuss her concerns about the process but then summoned her to a meeting without saying what that meeting was about and which was subsequently cancelled. Additionally Cllr Dyke made statements to the Committee at the meeting on 19<sup>th</sup> July 2011 that "... someone had hacked into the office computer and looked at and downloaded confidential documents about two weeks ago." and that "... this person is known and had had a guiding hand.". Cllr Dyke also told the meeting that what had happened was a breach of the Data Protection Act and a criminal offence. Mrs Licence believes that it was obvious to all present that Cllr Dyke was referring to her and her husband. Additionally Cllr Licence says that

there was no agenda item covering this matter and that the allegations were made during the public part of the meeting. Mrs Licence complains that Cllr Dyke's actions and conduct breach paragraphs 3(i), 3(2)(d), 5 and 6(a) of the Code.

- 2.3 As regards Cllr Hughes Mrs Licence says he accepted and forwarded the Parish Clerk's suggestions for the handyman interview questions knowing that she should not be involved due to her relationship with a potential applicant thereby breaching paragraphs 3(2)(d), 5 and 6(a) of the Code.
- 2.4 Concerning Cllr Young Mrs Licence states he was involved in preparing the suggested questions and answers for use by the handyman interview panel with assistance from the Parish Clerk knowing that she should not be involved due to her relationship with a potential applicant. Mrs Licence complains that this breaches paragraph 5 of the Code.
- 2.5 As to Cllr's Ash and Blackmore Mrs Licence says they sat on the interview panel for the handyman appointment and that having been told that the process was flawed due to the involvement of the Parish Clerk who was related to an applicant, they failed to take any corrective action. Mrs Licence complains that this breaches paragraph 5 of the Code

#### Investigation Outcome

- 2.6 I have investigated this complaint at the behest of Maidstone Borough Council's Monitoring Officer. The interviews that I have conducted and the evidence that I have considered do not in my opinion support the contended breaches of the Code.
- 2.7 I have investigated whether Cllr Dyke has -
- (a) by his comments or actions, failed to treat others with respect contrary to paragraph 3(1) of the Code;
  - (b) compromised the impartiality of those who work for, or on behalf of, BPC contrary to paragraph 3(2)(d) of the Code;
  - (c) conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute contrary to paragraph 5 of the Code;
  - (d) used his position as a member improperly to confer on or secure for any other person an advantage or disadvantage contrary to paragraph 6(a) of the Code

and after thorough investigation I consider that Cllr Dyke has not failed to comply with any of those paragraphs of the Code detailed above.

2.8 I have investigated whether Cllr Hughes has –

- (a) compromised the impartiality of those who work for, or on behalf of, BPC contrary to paragraph 3(2)(d) of the Code;
- (b) conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute contrary to paragraph 5 of the Code;
- (c) used his position as a member improperly to confer on or secure for any other person an advantage or disadvantage contrary to paragraph 6(a) of the Code

and after thorough investigation I consider that Cllr Hughes has not failed to comply with any of those paragraphs of the Code detailed above.

2.9 I have investigated whether Cllrs Ash, Blackmore and Young have conducted themselves individually or collectively in a manner which could reasonably be regarded as bringing their office or authority into disrepute contrary to paragraph 5 of the Code and after thorough investigation I consider that those Councillors have not failed to comply with paragraph 5.

### **3. The Parish Councillor's Official Details**

- 3.1 Cllr Dyke was elected to the Parish Council prior to 2004 and has been Chairman since May 2011. He is also Chairman of the Parish Council's F&GP Committee. In respect of the period covering the matter under investigation Cllr Dyke has given a written undertaking dated 10<sup>th</sup> May 2011 to observe the Code.
- 3.2 Cllr Young was elected to the Parish Council in 2007 and has been Vice Chairman since May 2011. In respect of the period covering the matter under investigation he has given a written undertaking dated 10<sup>th</sup> May 2011 to observe the Code.
- 3.3 Cllr Hughes was elected to the Parish Council in 2008. In respect of the period covering the matter under investigation he has given a written undertaking dated 10<sup>th</sup> May 2011 to observe the Code.
- 3.4 Cllr Ash was first elected to the Parish Council in 1991 and was Chairman from 2004 to 2008. He is also a Borough Councillor. In respect of the period covering the matter under investigation Cllr Ash has given a written undertaking dated 10<sup>th</sup> May 2011 to observe the Code.
- 3.5 Cllr Blackmore was elected to the Parish Council in May 2011. In respect of the period covering the matter under investigation he has given a written undertaking dated 10<sup>th</sup> May 2011 to observe the Code.

#### 4. Legislation, the Code of Conduct and Guidance

- 4.1 This investigation was carried out under and in accordance with Part 3 of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.
- 4.2 Disclosure of information in this report and of the documents comprising the annexes hereto may be an offence under Section 63 of the Local Government Act 2000.
- 4.3 Bearsted Parish Council adopted the Code(2007) on 12<sup>th</sup> July 2007.
- 4.4 The paragraphs of the Code that were relevant to this investigation are paragraphs 3(1), 3(2)(d), 5 and 6(a) as set out below :-

*Paragraph 3(1) You must treat others with respect*

*Paragraph 3(2) You must not –*

*(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority*

*Paragraph 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute*

*Paragraph 6 You –*

*(a) Must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage*

- 4.5 The Guide for Members May 2007 published by the Standards Board for England aims to provide a general understanding of the Code and its requirements. Chapter 2 of the Guide deals with general obligations under the Code and relevant extracts are annexed to this report (Annexe A).

#### 5. Interviews, Evidence & Considerations

- 5.1 I have interviewed in person :-

Mrs Wendy Licence, the Complainant

Cllr Geoff Licence

Cllr Christopher Dyke, Chairman of the Parish Council and Chairman the Council's F&GP Committee

Cllr Jon Hughes, Vice Chairman of the Parish Council

Cllr Paul Young

Cllr Mrs Pat Marshall

Cllr Richard Ash

- 5.2 All those who I have interviewed have willingly and fully co-operated with my enquiries for which I record my thanks.
- 5.3 I have been in contact with Cllr Paul Blackmore and received his written response to the complaint against him (Annexe K). However, due to his personal circumstances it was not possible to arrange a personal interview at that time. Subsequently, in the light of his written response and the information gathered from other interviews, it was not necessary to pursue a personal interview.
- 5.4 I have endeavoured to contact Mr. Patrick Walton, former parish councillor and BPC chairman but without success.
- 5.5 Following each of the interviews I sent a summary of my interview notes to the respective interviewees seeking and receiving confirmation that the notes were an accurate representation of the answers given.
- 5.6 In preparing my report I have considered the documentary evidence and written material provided by the parties and referred to my notes of the interviews. Much of the information obtained is factually uncontroversial but the personal perceptions and opinions expressed are more so.
- 5.6 In reaching my conclusions I have had regard to the 2007 Guide for Members referred to above.

## **6. Background**

- 6.1 Relationships within the Parish have become strained and it appears apparent that there has been a tendency to allow personal feelings to cloud the Council's civic function. The Chairman has publically stated that he had not anticipated that he would be faced with the 'highly personalised' issues that had arisen.

## **7. Documents Submitted by Mrs Wendy Licence**

- 7.1 The documents submitted by Mrs Licence are annexed to this report (Annexe B).
- 7.2 These documents were submitted with Mrs Licence's formal complaint form and comprise –
- (a) Letter from Mrs Licence to Paul Fisher dated 21<sup>st</sup> August 2011;
  - (b) Chronology of events; and



- (c) Appendices numbered 1 - 17.

## **8. Documents Submitted by Parish Councillor Christopher Dyke**

- 8.1 Subsequent to the Standards Sub-Committee's decision on 19<sup>th</sup> September 2010 Cllr Dyke submitted a response which is annexed to this report (Annexe C).
- 8.2 At the formal interview on 2<sup>nd</sup> December 2011 Cllr Dyke produced –
  - (a) Interview scoring sheets (Annexe D);
  - (b) Computer print outs (Annexe E); and
  - (c) Letter from Cllr Dyke to Mrs Licence dated 31<sup>st</sup> July 2011 (Annexe F).
- 8.3 Following the investigation interview on 2<sup>nd</sup> December 2011 Cllr Dyke commented on the interview notes and referred to an e-mail which is annexed to this report (Please see 12.2 and 12.3 below and Annexe G).

## **9. Other Documents Submitted**

- 9.1 Also following the Sub-Committee's decision Cllr's Hughes, Ash, Young and Blackmore provided e-mail responses to the complaint –
  - Cllr Hughes on 26<sup>th</sup> September 2011 (Annexe H)
  - Cllr Ash on 30<sup>th</sup> September 2011 (Annexe I)
  - Cllr Young on 3<sup>rd</sup> October 2011 (Annexe J)
  - Cllr Blackmore on 4<sup>th</sup> October 2011 (Annexe K)

## **10. Interview of Mrs Wendy Licence on 14<sup>th</sup> November 2011**

- 10.1 At the outset Mrs Licence stated that she did not wish to add anything further to her submitted statement although in response to my enquiries and questions she did make the following points –
  - (a) As regards the alleged breach of the Data Protection Act, she had taken her own legal advice which confirmed that she had not committed any criminal offence as had been suggested. As a result she had considered taking a grievance against the Chairman but decided to follow the Code.
  - (b) The Chairman had blocked any investigation of the possible irregularities surrounding the selection and appointment of the

'Handyman'. In addition, the group of people involved blocked all discussion of the issue.

- (c) Not all members of the interview panel were also members of the F&GP Committee. Only the Chairman of the Parish Council was a member of both the panel and the Committee. As far as she was aware there is no separate personnel committee.
- (d) Only one Member had acknowledged receipt of her letter of 2<sup>nd</sup> August 2011 sent to all Parish Councillors although two others expressed concerns as a result.
- (e) The meeting between her, Cllr Marshall and the Chairman did not take place. The Chairman had never specified the purpose of the meeting. She had asked Cllr. Marshall to attend that meeting with her as she is a long time Member and very knowledgeable as to procedure.
- (f) Although at the meeting on 19<sup>th</sup> July, the Chairman did not mention her by name there was a strong implication towards her as he referred to a time when the Parish Clerk was away.
- (g) The e-mail (Clerk to Chris Dyke) dated 8<sup>th</sup> June has been edited so as to remove words from the e-mail of 7<sup>th</sup> June (J & F Hughes to Clerk).

## **11. Interview of Parish Councillor Geoff Licence 14<sup>th</sup> November 2011**

- 11.1 Cllr Licence was interviewed primarily in connection with his separate complaint against the Chairman of BPC that concerned the statements made at the F&GP meeting on 19<sup>th</sup> July 2011. He expanded slightly upon the content of his complaint, gave some detail of his personal circumstances and clarified certain elements. In general, however, there was little to add the statement that accompanied his complaint form.
- 11.2 Cllr Licence did however specifically reiterate that the Chairman's comments at the meeting on 19<sup>th</sup> July 2011 would have been understood by most, if not all, of those present to relate to his wife and himself.
- 11.3 In addition Cllr Licence considered the Chairman's statement at that meeting that a criminal offence had been committed was incorrect and misleading. Cllr Licence also referred to paragraph 7.3 of the Minutes of the Parish Council on 13<sup>th</sup> September 2011 which he regarded as inaccurate.

## **12. Interview of Parish Councillor Paul Young on 25<sup>th</sup> November 2011**

- 12.1 Cllr Young confirmed the content of his response to the complaint that he had e-mailed to me on 3<sup>rd</sup> October 2011 and in response to my questions and enquiries answered and commented as follows -

- (a) He has some experience of competency based interview questions and interviewing and scoring processes so he offered assistance as regards the questions to be asked at interview. This was his only involvement in the process
- (b) He was aware of the draft questions and answers provided by the Parish Clerk but he tweaked them and added an additional two or three questions. The final questions were relevant to anyone who had applied for the job and one would expect the successful candidate to be able to answer them.
- (c) He e-mailed the final questions to Cllr Dyke about an hour before the interviews were scheduled to begin. He did not send the final questions to anyone other than Cllr Dyke.
- (d) He anticipated that there may be problems associated with the appointment of the handyman given Mr Elstone's position but remains of the opinion that he was fairly appointed.

### **13. Interview of Parish Councillor Jon Hughes on 25<sup>th</sup> November 2011**

13.1 Cllr Hughes confirmed the content of his response to the complaint that he had e-mailed to me on 26<sup>th</sup> September 2011 and in response to my questions and enquiries answered and commented as follows -

- (a) He deliberately avoided being on the interview panel. Because he had been working with Mr Elstone on some small jobs he felt that being part of the selection process could lead to criticism.
- (b) Mr Elstone had been employed as 'litter picker' on minimum wage. There had been a complaint about this appointment about two years ago. Cllr Dyke had spoken to Paul Fisher and discussed how the appointment had been made. The job had been advertised and there was one other application that was not taken up as it was not, in his view, a confident or competent application.
- (c) The Parish Council has a General Purposes & Finance Committee that deals with employment matters but the Council was in a bit of a hole as a new litter picker was needed quickly. Mr Elstone got the job and was also asked to deal with some minor health and safety issues. From there the Council started to build criteria for a handyman job which then led to an advertisement in the Kent Messenger.
- (d) Because he had been working with Mr Elstone doing little jobs he informally discussed the advertisement with Councillors but said that he did not think he should be on the interview panel.
- (e) He did discuss some interview questions with the Parish Clerk and she did provide him with some draft questions and answers. None of the questions were difficult and there was nothing tricky in them. They

were basic questions that could be asked of anyone. He did not send on the draft questions to anyone.

- (f) He did not see the final agreed list of questions to be asked at interview.
- (g) Mrs Licence was not appointed as Deputy Clerk only a relief while the Clerk was away. Mrs Licence did not have a contract. She was self employed and invoiced for the hours she worked.

#### **14. Interview of Parish Councillor Mrs Pat Marshall on 29<sup>th</sup> November 2011**

14.1 In response to my enquiries and questions Cllr Marshall provided answers and comments as follows -

- (a) She was not aware of the details of the matter until Mrs Licence telephoned her, as a senior councillor and impartial person, to ask that she accompany her to a meeting with the Parish Council Chairman, Chris Dyke. It was clear to her that Mrs Licence had genuine concerns but she did not ask for her opinion. She believed that Cllr Dyke had asked Cllr Ash to accompany him but the meeting did not take place.
- (b) Mrs Licence was appointed to see fair play in the handyman appointment process.
- (c) She was mortified at the General Purposes & Finance Committee meeting on 19<sup>th</sup> July 2011 when, out of the blue, Cllr Dyke said there was something he wanted to discuss. He started by saying something along the lines of that when he took on the job he did not think it would be so vitriolic and went on to mention abusive telephone calls to the Parish Clerk. He also spoke about the anonymous letter to Paul Carter, the Leader of Kent County Council. That led to Paul writing to him about the 'litter picker' appointment. Cllr Dyke had showed her the letter from Paul Carter just before the start of the meeting and asked for her advice to which she said he should not to discuss it and should speak to Paul Fisher. The item was removed from the agenda and she believed that Cllr Dyke did consult with Paul Fisher afterwards.
- (d) The meeting did not move into closed session. She feels that it should have done although no members of the public were actually in attendance. The Chairman said that he had concerns referring to the abusive telephone calls, the anonymous letter and the complaint by Mr Street against Cllr Ash.
- (e) The Chairman went on to say that the Parish Council's computer had been hacked into, personal files downloaded and the Whistleblowing Act downloaded. There were two new councillors present and she wondered what they thought about this. One of the new councillors asked who had access and the Clerk said that she had been away for 3 days and that there was a relief in. The Chairman then said that it

was obvious who had done it and referred to a guiding hand behind it. At this point she thought that it was obvious to all that he was referring to Mrs. Licence and that they could have thought that Cllr Licence was the guiding hand. The proposal as she recalled it was for the IT Department of Maidstone BC to look into the accessing/hacking of the computer and, if it were so, it was a criminal offence under the Data Protection Act and the police should be informed.

- (f) Knowing something of the background she felt very sorry for Cllr Licence who was present and must have felt humiliated and embarrassed by what had been said and proposed. When the proposal, as amended, was voted on Cllr Licence abstained.
- (g) She was hesitant as she felt that involving the police before Maidstone's IT had looked into the matter was premature. Also she felt confused as she was uncertain whether this related to Mrs Licence. Everyone was stunned by the proceedings.
- (h) Minutes were subsequently produced and she e-mailed the Clerk, with copies to all Councillors including the Chairman, saying that she had concerns that the item concerned was discussed in an open meeting and that whilst there were no members of the public present she felt that due to the sensitive nature of the matter, the discussion of the item should have been 'in camera' and the relevant Minute confidential. She did not receive a response and the Minutes were published unaltered.
- (i) Mrs Licence had raised the matter with Cllr Dyke in confidence but he kept fobbing her off. He would not say what he wanted to discuss when he requested a meeting.
- (j) Cllr Dyke had asked for evidence in the form of copies of e-mails. Mrs Licence printed them off and provided them to him.
- (k) Mrs Licence was appointed as relief cover for the Clerk when she was absent on holiday, training or sickness. She had been appointed that year. When asked if she had a contract, Mrs Licence said not.
- (l) The offending item was not on the agenda but it was still voted on which is an irregularity.
- (m) She has been on the Parish Council for 40 years and things have never been like this. It is not a happy Parish at present.

## 15. Interview of Parish Councillor Ash on 29<sup>th</sup> November 2011

- 15.1 Cllr Ash confirmed the content of his response to the complaint that he had e-mailed to me on 30<sup>th</sup> September 2011 and in response to my questions and enquiries answered and commented as follows -

- (a) There was no particular reason for his involvement in the handyman selection process other than volunteers were needed.
- (b) The interview panel individually shortlisted 5 candidates from the 20 or so applications. The shortlists varied and a joint agreement was reached as to which 5 were to be interviewed.
- (c) It was agreed from the start that Helen Elstone would take no part in the process so he does not know why she was involved in formulating some of the questions.
- (d) You had not seen the final questions prior to the interviews. The questions and scoring sheets were being photocopied as you arrived. When the copies were distributed the questions were divided between the members of the Panel.
- (e) Dave Elstone achieved the highest score. Mrs Licence was asked to write to the candidates advising them of the decision.
- (f) Mrs Licence raised her concerns but he is not sure whether this was before or after the Panel's decision was announced.
- (g) As far as he was concerned he did not regard anything of the process as being untoward or irregular.
- (h) He was not aware of questions being copied to any candidate.

**16. Interview of Parish Councillor Christopher Dyke on 2<sup>nd</sup> December 2011**

16.1 In response to my enquiries and questions Cllr Dyke provided answers and comments and he expanded some of the points made. During the interview Cllr Dyke stated that -

- (a) Mrs Licence was self-employed. There was no contract of employment. Her appointment was just to cover the Clerk's absence on an ad hoc basis. Others had been appointed previously on similar terms.
- (b) Dave Elstone was employed as 'litter picker' on the minimum wage. There had been an anonymous complaint to Paul Carter regarding the appointment and advice was received from Paul Fisher to the effect that as the contract was at a fixed price, nothing improper occurred.
- (c) As time went on it became apparent that there was a wider range of tasks to be undertaken and that a different arrangement was required.
- (d) Paul Fisher advised and suggested that Helen Elstone should stand aside from the process of appointing a more general handyman. Mrs Elstone was so advised and told that Mrs Licence would handle the appointment process.

Mrs Elstone had no involvement in the process apart from her input to the sample questions.

- (e) Mrs Licence was asked to help draw up the advertisement, receive the applications and administer the process.
- (f) At around this time he had a conversation that included Paul Young and Mrs Elstone when interviews and model questions were discussed. It was suggested that draft questions be sent to Cllr Young for him to draw them together. You acknowledged that it was a mistake to have this conversation when Mrs Elstone was present.
- (g) The intention was to compile a shortlist and send the interview questions to the shortlisted candidates. However, Cllr Young did not supply draft questions until about an hour before the interviews. The Panel added three questions to the list and copied the questions at the Parish Office. The interview panel then decided who was going to ask each question and the scoring system.
- (h) Each member of the interviewing panel looked through the applications independently and made their own shortlists of 5 candidates. All the applications were received via Mrs Licence except that from Mr Elstone which was given direct to you by Mrs Elstone on the ground that it may otherwise not have been received in time. Mr Elstone's application was not opened before any of the other applications.
- (i) The Panel's choices and parameters were different. He was keen that the appointee lived, in or next to, the village, had horticultural knowledge and sufficient availability. Only one candidate was from Bearsted, a fireman. The applicant from Horsmonden pulled out and, in the event, only 3 arrived for interview.
- (j) After each interview each member of the Panel independently scored each candidate before seeing the next candidate. The completed score sheets were very similar. Mr Elstone came out as the clear winner, he scored 140 and the others 90 or 60 respectively.
- (k) The whole process had been delayed by the anonymous complaint to Paul Carter. The Parish has another contractor for the bigger work.
- (l) Following the interviews Mrs Licence raised concerns. She said that Mr Elstone had seen the model questions. He queried this saying Mr Elstone could not have seen the questions as he had only just seen them. Mrs Licence said that Mrs Elstone had been involved in the question setting and had sent the questions to Mr Elstone.
- (m) He thought that could not be right and that the Panel had made the joint decision to go ahead with the appointment.

- (n) He had thought about the matter overnight and wondered whether he had missed something. Mrs Licence had raised the matter nervously and he thought that he may have appeared dismissive.
- (o) The following day he rang Mrs Licence and asked what had led her to believe something improper had occurred. Mrs Licence referred to e-mails she had seen. He requested copies of those e-mails and asked her not to send out the appointment letter until later. He was shown the printed e-mail and saw that these were not the questions asked. Mrs Elstone would have had an idea of the questions but they were questions that would have been expected and he did not consider that the outcome was prejudiced particularly as the scoring of the candidates was so clear.
- (p) Two other issues were raised. One relating to Mr Elstone's waste disposal licence and the other concerning insurance. The first was raised and rectified within 4 or 5 weeks. The second related to Mr Elstone's son helping with some work without insurance. Mr Elstone was told that his son needed to be on the insurance. He put this omission down to inexperience and the issue was rectified.
- (q) By the Friday following the interviews, he was not sure if the letters had been sent out. He had hoped not but when he realised they had, he decided to stick with the Panel's decision.
- (r) The background leading up to the Finance and General Purposes Committee meeting on 19<sup>th</sup> July includes the fact that the computer shows as list of the most recent "Word" documents opened. The first two items on the list related to the Elstone's licensed company and were unsurprising. The other documents were of more concern, for example Mrs Elstone's contract of employment and details of the code of conduct complaint against Cllr Ash. Mrs Elstone was very distressed at this and telephoned Cllr Young. He (Cllr Dyke) felt that someone was looking for something against the Clerk and against Cllr Ash who may be a rival to Cllr Licence in the Borough elections next year, so he and Cllr Young, who is something of an IT specialist, examined the computer history. They found a large number of hits relating to chocolate and a significant number relating to employment protection. Mrs Licence had claimed that she had come across an e-mail by chance but that e-mail was some 210 e-mails back so Cllr Young thought it virtually impossible to find it by chance. He (Cllr Dyke) had, however, when Mrs Licence took up her role, told her that she could look through things and familiarise herself with matters and also that she should feel free to look at records.
- (s) He did investigate Mrs Licence's first complaint which was against the Clerk. As a result he wrote to her saying that the Clerk was free of any blame and, if there had been an error, it was his in asking the Clerk to supply some model questions.



- (t) He nevertheless felt that there had been some 'guiding hand' and believed that someone may have been taking advantage of Mrs Licence being in the Parish Office. He referred to tension between the Hall Manager (Leslie Etheridge) and Mrs Elstone and to Cllr Licence's relationship with the Hall Manager. He, however, thought of Cllr Licence as quiet and easygoing and not as being behind anything.
- (u) He had asked Cllr Young if he could establish what documents had been copied but he had been unable to do so. He also approached Paul Fisher to see if Maidstone's IT specialists could assist but were told, after a long delay, they could not partly because the times were confused with the wrong dates on the new computer.
- (v) He was concerned that there was a very serious issue and that someone was trying to find information on Cllr Ash and Mrs Elstone but delayed discussing the matter in case more information came to light. He also felt constrained by their whistleblowing policy which made it difficult to suggest any complaint against Mrs. Licence.
- (w) By 19<sup>th</sup> July he decided that he had to say in broad terms what his concerns were. He was aware that it was not easy to prove anything and in raising the issue at the Committee meeting deliberately did not name anyone, did not refer to specific dates and did not identify what documents had been accessed. He did consider going to the police but decided to await developments.
- (x) When he made reference to a 'guiding hand' he did not have Cllr Licence in mind. He does not believe that all those present at the meeting on 19<sup>th</sup> July would have assumed the references were to Cllr and Mrs Licence. It was, in his view, more likely that Cllr Licence's body language indicated that his wife may have been involved.

16.2 Subsequent to my interview of Cllr Dyke he has made the following comment :

"For me the key issue is not the appointment of the handyman but the actions of Mrs License in opening such a range of documents in such an accurate order. I have attached the original email sent to me by cllr Ethridge last year which triggered off a whole range of events. It is my belief that there has been collusion between Mr Ethridge and Cllr License and his wife to try and back up Cllr Ethridges claims or find new evidence against the clerk. When this failed to reveal anything of importance they have switched their complaint to one third of the council and myself in particular. We now have a council in disarray and a clerk on long term sick leave as a result. For myself I feel I have done my best in amazingly difficult circumstances. I am now accepting the wishes of my wife to stand down as chair from the end of Jan 2012 and resign from the council as soon as the CoC is completed"

16.3 The e-mail referred to in the preceding paragraph is attached at Appendix G.

**17. Comments of Parish Councillor Paul Blackmore**

- 17.1 Cllr Blackmore has submitted a written (See Annexe K the main points of which are –
- (a) He had no involvement in the drafting of the interview questions
  - (b) The seven interview questions were divided up between the Panel each asking two or three questions.
  - (c) His role was to ask questions, record answers and score against the answers.
  - (d) The Panel had independently scored the candidates.
  - (e) They checked the scores, had a discussion and agreed to appoint Mr Elstone.
  - (f) Mrs Licence and Cllr Dyke had a discussion. Cllr Dyke said he was aware that the questions had gone through the Parish office and he was satisfied there had been no wrongdoing. Cllr Dyke asked him and Cllr Ash if we were happy to offer Mr Elstone the position and we said we were.
  - (g) Mrs Licence did not at that time allege the Clerk had written the questions or forwarded them to anyone.

### **Analysis of the Evidence and Reasoning**

- 18.1 Mrs Licence alleges that –
- (a) Cllr's Dyke and Hughes have breached Sections 2(c), 4 and 5(a) of the Code by virtue of their involvement in the appointment of the handyman having compromised the impartiality of the Parish Clerk in the appointment of her husband.
  - (b) Their actions can reasonably be regarded as bringing their office or authority into disrepute as the recruitment process had been flawed by their actions
  - (c) They used their position as Members improperly to confer or secure advantage to Dave Elstone in getting the job.
- 18.2 There is some misunderstanding in the complaint as to the relevant paragraphs as, for example, paragraph 2(c) is not in the Code and the wording is not that which appears in paragraph 3(2)(c). For this reason I have adopted the view of the breaches set out in the respective decision notices and recited these in above at section 4.

- 18.3 Mrs Licence further alleges that Cllr's Ash, Blackmore and Young may have breached Section 4, although the alleged breach is in fact of paragraph 5, of the Code as all three were aware of the procedural irregularities in the appointment of the handyman but took no action.
- 18.4 Finally, Mrs Licence complains that Cllr Dyke breached paragraph 2(b) and (c) and 4 of the Code, although the alleged breaches are apparently of 3(1) and 3(2)(d), by the making of slanderous statements at the Parish Council's F&GP Committee meeting on 19<sup>th</sup> July 2011.
- 18.5 There is no dispute over the fact that the Parish Clerk had involvement in the initial stage of the handyman appointment process in that she was asked for and gave some suggestions as to the interview questions. Cllr Dyke acknowledges that it was a mistake to discuss model questions whilst the Clerk was present given that her husband was a potential applicant and that it had been decided that she was not to take any part in the process. Her involvement was, however, confined to suggesting questions similar to those that others were likely to suggest. There is evidence that the Clerk forwarded a copy of her suggested questions to her and her husband's business e-mail address.
- 18.6 Cllr Hughes deliberately avoided being on the interview panel as he had been working with Mr Elstone and felt that being part of the selection process could lead to criticism. He did discuss the handyman advertisement informally with Councillors. He discussed some basic interview questions with the Clerk but was not aware that any he had formulated had been used. As Cllr Hughes was Chairman of the Environment Committee and had been involved with building the criteria for the handyman role, it is unsurprising that he would have had some conversation with the Clerk as to questions for potential applicants. I do not consider that Cllr Hughes used his position improperly, compromised anyone's impartiality or brought his office or BPC into disrepute and, therefore, he committed no breach of the Code.
- 18.7 Cllr Young offered to assist in the preparation of questions for the interview panel as he had some experience of competency based questions, interviewing and candidate scoring. This assistance was his only involvement in the process. He was aware of the draft questions and answers provided by the Clerk but he altered them and added additional questions. The actual questions used at the interviews were impartial and could be answered by anyone who had the required skill set. In addition, Cllr Young prepared an impartial simple competency based scoring system for use by the interviewers. Cllr Young's input cannot be regarded as conduct regarded as bringing his office or BPC into disrepute so he did not breach the Code.

- 18.8 It is agreed that immediately following the handyman interviews Mrs Licence expressed her concerns over the Clerk's involvement in the question setting process to the interview Panel. The Panel members considered Mrs Licence's concerns but on the basis that –
- (a) whilst the Clerk may have seen some of the suggested questions no one other than Cllr Young and the Panel had seen the final questions;
  - (b) the questions were of the type that would be expected by an applicant and there was nothing difficult about them
  - (c) Mr Elstone had achieved the highest score by far;
  - (d) on the basis of the interviews and the scoring they believed then and subsequently that Mr Elstone was the right choice; and
  - (e) they did not believe that there was anything untoward with the procedure or that their judgment was tainted
- they jointly decided to go ahead with the appointment.
- 18.9 I am satisfied on the evidence that there was no deliberate wrongdoing on the part of the Panel although the circumstances were such as to give rise to a perception that the process was flawed. I have also considered whether the irregularities in the appointment process may reasonably be regarded as having brought BPC and/or Chairman into disrepute. I am satisfied that Cllr Dyke's behaviour was neither dishonest nor deceitful and that his conduct cannot reasonably be regarded as bringing his office or authority into disrepute contrary to the Code.
- 18.10 There is general consensus as to what occurred and was said at the F&GP meeting although there is some differing recollection of actual words spoken. In essence it is agreed that Cllr Dyke certain statements that others considered to be not only inappropriate but also such as to place him in breach of the Code of Conduct.
- 18.11 The nub of the complaint is that Cllr Dyke made public statements that, at the very least, suggested that Mrs Licence had behaved improperly thereby failing to accord her due respect and brought BPC into disrepute. I have distilled the complaint to two issues. Firstly, were Cllr Dyke's statements justified or improperly spoken wrong and, secondly, did those statements amount to a breach of the Code.
- 18.12 Cllr Dyke is firmly of the view that some improper use was made of BPC's computer and it was reasonable for him to make his concerns known to all Members of BPC. Cllr Dyke has stated that in the light of the cumulative

computer record of documents that had been accessed he believed that advantage had been taken at the Parish Clerk's temporary absence.

- 18.13 Having decided to alert BPC's Members of his concerns Cllr Dyke was anxious to express them in broad terms. He states that he was aware that it was not easy to prove anything and was extremely careful not to name anyone, not to indicate what documents had been accessed and not to refer to any specific dates.
- 18.14 Notwithstanding Cllr Dyke's intention, some, including Cllr and Mrs Licence are convinced that Cllr Dyke's statements could relate only to them. They also take the view that others would easily link them to the statements.
- 18.15 Specifically, Mrs and Cllr Licence maintain that –
- (a) Cllr Dyke told the Committee that 'someone had hacked into the office computer and looked at and downloaded confidential documents about two weeks ago' and that 'this person is known and had a guiding hand'.
  - (b) As Cllr Dyke had said this had happened while the Parish Clerk was on holiday, it was obvious to all Councillors that he was referring to Mrs. Licence and that the person guiding her was him.
- 18.16 In response Cllr Dyke says that –
- (a) He felt it was proper and legitimate to voice his concerns.
  - (b) He avoided referring to names, dates, times and documents.
  - (c) His reference to a guiding hand did not refer to Cllr Licence.
  - (d) He had authorised Mrs Licence's access to the BPC's computer and had encouraged her to familiarise herself with matters and to look through records in order to do so.
  - (e) He had requested from Mrs Licence copies of the e-mails to which she had referred and she provided these.
- 18.17 The allegations contained in the complaint are serious and could potentially give rise to breaches of the Code of Conduct. It is, however, important to examine the allegations in context. On one hand the Chairman had valid concerns that he believed the parish Council should be aware of and on the other certain individuals in the full knowledge of the background believed that the concerns related to and enabled them to be identified by others.
- 18.18 I accept that Cllr Dyke's statements to the F&GP Committee were such that Parish Councillors present may have assumed a link to Mrs Licence. Members of the public were not present at that time so I have left that element

to one side. Whilst Cllr Dyke made some effort to avoid specifics it seems to me that his statements would have at the very least raised a suspicion in the minds of some Members that Mrs Licence had behaved improperly. Additionally it seems imprudent to have mentioned criminal offences and involving the police at that time.

- 18.19 I also accept that to those immediately concerned the Item 14 ii) of the Minutes of the F&GP Committee meeting could be taken as referring to them. I disagree, however, that they were accusatory towards individuals.
- 18.20 I have had regard to the information provided by Cllr Mrs. Marshall which is largely supportive of the Complainant's views. We are though dealing with perceptions and interpretations in this instance so I do not believe that this information adds significant weight.
- 18.21 The investigation and the interviews conducted have failed to substantiate the allegations to sufficient extent to lead me to believe that that Cllr Dykes actions at the F&GP meeting amount to a breach of the Code of Conduct.
- 18.23 My impression gained from the lengthy interviews is that there is an element of tension between the parties and, indeed, between factions within BPC. Clearly Cllr Licence and his wife feel considerably aggrieved but, conversely, Cllr Dyke found himself in a difficult situation that he handled with diligence albeit that with hindsight the matter could have been dealt with differently.

## 19. Findings

- 19.1 Mrs and Cllr Licence have genuine and understandable concerns relating to the overall events of which this complaint forms a part.
- 19.2 Having considered all of the above I have concluded that Cllr Dyke is a conscientious Chairman who found himself dealing with a difficult and challenging situation that he dealt with to the best of his ability. As Chairman of BPC Cllr Dykes actions and behaviour are subject to greater scrutiny than other members of the Council and the office of Chairman carries with it greater responsibility.
- 19.3 In so far as the complaints against Cllr Dyke I find –
- (a) Notwithstanding that his conduct may have appeared to some to have included the making false and inaccurate allegations, he has not failed to treat others with respect in breach of paragraph 3(1) of the Code.
  - (b) There is no evidence to support the contention that he compromised impartiality of those who work for, or on behalf of, BPC in breach of paragraph 3(2)(d) of the Code.

- (c) It was anticipated that the Clerk's husband would be an applicant for the post of parish handyman and arrangements were to have been put in place to ensure that she remained outside the appointment process. Notwithstanding this, there was a strong suggestion that the appointment process was improper or, at least flawed. I find however his behaviour was neither dishonest nor deceitful and am satisfied that his conduct cannot reasonably be regarded as bringing his office or authority into disrepute contrary to paragraph 5 of the Code.
  - (d) There is no evidence to support the contention that he used his position improperly in breach of paragraph 6(a) of the Code.
- 19.4 As to the complaints against Cllr Hughes I find there is no evidence of dishonesty or deceit and that the facts do not show that he –
- (a) Compromised the impartiality of those who work for, or on behalf of, BPC in breach of paragraph 3(2)(d) of the Code.
  - (b) He can reasonably be regarded as bringing his office or authority into disrepute in breach of paragraph 5 of the Code.
  - (c) Used his position improperly in breach of paragraph 6(a) of the Code.
- 19.5 I find on the basis of the information obtained and evidence provided that Cllr Ash has not behaved dishonestly or deceitfully nor has he conducted himself in a manner that could reasonably be regarded as bringing his office or authority into disrepute.
- 19.6 I find on the basis of the information obtained and evidence provided that Cllr Blackmore has not behaved dishonestly or deceitfully nor has he conducted himself in a manner that could reasonably be regarded as bringing his office or authority into disrepute.
- 19.7 I find on the basis of the information obtained and evidence provided that Cllr Young has not behaved dishonestly or deceitfully nor has he conducted himself in a manner that could reasonably be regarded as bringing his office or authority into disrepute.

## 20. Closing Remarks

- 20.1 Mrs Licence has a belief that the handyman appointment process was wholly unsatisfactory and she and her husband have a genuine belief that Cllr Dyke made open allegations against them which were totally unjustified. Cllr Dyke, however, considered it to be his duty to make known his concerns. As a result I have found it difficult balancing the investigation and evidence against the perceptions of Mrs and Cllr Licence. On balance, however, and after careful consideration of the comments received as a result of my draft report, I have

concluded that none of the Subject Members have acted in breach of the Code.

- 20.2 It is apparent BPC is operating in an atmosphere of tension and mistrust. I fear that there exists a tendency in some quarters to allow personal and political differences to disturb effective service to the community. I understand that as a result, in addition to the impending resignation of the current Chairman, the current Parish Clerk is presently on extended medical absence
- 20.3 I have provided copies of my draft report to the parties and to Maidstone Borough Council's Monitoring Officer and received a number of responses. These responses are annexed (Annexe L). I have carefully considered the comments, criticisms and questions and taken these into account in producing my final report.

Keith E. Trowell

Group Manager (Legal Services)

& Deputy Monitoring Officer

Tunbridge Wells Borough Council

10<sup>th</sup> February 2010



# 2.

## General obligations under the Code of Conduct

### Treating others with respect

See Paragraph 3(1)

You must treat others with respect.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

### Complying with equality laws

See Paragraph 3(2)(a)

You must not do anything which may cause your authority to breach any equality laws.

Equality laws prohibit discrimination on the grounds of sex, race, disability, religion or belief, sexual orientation and age.

The provisions of these laws are complex. In summary, there are four main forms of discrimination:

- Direct discrimination: treating people differently because of their sex, race, disability, religion or belief, sexual orientation or age.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their sex, race, disability, religion or belief, sexual orientation or age, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of sex, race, disability, religion or belief, sexual orientation or age, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.

- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality. They also impose specific positive duties on certain authorities.

Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

## Bullying and intimidation

### See Paragraphs 3(2)(b) and 3(2)(c)

You must not bully any person including other councillors, council officers or members of the public.

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

This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code of Conduct.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

### Compromising the impartiality of officers of the authority

#### See Paragraph 3(2)(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.

You should not approach or pressure anyone who works for, or on behalf of, the

authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### Disclosing confidential information

#### See Paragraph 4(a)

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.

- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
  - The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
    1. the disclosure must be reasonable
    2. the disclosure must be in the public interest
    3. the disclosure must be made in good faith
    4. the disclosure must be made in compliance with any reasonable requirements of your authority
- In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.
1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
    - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
    - Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
    - The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
    - The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
    - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
    - The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to re-occur.
    - Whether the disclosure involves your authority falling in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:
- (a) A criminal offence is committed.
  - (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
  - (c) A miscarriage of justice occurs.
  - (d) The health or safety of any individual is in danger.
  - (e) The environment is likely to be damaged.
  - (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.
4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

## Preventing access to information

### See Paragraph 4(b)

You must not prevent anyone getting information that they are entitled to by law.

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the *Freedom of Information Act 2000* or those copies of minutes, agendas, reports and other documents of your authority which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting [www.ico.gov.uk](http://www.ico.gov.uk) or by calling 0845 630 6060.

## Disrepute

### See Paragraph 5

You must not bring your office or authority into disrepute while acting in your official capacity, or at any time through criminal activity that leads to a criminal conviction.<sup>2</sup>

<sup>2</sup> Transitional Note: Until such time as there is Parliamentary approval for amendments to section 52 of the *Local Government Act 2000* which reinstates the situation prior to Collins J's decision in *Livingstone v Adjudication Panel for England 2006*, the Code of Conduct does not apply to conduct outside of the performance of your functions as a member. Only if you have engaged in an activity which has a link with the functions of your office will any conduct in your private capacity be covered by the Code of Conduct. If the legislative amendments are passed, the Code of Conduct will also apply to criminal activity which has led to a conviction.

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

## Using your position improperly

### See Paragraph 6(a)

You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

In addition to paragraph 6(a), paragraph 12 is also relevant to the proper use of your position. Paragraph 12 supports your role as a community advocate, representing and speaking for the concerns of your community, even where you have a prejudicial interest. This right applies to you at meetings where you have a statutory right

to speak or you are provided with the same opportunity to speak as ordinary members of the public would be allowed. If your authority does not allow members of the public to attend the relevant meeting for the purpose of speaking to it, paragraph 12 will not apply to you unless you have a statutory right to speak on the matter.

You must leave the room or chamber immediately after you have made the representations, given your evidence, or answered questions, and make no further attempt to influence the decision. If the meeting decides that you must stop speaking to the meeting, even if you have more to say, you must stop and leave the room. If you fail to comply with the meeting's direction or paragraph 12 of the Code of Conduct, you may be found to have improperly influenced the decision.

## The authority's resources

### See Paragraph 6(b)(i)

You must only use or authorise the use of the resources of the authority in accordance with its requirements.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use

these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code of Conduct.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.

## Using resources for proper purposes only

### See Paragraphs 6(b)(ii) and 6(c)

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the *Local Government Act 1986*.

You should never use council resources for

purely political purposes, including designing and distributing party political material produced for publicity purposes.

However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code of Conduct.

### Considering advice provided to you and giving reasons

#### See Paragraph 7

Please note: paragraph 7 is not mandatory for parish councils. However, your parish may choose to include an obligation to take account of your clerk's advice in the Code your authority adopts.

You must have regard to advice from your monitoring officer or chief finance officer where they give it under their statutory duties.

If you seek advice, or advice is offered to

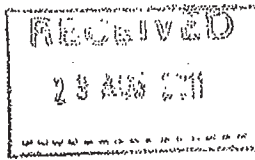
you, for example, on whether or not you should register a personal interest, you should have regard to this advice before you make your mind up. Failure to do so may be a breach of the Code of Conduct.

You must give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by your authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

Where members disagree with officer recommendations in making a decision, members will need to take particular care in giving clear reasons for the decision.



## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence



14 Trapfield Close  
 Bearsted  
 Maidstone  
 ME14 4HT  
 21<sup>st</sup> August 2011

Dear Mr Fisher

**Re: Bearsted Parish Council**

I am writing to express my concerns about the irregularities which have occurred during the recruitment process for the position of Handyman for Bearsted Parish Council and the problems I have experienced in trying to get this matter properly investigated. I am the Assistant Clerk to Bearsted Parish Council and was specifically tasked with undertaking the recruitment of the Handyman because Mr Dave Elstone, the husband of the full time Clerk to the Council, Helen Elstone, was expected to be an applicant for the post.

I believe that Cllr Chris Dyke and Cllr Jon Hughes have breached Section 2 (c), Section 4 and Section 5(a) of the Code of Conduct as follows:-

*2. A Member must :*

- (a) promote equality by not discriminating unlawfully against any person.*
- (b) treat others with respect and*
- (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.*

*4. A Member must not in his official capacity, or any other circumstance, conduct himself in a manner, which could reasonably be regarded as bringing his office or authority into disrepute.*

*5. A Member :*

- (a) must not in his official capacity, or any other circumstance, use his position as a Member improperly to confer on or secure for himself or any other person, an advantage or disadvantage*

The involvement of Cllr Chris Dyke and Cllr Jon Hughes in the appointment of the Handyman has compromised the impartiality of Helen Elstone in the appointment of her husband as handyman. I believe that their actions could reasonably be regarded as bringing their office or authority into disrepute as the recruitment process has been flawed by their actions. They have also used their position as Members to improperly to confer on or secure an advantage to Dave Elstone in getting the job.

I also believe that Cllr Richard Ash, Cllr Paul Blackmore and Cllr Paul Young (Vice Chairman) may have also breached Section 4 of the Code of Conduct.

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

*4. A Member must not in his official capacity, or any other circumstance, conduct himself in a manner, which could reasonably be regarded as bringing his office or authority into disrepute.*

All three Councillors were aware of the irregularities of the procedure of appointing the Handyman and yet took no action. It was the decision of the Parish Council that Helen Elstone have no part in the recruitment process.

I am further concerned that I have been slandered in an Open Council Meeting where the Chairman accused me of criminal activities and also implicated my husband. This is in breach of Section 4 and Section 2 (b) and (c):-

*2. A Member must :*

*(a) promote equality by not discriminating unlawfully against any person.*

*(b) treat others with respect and*

*(c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.*

*4. A Member must not in his official capacity, or any other circumstance, conduct himself in a manner, which could reasonably be regarded as bringing his office or authority into disrepute.*

A full chronology of the concerns I have expressed and copies of all the documents I refer to are attached. Please let me know if you need anything else from me and I am willing to meet with you to discuss this matter. I would be grateful if you would investigate this as a matter of urgency.

Yours sincerely

Wendy Licence (Mrs)

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

COMPLAINT ABOUT BEARSTED PARISH COUNCIL'S RECRUITMENT PROCESS FOR A HANDYMANChronology of events

11.2.11 I was appointed by Bearsted Parish Council as Assistant Clerk to provide cover whenever the full time clerk, Helen Elstone, was on leave or sick. I was to work 25 days per annum, for 3 hours per day to cover the Parish Office and attend evening meeting if necessary.

10.3.11 I received training in the Parish Office from Helen Elstone about the office systems and encouraged by her to look at files, if I had time, so that I could familiarise myself with how the Parish Council worked.

The Parish Council was soon to advertise for the post of Handyman and I was also asked by Cllr Chris Dyke to deal with the job applications for this post as Helen Elstone's husband, Dave Elstone, was expected to be one of the applicants. Dave Elstone had already been working for Bearsted Parish Council since February 2011 as a casual litter picker

20.5.11 Helen Elstone emailed me to ask if it was OK for the job applications for the handyman post to be sent to my home address. *See Appendix 1* I said it was OK.

27.7.11 The advert for the handyman post appeared in the KM – *Appendix 2*. It was very vague; gave no details of the specific work to be done and required no qualifications or previous experience. It did not specify from where or from whom further details could be obtained. It gave no contact details for the Parish Council and required all applications to be sent to my home address. A job description was not prepared to be sent to anyone expressing an interest in the post.

11.7.11 I passed all the 20 job applications that I had received direct to the Chairman of Bearsted Parish Council, Cllr Chris Dyke at his home address so that the applications did not go through the office. Cllr Chris Dyke told me to do this. I did not receive an application from Dave Elstone.

21.6.11 Having considered all the applications, Cllr Chris Dyke returned them to me via my husband Geoff who is a Bearsted Parish Councillor. He gave them to my husband just before the beginning of the Community Committee meeting held at Madginford Hall and they were brought back to my home. Cllr Chris Dyke asked me to invite 5 applicants to interview, including Dave Elstone. Dave Elstone had sent his job application via the Parish Council office and not to my home address as required in the advertisement.

22.6.11 Letters were posted to 5 candidates calling them to interview

27.6.11 The day of the interviews

I worked in Parish Office during the day as Helen Elstone was on a course. She had asked me to contact a fireworks company for testimonials and, as I could not find a phone

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number or email address for them, I scrolled back through the received emails on the office computer hoping to find an e-mail from the company. The split screen on the office PC shows a preview of an email without actually opening it and, as I scrolled down, I saw a preview of an e-mail from Cllr Jon Hughes *Appendix 3* about the questions to be asked at the interview for the Handyman's job and the model answers. When I opened this e-mail, it was clear that Helen Elstone had written both the questions and answers and had passed them the Cllr Jon Hughes for comment and, following his approval, she had passed them to Cllr Chris Dyke *Appendix 4*. Cllr Jon Hughes is the Chairman of the Bearsted Parish Council Environment Committee and is, in effect, the line manager for both the Council's Litter Picker and its Handyman.

The interviews were held in the Parish Office on evening of 27<sup>th</sup> June. Only 3 out of the 5 invited candidates attended. When I arrived at the office, Cllr Chris Dyke was photocopying sets of questions to be asked of the candidates (*appendix 5*). The questions were given out and I saw that they were mainly the questions and answers that had been drafted by Helen Elstone.

The interview panel consisted of Cllr Chris Dyke, Cllr Richard Ash and Cllr Paul Blackmore. I sat in on all 3 interviews and made notes on them. As the job advert had been for a Handyman and there had been no job description, only Dave Elstone was able to accurately answer the horticultural question - neither of the other 2 candidates had expected this question and one of them said that he had expected the Handyman's job to be all about maintaining the halls in the Parish.

All 3 candidates were scored on the answers they gave and whether the answers matched the answers that Helen Elstone had written. The results were counted and Dave Elstone scored the highest. I asked the panel if I could speak to them in confidence and I told them that Helen Elstone had written the questions and answers and I expressed my severe concern about this situation. Cllr Chris Dyke told me that he was aware that the questions had gone through the office. Cllr Richard Ash said that Dave Elstone would have had an advantage as he had been the Council's litter picker for several months. Cllr Paul Blackmore said nothing. Cllr Chris Dyke then telephoned Dave Elstone to offer him the job. He then told me to write to Dave Elstone confirming the job offer and that when he formally accepted it, I should write to the other candidates to inform them they had been unsuccessful.

After Cllr Richard Ash and Cllr Paul Blackmore had gone, Cllr Chris Dyke told me that they had purposely advertised the job with an hourly rate so that Dave Elstone could apply for it and that if the job had been put out to tender, he would not have been allowed to submit a tender. He did not explain to me why this would have been.

28.6.11 I worked in the Parish Office again on this day as Helen Elstone was still on a course. I decided that I should check the e-mails that I had seen the previous day to see if Helen Elstone's questions were exactly the same as the ones asked by the interview panel. The e-mails confirmed that they were and, in addition, I also found a subsequent e-mail *Appendix 6* which Helen had sent to her husband, Dave Elstone, prior to the interviews actually giving him the interview questions and answers that she had agreed with Cllr Jon Hughes and passed on to Cllr Chris Dyke.

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I felt very shocked and sickened by all this, particularly as I had been asked to specifically deal with the recruitment of the Handyman to ensure that it was done in a fair, open and honest way and to ensure that Helen Elstone would not be seen as having any involvement in the recruitment process as her husband was one of the applicants. I was also very concerned that if the truth of what had happened became generally known, it would reflect very badly on the Parish Council.

I, therefore, telephoned Cllr Chris Dyke to express my increasing concern about how the handyman had been recruited. He told me that Cllr Jon Hughes had given him 3 questions three weeks ago and that he (Chris) had written 3 more. (There were in fact 5 questions and answers which Helen Elstone had written and none that I could see from Jon Hughes.) The only questions and model answers that I saw were the 5 that Helen Elstone sent to Cllr John Hughes and then on to her husband and which were used in the interview.

Cllr Chris Dyke told me again to send the confirmation letter to Dave Elstone and to send apologies to the other candidates. I continued to stress my concern because the e-mails clearly showed that not only did Helen Elstone write the questions and answers but she also sent a copy to Dave Elstone. At this point, Cllr Chris Dyke sounded quite agitated by my persistence and asked how I knew all this. I told him that the e-mails were on the office PC and that I could give him copies if he wanted. He requested that I provided copies to him.

**29.6.11** This was my last morning in the Parish office. I printed the e-mails (*Appendix 3 & 6*) which Cllr Chris Dyke had requested and my husband, Cllr Geoff Licence, delivered them to his house in the evening.

**1.7.11** I began to get increasingly worried about how the Parish Council had handled the interviews and the recruitment of the handyman so I wrote and hand delivered to Cllr Chris Dyke's home a letter formally expressing these concerns and asking that, as a whistle blower, my disclosures to him be treated in a confidential and sensitive manner and that the matter be properly investigated. *Appendix 7*

**11.7.11** I received a reply from Cllr Chris Dyke dated 8 July 2011 saying that as I had marked my letter 'Private & Confidential', he could not discuss it with anyone. *Appendix 8*

**14.7.11** I telephoned Cllr Chris Dyke and he led me to believe that he wanted to discuss the matter with Cllr Richard Ash and I agreed to this. He told me that he wanted to meet with me and my husband, Cllr Geoff Licence, and that he would ask Cllr Richard Ash to be present. He would not give me any details as to what he wanted to talk to me about and I was told to call him back on 15 July and give him some dates.

**15.7.11** I phoned Cllr Chris Dyke in the morning and explained that my husband didn't want to get involved as he felt, quite rightly, that it was nothing to do with him. I asked Cllr Chris Dyke what he wanted to talk about but he would not give me any details and said he would call back later.

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

17.7.11 As I had not heard anything further from Cllr Chris Dyke, I called him again on Sunday evening. He told me he had written a letter to me which he would deliver by hand to me the following day.

18.7.11 I received the letter which was again requesting a meeting and suggesting that someone else be present. Again, no details were given as to what the meeting would be about. *Appendix 9* I asked Cllr Pat Marshall if she would be willing to attend the meeting with me as I know she is a well respected and senior member of the Parish Council and is knowledgeable of Parish Council matters and extremely trustworthy. I gave Cllr Pat Marshall a brief summary of the irregularities in the appointment of Handyman that I had discovered as I thought this was what the meeting would be about. Cllr Pat Marshall listened but did not comment as she wanted to remain impartial for the meeting. She kindly agreed to be present as an independent and unbiased person and I emailed dates to Chris Dyke for a meeting and he read the email at 6.30pm on 19.7.11.

*Appendix 9a*

19.7.11 The Parish Council Finance & General Policy Committee Meeting took place at 7.30 pm. My husband, Geoff, is a member of this committee and he came home terribly shocked and upset by what the Chairman of the Committee, Cllr Chris Dyke, had told them.

Cllr Chris Dyke told the Committee that 'someone had hacked into the office computer and looked at and downloaded confidential documents about 2 weeks ago'. He went on to say that 'this person is known and had had a guiding hand'. He also said that this was a breach of the Data Protection Act and a criminal offence. Although names weren't mentioned, it was obvious that Cllr Chris Dyke was talking about me and implying that Geoff had 'guided' me in what I had done. Cllr Chris Dyke also told the committee that a request had been sent to Maidstone Borough Council for an IT technician to examine the Parish Council computer that the matter was to be referred to the police. A resolution to this effect was carried with one abstention from Cllr Geoff Licence, my husband. *See Appendix 10 page 4, 14) Correspondence ii*). All of this was discussed at an open, public meeting with all 8 members of the committee plus the Clerk, Helen Elstone, in attendance. The motion in the draft minute was subsequently amended to exclude the Police involvement.

I became very frightened and very upset at this turn of events. I, therefore, sought my own personal legal advice and was informed that, contrary to what Cllr Chris Dyke had told the Finance and General Policy Committee, there would have been no breach of the Data Protection Act as I am an employee of the Council and it is, therefore, an entirely internal matter. My lawyer also told me that Cllr Chris Dyke's insistence on my having a meeting with him and not telling me the purpose of the meeting was against ACAS guidelines as he would not provide me with any information about what the meeting was to be about. I was also advised that I have a written grievance against Cllr Chris Dyke in this respect - which I may well pursue.

I am also taking further legal advice on the inaccurate information that Cllr Chris Dyke provided to the Finance and General Policy Committee and the clear inference that I had unlawfully looked at and downloaded confidential information and committed a criminal offence.

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23.7.11 I received a letter from Chris saying that he had been advised not to have a meeting with me. *Appendix 11*

26.7.11 As it had now been nearly 4 weeks since I sent my initial letter to Cllr Chris Dyke expressing my concerns about the recruitment of the Handyman and he had still not sent me a substantive reply, I hand-delivered to his home another letter specifically requesting information about the concerns I had raised. *Appendix 12*

2.08.11 I received a reply (*Appendix 13*) from Cllr Chris Dyke dated 31 July stating that my letter to him of 1 July covered three issues:

1. The "Appointment of Litter Picker" - I found this quite incredulous as my letter made no reference to the litter picker and I wondered if Cllr Chris Dyke has actually read or understood my letter!

2. "Appointment of Handyman" in which Cllr Chris Dyke confirmed that he did, in fact, ask Helen Elstone to 'submit' questions and that Cllr Paul Young, the Vice Chairman of Bearsted Parish Council, had made the final choice about them. I had no previous knowledge of Cllr Paul Young's involvement even though I was specifically tasked with dealing with the recruitment of the handyman. Cllr Chris Dyke did not explain why the questions and answers drafted by Helen Elstone and approved by Cllr Hughes were the exact ones that were asked at the interviews. Neither did he explain why Helen Elstone e-mailed these exact questions and answers to her husband, Dave Elstone, which provided him with an unfair advantage at the interviews.

3. Dave Elstone's insurance - which does not cover his family members who have been allowed to work for the Parish Council under his company name, 'Clean and Tidy'.

3.8.11 I felt extremely concerned that after over a month, Cllr Chris Dyke had still not addressed my concerns or showed any inclination to investigate them. In addition, his letter of 31 July confirmed that he, Helen Elstone, Cllr Jon Hughes and Cllr Paul Young had all been involved with the drafting of the interview questions which was contrary to everything that any Councillor had ever said and contrary to the expressed wishes of the Parish Council which was that Helen Elstone play no part in the recruitment of the Handyman.

I am deeply concerned about the unfair allegations made against me at the Finance and general Policy Committee meeting on 19 July and this was raised with without my knowledge and without the Councillors being in possession of the facts at an open Public Meeting with no opportunity for me to state my case. As I was worried about the inaccurate and false allegations made against me and by implication my husband Geoff by Cllr Chris Dyke at the Finance and General Policy meeting, an open Public Meeting on 19 July, I, therefore, decided to write an open letter to all the Parish Councillors about the matter and I emailed it to them all. *Appendix 14*

4.8.11 An email was circulated to all Councillors informing them that an extraordinary meeting was to be called to discuss the issues fully. *Appendix 15*

7.8.11 The meeting was formally called for 11 August 8 at 7.30pm. *Appendix 16*

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

11.8.11 At approx 6.15pm, my husband, Geoff, received a phone call from another councillor, Cllr Helen Cuming, saying that Cllr Chris Dyke had cancelled the meeting due to 'circumstances beyond his control'. There was no explanation as to why Cllr Paul Young, the Vice Chairman, could not chair the meeting in the Chairman's absence.

16.8.11 An email from Cllr Chris Dyke was circulated to all councillors apologising for cancelling the meeting that was to have been held on 11 August and informing them that it will be re-arranged for sometime after 5 September. The e-mail explains that the 'main players in the event' are not available until this time and that Councillors will be able to look at all the paperwork and ask any questions. *Appendix 17.*

Wendy Licence

20 August 2011



MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

Mail :: Inbox: Advertisement for handyman

<http://webmail.renaissancecrafts.co.uk/imp/message.php?actionID=p...>

Date: Fri, 20 May 2011 15:37:59 +0100 [20/05/2011 15:37:59 BST]  
From: Clerk <clerk@bearstedparishcouncil.gov.uk>  
To: wendy@renaissancecrafts.co.uk  
Reply-To: clerk@bearstedparishcouncil.gov.uk  
Subject: Advertisement for handyman



Wendy

Following the recent questions raised in relation to employment issues Chris has asked whether you would be happy to receive all applications addressed to you at your home address in respect of the advert that is to be placed in the KM. Once received could you liaise direct with Chris/Jon in respect of arranging interviews etc and then provide admin support for this. If you keep a record of hours worked in this respect we can arrange for payment along with June hours.

Regards

Helen Eistone

Mrs Helen Eistone FILCM

Clerk to Bearsted Parish Council

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General

icare, part of the Circle Housing is the largest independent provider of services in the UK. We provide vital support to elderly and vulnerable people, supporting people to live safely in their own home is at the very thing we do.



They have the following opportunities:

**Partnership Advisors**

Permanent, Full and part time hours available  
Kent Ref: 2253/K

Looking for people to join the new Partnership department, to provide an effective and efficient support service for Invicta Telecare. Duties include a range of duties from clerical and financial work to stock and stock management.

Successful candidates will be good communicators, have previous experience in an administrative role, good organisational and IT skills, ability to prioritise work load and manage conflicting deadlines.

Date: 5 June 2011. Assessment Date: 17 & 20 June 2011.

Please visit [www.circle.org.uk/corporate/careers](http://www.circle.org.uk/corporate/careers) and complete application form. If you are unable to complete your application please write quoting the relevant reference number to:

Recruitment Officer, Circle, 6 Central Avenue, Norwich NR7 0HR. We will only consider you an application pack. Unfortunately we are unable to accept CVs.

Applications are subject to satisfactory criminal clearance, a criminal record will not preclude you from employment. We value diversity and encourage applications from minority groups.

Maximising Life Chances INVESTORS IN PEOPLE Part of Circle

Part Time / Temp

**SELF EMPLOYED HANDYMAN**  
DEARSTED PARISH COUNCIL

Seek a Self Employed Handyman to carry out general duties around The Parish. Paid at a rate of £8.50 per hour. This vacancy is for variable hours, averaging 10 Hours per week. You will be required to provide all equipment and possess necessary licences.

Applications in writing to Mrs W Licence, Dearsted Parish Council, 14 Trapfield Close, Dearsted ME14 4HT. Closing Date: 10th June

**OFFICE CLEANERS**

Required for Boxley & Sittingbourne. Hourly rates £7.50 - £8.50

Please apply to 01022 676041

AVON Work from home in local areas. [www.avonjobs.co.uk](http://www.avonjobs.co.uk) Call/Tel: 01275 706858 (Ind. Avon.Sis.Ltd)

CLEANER REQUIRED in Kent - 10 hrs per day £8.50ph 01622 659648

**DOOR CANVASSERS**

Urgently required! Earn up to £250 part time. Not Double glazing. 07837 074210

ESTATE AGENT Sittingbourne - sales experience essential. Full Driving Licence required. Email your CV to Ward & Partners of [careers@wardandpartners.co.uk](http://careers@wardandpartners.co.uk)

EXR TIGALES Med. based Co. Sell Eng. Comm. Only Home based. Exg. OFE. Tel: 01854 264844

**Secretarial**

**SECRETARIA**

Not only will you be earning importantly, you will be helping need your contribution: They Maidstone Museum.

If you are prepared to work full time (30 hours per week) in the centre of Maidstone, can write letters on behalf of the Museum - you are who we are looking for.

Our administration requires a person who can work with other companies and other people. The Museum has a recognized collection of Japanese objects. If you are interested please contact Penny Dyson, Maldstone Trust, New Hythe Lane, Larkfield, Kent ME20 6SG.

This is ideal work if you have part time employment. If you are interested please contact Penny Dyson, Maldstone Trust, New Hythe Lane, Larkfield, Kent ME20 6SG.

Email: [pdyson@thekmgtr.org](mailto:pdyson@thekmgtr.org) Telephone 01622 794559

**School / College Support Staff**

**KCC - LADY JOANNA THORNHILL (ENDOWED) PRIMARY SCHOOL**

Bridge Street, Wye, Ashford, Kent TN25 5EA. Tel: 01233 812781 email: [office@ladyj.kent.sch.uk](mailto:office@ladyj.kent.sch.uk) Require A Higher Level Teaching Assistant for Key Stage 1 or 2 To start 1st September 2011

We are seeking to appoint an enthusiastic, highly motivated HLTAs to join our talented and supportive staff at this 'outstanding' (Ofsted 2009) and popular village school. Hours are 25.5 per week term time only, Kent Scheme Band 6 point 17-20 pro rata.

We will consider qualified HLTAs or a TA with at least 3 years' experience. Application forms are available from the school office. The school and all its personnel are committed to safeguarding and promoting the welfare of children and young people. The post is subject to an enhanced Disclosure application to the Criminal Records Bureau.

Closing Date: Tuesday 14th June Interview Date: Thursday 28th June

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Become a Counsellor  
Psychotherapist  
Hypnotherapist  
Help Others and Earn from £45 per hour  
Accredited, Professional Diplomas since 1988  
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Classes fill quickly - act now!  
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Now 0844 411 9364  
[www.chrysaliscourses.co.uk](http://www.chrysaliscourses.co.uk)

**Find the best jobs in Kent**  
[kentjobs.co.uk](http://kentjobs.co.uk)  
Engineering / Technical

**TV AERIAL / SATELLITE SYSTEMS ENGINEERS**  
We have vacancies for experienced engineers capable of quality installations of TV aerials, satellite systems, and multi point / playback systems. In addition we also require experienced engineers for the installation of communal distribution systems. Must be of smart appearance with a professional hard working attitude.  
Excellent opportunities to join a busy long established company.  
Apply to: G.A Evans Aerial Systems Ltd, Signal House, Linton Road, Loose, Maidstone, Kent ME15 8AS. Tel: 01622 740144

**Management / Executive**  
Richard White and the City of Rochester Almshouse Charities

**Clerk/Chief Officer £240,000**  
Founded in 1579 to provide almshouse accommodation, pension grant plus educational and general grants to those in need within the City of Rochester in Kent.

**Challenge** - The successful candidate will be head of staff and in charge of all day operations, finances and investments of the Charities, as well as liaising with advisors and agents.

**Requirements** - An experienced and suitably qualified professional with a proven management, organisational and administrative background. High standards of integrity and diplomacy.

**Key tasks** - overseeing the regular maintenance and renewal of various residential services, including grant making facilities. To obtain an information and application pack, please contact the Charities: 01634 842194 or e-mail: [barbara@almshouse.org](mailto:barbara@almshouse.org) Closing date for applications 5pm 24 June Appointment from 1 December 2011

**Engineering / Technical**  
**Cole**  
agri-build

**Structural Steel Detailer**

Hard thinking design and build contractor specialising within the agricultural sector requires a committed and dedicated person to join an exciting team for which we offer an exciting opportunity together with a competitive package.

A successful applicant will be able to demonstrate a track record of structural steel AutoCAD/CAD based design producing fabrication and manufacturing drawings.

This is a multi-tasking role and requires a candidate with a willingness to get involved with all aspects of the business.

Please apply please email your CV together with a covering letter to Luke Alexander at [l@coleagri-build.co.uk](mailto:l@coleagri-build.co.uk) or via Aerial-build, Ashford Road, Bothersden,

**Hospital / Medical**

**The Surgery Maidstone**  
Headcorn Surgery  
**Part Time Practice Nurse**  
Practice Nurse required for 25 hours per week duties to include some extended hours, plus holiday and sickness cover. General nursing duties and experience in ophthalmology & COPD management an advantage. Job share would be considered.  
For informal discussion please contact Hona Edmonds or Nikki Reed on 01622 890608 or email [emma.davay@nhs.uk](mailto:emma.davay@nhs.uk)  
Interviews will be held early part of week commencing 20 June.

**PART TIME GP PRACTICE MANAGER**

**Charity Managers**  
Do you have a desire to work in a multi agency caring for disabled children, young people and their families? Four new parent driven charitable companies, set up by a well-qualified and enthusiastic Manager to oversee and manage and 35,000 pro rata. The four charities, the Districts are as follows:  
• SPACE - Sunrise Parents Advisory Committee 20 hours per week  
• M4S - Maidstone 4 Special Needs Support  
• Includes Up 2 (Ashford, Sittingbourne & Dover) and 4 Up 2 (Canterbury, Thanet & Swale) Districts  
Successful applicants must have previous experience

2

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

3

**Clerk**

**From:** J & F Hughes [jhughes@advent-electrical.co.uk]  
**Sent:** 07 June 2011 16:00  
**To:** clerk@bearstedparishcouncil.gov.uk  
**Subject:** Re: Questions

Love you!. could you send them to CD for his input?

**From:** Clerk  
**Sent:** Tuesday, June 07, 2011 12:38 PM  
**To:** 'John Hughes'  
**Subject:** Questions

Jon

As promised some thoughts re-questions for Interviews

When working in the parish cutting back hedgerows etc how do you propose to dispose of the arisings?  
*Answer should be that they have a waste carriers licence or intend to burn it on site as any other act is unlawful*

- When working around the parish you notice something that you feel needs attention what action would you take?

*Answer should be refer to parish clerk as they need to realise that no action can be taken without prior approval*

- Some tasks may require more than one person under health and safety legislation how would you deal with this?
- What qualifications/experience do you possess to help you carry out this duty?
- A risk assessment relating to each task undertaken will be required. What type of risks do you anticipate encountering in your duties?

How's that for starters? ☺

Helen Elstone  
 Mrs Helen Elstone FILCM  
 Clerk to Bearsted Parish Council

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## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

④

Clerk

**From:** Clerk [clerk@bearstedparishcouncil.gov.uk]  
**Sent:** 08 June 2011 09:07  
**To:** 'Chris Dyke'  
**Subject:** FW: Questions

Chris

See email below regarding some thoughts Jon had for the handyman interviews. Jon has suggested that perhaps you and Richard Ash could carry out the interviews since it will be him and Bernard that are identifying the works etc

Regards

Helen Elstone

Mrs Helen Elstone FILCM  
 Clerk to Bearsted Parish Council

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**From:** J & F Hughes [mailto:jhughes@advent-electrical.co.uk]  
**Sent:** 07 June 2011 16:00  
**To:** clerk@bearstedparishcouncil.gov.uk  
**Subject:** Re: Questions

Could you send them to CD for his input?

**From:** Clerk  
**Sent:** Tuesday, June 07, 2011 12:38 PM  
**To:** 'John Hughes'  
**Subject:** Questions

Jon

As promised some questions put together from your thoughts for interviews

- When working in the parish cutting back hedgerows etc how do you propose to dispose of the arisings?  
*Answer should be that they have a waste carriers licence or intend to burn it on site as any other act is unlawful*
- When working around the parish you notice something that you feel needs attention what action would you take?  
*Answer should be refer to parish clerk as they need to realise that no action can be taken without prior approval*

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

- Some tasks may require more than one person under health and safety legislation how would you deal with this?
- What qualifications/experience to you possess to help you carry out this duty?
- A risk assessment relating to each task undertaken will be required. What type of risks do you anticipate encountering in your duties?

Helen Elstone  
Mrs Helen Elstone FILCM  
Clerk to Bearsted Parish Council

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BEARSTED PARISH COUNCIL

Handyman Interviews - Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: \_\_\_\_\_

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.		
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful		
When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.		
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from		

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

this?	<i>their team</i>		
What prep work and paperwork (if any) should be carried out before undertaking any task?	<i>A Risk Assessment relating to each task undertaken will be required</i>		
Can you give us examples of similar work to that required carried out before, giving examples?	<i>Ability to demonstrate previous work &amp; clients would be desired.</i>		
The Handyman role will require you to be flexible on hours – what are your thoughts on this?	<i>Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.</i>		
Are you able to give us details of references?	<i>Successful references from previous employers / character references would be desired</i>		
<b>TOTAL SCORE</b>			

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

6

Clerk

**From:** Clerk [clerk@bearstedparishcouncil.gov.uk]  
**Sent:** 07 June 2011 12:39  
**To:** 'clean\_and\_fldy@live.co.uk'  
**Subject:** FW: Questions

Helen Elstone  
 Mrs Helen Elstone FILCM  
 Clerk to Bearsted Parish Council

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**From:** Clerk [mailto:clerk@bearstedparishcouncil.gov.uk]  
**Sent:** 07 June 2011 12:39  
**To:** 'John Hughes'  
**Subject:** Questions

Jon

As promised some thoughts re questions for interviews

- When working in the parish cutting back hedgerows etc how do you propose to dispose of the arisings?  
*A. ver should be that they have a waste carriers licence or intend to burn it on site as any other act is unlawful*
- When working around the parish you notice something that you feel needs attention what action would you take?  
*Answer should be refer to parish clerk as they need to realise that no action can be taken without prior approval*
- Some tasks may require more than one person under health and safety legislation how would you deal with this?
- What qualifications/experience to you possess to help you carry out this duty?
- A risk assessment relating to each task undertaken will be required. What type of risks do you anticipate encountering in your duties?

How's that for starters? ☺

Helen Elstone



MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

7

PRIVATE AND CONFIDENTIAL

14 Trapfield Close  
Bearsted  
Maidstone  
ME14 4HT  
1<sup>st</sup> July 2011

Dear Chris

Further to our recent conversations, I would like to officially voice my concerns under Bearsted Parish Council's Whistleblowing Policy.

I believe that Helen Elstone has conducted herself improperly and unethically in respect of the employment of her husband, Dave Elstone, and I think her actions could bring the Council into disrepute.

I believe that the emails which I have given you clearly show that not only was she involved in drafting questions and answers for the candidates, she also sent a copy to Dave which gave him an unfair advantage. It is my understanding that she was expressly told that she should have no dealings in this matter and that is why I have been involved in the recruitment procedure.

I am also concerned that members of her family have been working for Clean and Tidy for the Parish Council without insurance as the policy only covers Dave and, while thankfully there was no incident while this happened, I believe that this could bring the Council into disrepute.

I believe that Helen has used her office as Clerk to the Council to procure pecuniary advantage for members of her family.

I would be grateful if you will treat my disclosures in a confidential and sensitive manner. I feel that this matter should be fully investigated.

Yours sincerely

Wendy Licence

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

8

29 Greystones Rd  
Bearsted  
Kent  
ME15 8PD

8.7.11

Wendy Licence

Dear Wendy

Thankyou for your letter dated 1.7.11.

The contents of the letter are potentially very serious but raise a number of problems for me. In the first instance the evidence offered is very thin and does not cover all the points raised.

In addition by marking the letter Private and Confidential I am unable to discuss the contents with anyone.

Perhaps you could consider these points and get back to me

Yours sincerely

Chris Dyke  
Parish Chairman

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

9

29 Greystones Rd  
Bearsted  
Kent  
ME15 8PD

17.7.11

Wendy Licence

Dear Wendy

Following our recent exchange of correspondence I have investigated the matters involved. This investigation in itself has thrown up an issue we need to discuss. With that in mind I repeat my suggestion that we meet in the near future. I always prefer to hold such meetings with someone else present. I would advise you to do the same.

Once I have some possible dates we can look at evening dates in the parish office.

Yours sincerely

Chris Dyke  
Parish Chairman

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

Mail :: sent-mail: [No Subject]

<http://webmail.renaissancecrafts.co.uk/imp/message.php?actionID=p...>

Date: Tue, 19 Jul 2011 14:42:51 +0100 [19/07/2011 14:42:51 BST]  
From: wendy@renaissancecrafts.co.uk  
To: cdyke@onetel.com  
Cc: p.marshall356@btinternet.com  
Bcc: geoff.14@talktalk.net  
Subject: [No Subject]

9a

Dear Chris

I have checked the diary and I can make Tuesday 26th, Wed 27th or Friday 29th. Hope one of these dates is convenient for you. I have asked Pat Marshall to come with me as she is a Senior Parish Councillor and I believe she is knowledgeable and trustworthy.

Looking forward to hearing from you soon

Kind regards  
Wendy

## BEARSTED PARISH COUNCIL

Minutes of the Meeting of the Finance and General Purposes Committee held at Madginford Hall, Egremont Road, Bearsted on Tuesday 19th July 2011 at 7.30pm

Present: Messrs Dyke, Hughes, Licence, Smith, Stark and Young, Madams Dunford and Marshall MBE together with the Clerk, Mrs Elstone.

- 1) Apologies for Absence: None
- 2) Election of Committee Chairman and Vice Chairman including Declaration of Acceptance of Office  
It was proposed that the Chairman and Vice Chairman of the full council act in those capacities upon this committee also. Agreed unanimously.
- 3) Declaration of Interest: None other than those declared within the Register of Interest. Mr Hughes advised that he had been lobbied in respect of item 14 - Correspondence - Heather Langley bench
- 4) Terms of Reference  
The Clerk produced a draft copy of the Terms of Reference for approval. Mr Stark agreed to continue to carry out the internal audit checks.
- 5) Audit Commission
  - Audit 2009-2010
    - i) The Clerk advised that no response has been received to date regarding the outcome of the challenge made regarding the accounts. The Audit Commission advises that this has been passed to the District Auditor for referral to the Legal Officer and should be with the parish shortly.
    - ii) The anticipated audit cost resulting from this challenge is £2,000. The annual bill for audit is £550.
    - iii) Question was raised as to what action should be taken once the decision is known. It was agreed that in the interest of openness and transparency the matter should be reported to residents. Councillors are still concerned that it is only Bearsted that is being questioned regarding payments to the JPG. All other parishes have had their accounts for the year audited with no question regarding the payments.
    - iv) If the parish council is found not to have acted within the law it is unknown what action will be taken against them or whether the insurance policy will cover the council for a reimbursement.
  - Audit 2010-2011
    - i) Since the challenge on the accounts will not affect any figures contained within them, the Audit Commission have now issued revised Notice of Audit posters which have been placed within the notice boards. New date for submission of accounts is 2nd September. The accounts were approved at the June full council meeting so once this date arrives the Clerk can submit them without further consultation with the council.
- 6) Land and Buildings Account
  - i) It was agreed that £5,000 should be transferred to the account from the precept, as agreed at the January finance committee meeting, and that the increase of funds within the account should be one of the goals within the four year plan for the council. Discussion took place as to how this could be achieved. It was agreed that the type of land that would be purchased should be identified as part of these plans.
  - ii) It was suggested that enquiries be made to see if 100-200 residents would be prepared to act as a guarantor for £1,000 each. These guarantees could be used to secure a mortgage should any land become available.

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

iii) As Boughton Monchelsea are known to be purchasing land around their parish it was proposed that they be invited to the October meeting to discuss how they achieved this. Mr Hughes proposed that he invites a local accountant to the meeting also to act as business advisor on the issue.

iv) It was agreed that following this meeting a set of targets be identified to move the matter forward.

**Action: Funds to be transferred from current account to Land and Building account. Boughton Monchelsea representative and accountant to be invited to October meeting**

## 7) Asset register

i) The addition of the low level lighting onto the asset register at a cost of £18,075 will result in an additional insurance premium of £82.39 – agreed

ii) War Memorial – cover currently stands at £20,000 which is considered low.

**Action: Clerk to get quotation for replacement and cover revised accordingly**

iii) Question was raised as to whether the drains in Church Landway fall under South East Water or whether they are a private sewer

**Action: Clerk to ascertain ownership**

## 8) Future banking practices

i) Discussion took place regarding the transfer of accounts to Unity Bank. This is an action that a number of parish council's have undertaken with good reviews. This will allow for internet banking and online monitoring.

ii) Question raised as to whether a deposit account is also offered by the group as at present all parish funds sit within such an account and are 'swept' to the current account to cover payments.

**Action: Clerk to prepare report for September full council meeting giving comparison details re charges, interest etc.**

iii) Youth Forum account – signatories on the account need to be amended. It was therefore agreed that these be Mr Licence and Madams Dunford and Marshall. In the interim payment to Madginford Hall, in respect of Youth Club hall hire was agreed for payment from current account.

**Action: Forms to be completed and returned to Clerk for action  
Funds to be transferred to current account when signatories set up**

## 9) Budget Monitoring – 1st quarter 2011-2012

i) Question was raised regarding the admin budget being over the quarterly target. It was agreed that this amount has peaks and troughs throughout the year and would be maintained within the annual figure.

ii) Classic Car show – following discussions with the insurance company it transpires those events held on the Green that are not solely parish events will require their own events insurance cover. It was proposed that Mr Hill is co-opted to the Community committee, as organiser of the event, and is asked to hand over ownership to the council, with him maintaining control of the day, but being accountable to the parish. The same could be done for the Sports and Activity Day, although the Community Warden's agreement to the parish council having overall say over the event was questioned.

**Action: Clerk to contact Philip Hill and Dawn Riach-Brown regarding the matter**

iii) Income – these figures will be reduced this year following the cancellation of Music on the Green.

• The Farmers Market income prediction is based on 20 stalls per market, however this is not being achieved. It was noted that this was set up as a community project and was not intended to be an income generator for the parish.

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

## 10) Councillors Allowance

Request from Mr Ash that the committee consider reducing the maximum number of meetings a councillor could claim for, in terms of the allowance, to the original figure of 20 meetings, since all councillors are now eligible to claim.

✚ Mr Young proposed that Mr Ash's proposal be accepted. Agreed

## 11) Standing Orders

Clerk advised that the 2010 Standing Orders had not been amended to show how Code of Conduct matters be dealt with. It was agreed that all incidents be reported to the Finance and General Policy committee for action.

*Action: Clerk to amend Standing Orders and issue to councillor on disc for reference. Hard copies available for Councillors upon request.*

## 12) Financial Regulations

i) Since the adoption of the Financial Regulations in March 2009 NALC have issued the following amendments:

- Item 6.5(b) Increase in amount Clerk can pay out for urgent repairs/replacements to £500 from £200;

- Item 11(b) The suggested figure for tenders increased to £20,000

As a matter of note the Clerk advised that at the recent Clerk's conference MBC issued the following figures:

•	THRESHOLDS FOR INVITATION TO TENDER (ITT)	
✓	Supplies, Services & Works	£75,000 MBC
✓	Supplies & Services	£156,442 EU
✓	Works	£3,927,260 EU

In response to these figures, Councillors agreed that the threshold should be increased to £30,000, in light of the costs associated with recent works.

ii) The Clerk referred the following items to the councillors:

- Item 2.5 states that a three year forecast of Revenue and Capital Receipts and Payments is prepared at the same time as the annual budget. This has not been carried out in the past and should be introduced.

*Action: Clerk to ensure this matter is considered at budget preparation*

- Item 14.3 – Annual health and safety inspection of assets to be carried out

*Action: Clerk to carry out*

✚ It was proposed by Mr Hughes, seconded Mr Young that the outlined amendments be approved. Agreed

*Action: Revised Financial Regulations to be issued along with Standing Orders to all councillors on disc*

## 13) General Policy Review

i) The Clerk presented a list of policies required by law, suggested policies and those already approved or requiring adoption. It was agreed that all policies be put in place for a uniform adoption at the October meeting.

*Action: Policies to be prepared for consideration*

ii) Grant policy – a revised policy was circulated amongst councillors for consideration. This takes the principles of the current policy and expands them.

✚ It was proposed by Mr Young, seconded Mr Stark that the revised policy be adopted. Agreed

*Action: Policy to be amended*

iii) Youth Club policies – Mr Licence advised that once he had passed his Introduction to Youth Work course he could be named as the designated Child Protection person within the policies.

- Regarding the club's first aid policy Mrs Riach-Brown and Mrs Cuming are qualified first aiders.

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

- Question raised regarding first aid training for all councillors.

*Action: Clerk to ascertain who is first aid trained and identify in-house training*

## 14) Correspondence

i) Request for donation towards cost of purchasing bench in memory of Heather Langley. The Borough Solicitor has advised that this would be permitted, despite Miss Langley's political standing.

Mr Hughes stated that the parish council maintains the memorial benches on the Green, following installation, as per the Sponsor a Seat policy, developed by Mike Harris. This could be the parish council's contribution to this cause.

Mr Licence felt that as a member of the Bearsted and Thurnham Society Miss Langley did a lot for the parish however, on no other occasion has the parish council contributed to such a purchase.

Discussion followed regarding the placement of memorial benches. Would Miss Langley's bench be more appropriate on BWT land as she was a member of the Trust?

\* It was proposed by Mr Young, seconded by Mr Hughes that the parish decline to contribute for reasons of political neutrality, advising that the parish will take over maintenance of the bench, following installation.

ii) Mr Dyke advised councillors that when accepting chairmanship of the council, in 2010, he had not anticipated that he would be faced with the highly personalised and vitriolic issues that have occurred in that time. These have included:

- Abusive telephone calls and actions against the Clerk;
- Complaints from resident that the parish council is not doing its job properly;
- Referral, by a councilor, to the monitoring officer regarding the conduct of a fellow councilor;
- Complaint to Paul Carter regarding the employment of the litter picker and Handyman;

• The most recent of these incidents is one of great concern which has caused sleepless nights and affected the home life of himself, Mr Young and the Clerk.

During the Clerk's recent absence, due to training, the parish council computer's records were accessed with personal files being opened, emails sifted to find specific information and employment related websites visited. These files were opened in a succinct manner which would suggest that the perpetrator knew the exact information they were seeking.

The perpetrator is known but what is not known is whether they were acting alone; the reasoning behind these actions and what the information gained will be used for.

Such actions are a breach of the Data Protection act, and therefore a criminal offence.

\* Mr Stark, seconded by Mr Smith proposed that the matter be referred to the police.

Mr Dyke proposed that prior to this the examination of the computer takes place so that all the facts are before the parish council. A request has been sent to MBC for a technician to visit the office to ascertain whether these files were just opened or whether they were copied and/or printed, thus removing them from the confines of the office.

\* The proposal was therefore amended to read: It was proposed that Mr Dyke, following examination of the computer, refer the matter to the police.

Vote – 6 for, 1 abstention.

Mr Young requested that if any councilor had any information regarding this matter they approach either himself or Mr Dyke. All information offered will be treated in confidence.

*Action: Clerk to chase MBC regarding computer examination*

## 15) Date of next meeting 18th October 2011

There being no further business the meeting closed at 9.15 p.m.



## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

## Action Points from Finance and General Policy Committee 19th July 2011

Land & Buildings a/c	Transfer £5000 Boughton Monchelsea rep and accountant to be invited to October meeting	Clerk
Asset Register	Replacement cost quotation to be requested Ownership of sewer to be identified	Clerk
Future Banking	Report on Unity Bank to be prepared Youth Forum forms to be completed Cost of hall hire to be transferred to current account upon completion of forms	Clerk BD, GL, PM Clerk
Budget Monitoring	Email to Philip Hill and Community Warden re ownership of events	Clerk
Standing Orders	Document to be amended and circulated	Clerk
Financial Regulations	Document to be amended and circulated Three year forecast to be introduced Health and Safety inspection of assets to be carried out	Clerk
General Policy Review	Policies to be prepared and circulated Grant policy to be amended and circulated First aid courses to be identified	Clerk
Correspondence	Chase MBC re technician visit	Clerk

## Items for Ratification

- 1) Councillors Allowances – Maximum meeting allowance to be amended to 20
- 2) Standing Orders, Financial Regulations and Grant policy to be approved
- 3) Donation towards cost of bench to be refused with maintenance being covered by PC

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence



29 Greystones Rd  
Bearsted  
Kent  
ME15 8PD

22.7.11

Wendy Licence

Dear Wendy

I have been advised to hold over our proposed meeting for the moment pending other investigations

Yours sincerely

Chris Dyke  
Parish Chairman

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

12

PRIVATE & CONFIDENTIAL

14 Trapfield Close  
Bearsted  
ME14 4HT  
26<sup>th</sup> July 2011

Dear Chris

Further to my letter of 1<sup>st</sup> July, I would be grateful if you would inform me what investigations, if any, have been undertaken in respect of the concerns I have raised. Please can you also inform me what actions, if any, have been or will be taken in respect of this matter.

Kindly inform me of your findings and actions within 7 days from the date of this letter or I will have no option but to refer this matter to a higher level.

I look forward to your reply and to assisting you with your enquiries.

Yours sincerely+

Wendy Licence.

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

(13)

29 Greystones Rd  
 Bearsted  
 Kent  
 ME15 8PD  
 31.7.11

Wendy Licence  
 14 Trapfield Close

Dear Mrs Licence

Following your recent letter I have today taken legal and professional advice to close my investigation. You need to appreciate to do this I have had to talk to a wide range of councillors and contacts within the Borough Council.

Your complaint covered three issues:

**1. Appointment of Litter Picker**

This was the subject of an earlier investigation following a complaint sent to the council via Paul Carter. The legal advice given confirmed by setting a price on the work involved, the competitive element in tendering was removed and the process followed was sound. As you offered no new evidence on this issue I consider it closed.

**2. Appointment of Handyman**

This appointment followed the recommendations we had received following the above. At the full Council meeting held on the 10<sup>th</sup> May 2011 I discussed arrangements for filling this post with colleagues. I asked a range of people including the clerk to submit potential standard questions to Paul Young to prepare for the interview. During this process Mr Elstone was asked to confirm the new job did not overlap his existing duties. The copies of emails sent at that time only relate to this initial trawl. The final choice of questions was only prepared by Paul on the day of the interview (27<sup>th</sup> June 2011) and were sent to me direct. Mr Elstone obviously had some idea what would be involved but he did not know what additional questions had been added. The suggestions from the clerk were obvious things to ask in the circumstances.

If you have any issues with this they should be directed at myself since the clerk was acting under my direction.

**3. Insurance of other people working for the litter picker.**

Thank you for pointing out that D. Elstone's insurance did not cover this. The policy has now been amended

I do not find any issue to reprimand the clerk. Any 'internal appointment' always puts the internal candidate at an advantage if they are good at their job. Conversely they are at a disadvantage if they have performed badly. Mr Elstone seems to have performed very well as a litter picker. I anticipate he will do equally well as our Handyman.

Yours sincerely

Chris Dyke  
 Parish Chairman

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

14

CONFIDENTIAL

14 Trapfield Close  
Bearsted  
ME14 4HT  
2<sup>nd</sup> August 2011

Dear Parish Councillors

Some of you will be aware of problems that have occurred within the Parish Council's office recently.

I was appointed as Assistant Clerk earlier this year to cover holidays and illness on a casual basis and I was encouraged by Helen Elstone to look at files, if I had time, so that I could familiarise myself with the Parish Council. In March I was asked to deal with applications for the Handyman Job as Dave Elstone, trading as Clean & Tidy, was likely to apply and therefore Helen should not be involved. The advertisement stated that all applications should be sent to my home address and I passed these on to Chris Dyke on 11.06.11. There was no application from Dave Elstone to my home address.

On 21.06.11, Chris sent the sorted applications via Geoff for me to invite 5 candidates to interview, including Dave Elstone, and this I did.

I worked in the Parish Office from 27<sup>th</sup>- 29<sup>th</sup> June as Helen was on a course. Helen asked me to contact a fireworks company for testimonials and, as I could not find a phone number or email address, I scrolled back through the received emails hoping to find an email from the company. The split screen shows a preview of an email without opening the email and as I scrolled down I saw a preview of an email from Jon Hughes about questions to be asked at interview for the Handyman's job. From this, it was quite clear that Helen had sent questions and answers to Jon.

The interviews were held on 27<sup>th</sup> June (eve) and only 3 out of the 5 candidates attended. When I arrived at the office Chris was photocopying sets of questions to be asked of the candidates and they were mainly the questions (and answers) that had been set by Helen. The interview panel consisted of Chris Dyke, Richard Ash and Paul Blackmore. The candidates were marked out of 5 for their answers. There had been no job description and the advert had been for a Handyman so neither of the other 2 candidates expected the horticultural questions which had been set by Helen. The results were counted and Dave Elstone scored the highest. I asked the panel if I could speak to them in confidence and I told them that Helen had written the Q's & A's and I expressed my concern about this situation. Chris told me that he was aware that the questions had gone through the office and my concerns were dismissed. I was told to write to Dave offering him the appointment and when he formally accepted I should write to the other candidates to inform them they had been unsuccessful.

I felt very concerned about this as I had believed that I had been involved to ensure that the appointment had been made in a proper and fair way and I was concerned that if this came to light it would reflect badly on the Parish Council. So I phoned Chris on Tues 28<sup>th</sup> June to express my concern. He told me that Jon had given him 3 questions three

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

weeks ago and that he (Chris) had written 3 more. (There were in fact 5 Q & A's which Helen had written and none that I could see from Jon,) I was told to send the confirmation letter to Dave and send apologies to the other candidates. I continued to stress my concern because the emails clearly showed that not only did Helen write the Q's & A's but she also sent a copy to Dave. Chris told me to give him copies of the emails. I did not have the car on Wednesday and I got Geoff to drop the emails off to Chris after Youth Club. Up to this point I do not think that Chris knew that Helen had actually written the Q's & A's.

On 1<sup>st</sup> July, I wrote and hand delivered a letter to Chris formally expressing my concern about the matter and asking that, as a whistle blower, my disclosures to him be treated in a confidential and sensitive manner and that the matter be properly investigated. On 11<sup>th</sup> July I received a reply saying that as I had marked my letter "Private & Confidential" he could not discuss it with anyone. On Thurs 14<sup>th</sup> July I phoned Chris and he led me to believe that he would discuss the matter with Richard Ash and I agreed to this. He told me that he wanted to meet with me and Geoff and that he would ask Richard to be present. He would not give me any details as to what he wanted to talk to me about and I was told to call back on Friday and give him some dates. I phoned Chris on Friday morning and explained that Geoff didn't want to get involved as he felt, quite rightly, this was nothing to do with him. I asked Chris what he wanted to talk about but he would not give me any details and said he would call back later.

I did not hear anything from Chris so I called him again Sunday evening. He told me he had written a letter to me which he would hand deliver on Monday. I received the letter on Monday which was again requesting a meeting and suggesting that someone else be present, again no details were given. I asked Pat Marshall if she would be willing to come with me as I felt that she is a senior member of the Council and is knowledgeable of Parish Council matters and extremely trustworthy. Pat kindly agreed to be present as an independent and unbiased person and I emailed dates to Chris for a meeting.

Chris read my email on Tuesday 19<sup>th</sup> July. Later that evening there was a meeting of the Finance and General Purposes Committee of which Geoff is a member. During that meeting Chris told the Committee of problems in the office with personal files being looked at and possibly downloaded and that this was in breach of the Data Protection Act and therefore a criminal offence (you might like to see the draft minutes for full details) and the finger was quite clearly pointed at me! The minutes read that "It was proposed that Mr Dyke, following examination of the computer, refer the matter to the police". This was carried with 1 abstention.

This happened in an open meeting and as this matter is now in the public arena I feel it is right to write to each one of you. I had gone to Chris, as Chairman, because I had thought it was the right and proper thing to do. I believed that the problems with the appointment of the Handyman should be dealt with internally so that the Council's integrity would remain intact.

MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

I have taken legal advice and I have been told that for Chris to call me to meeting without providing information is against ACAS guidelines and I have a written grievance against him, if I so chose. I have also been told that as this is an internal matter it does not breach the Data Protection Act (if this is what Paul Fisher has advised Chris it would seem the Council may have some very serious problems with his legal advice).

I am still concerned at the irregularities with the appointment of the Handyman. I have acted in the best interests of the Council at all times and believed that I was taking the right course of action by referring the matter to the Chairman.

Although I feel somewhat betrayed in what has happened to date, I am writing to all members of the Council in the hope that this matter can be fully and properly investigated internally, thus avoiding bringing the Council into disrepute. Instead of wondering who I can trust in this, I have decided to trust each and every one of you, as I have had no opportunity to state my case, and my hope is that you will look into what has happened.

Thankyou for taking the time to read this. I am willing to answer any questions and to help in any way I can.

Yours very sincerely

*Wendy Licence*

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

Letter from Mrs Licence

<http://cpw.mail.aol.com/v34047-111/talktalk-5/en-gb/mail/PrintMess...>

15

From: Clerk &lt;clerk@bearstedparishcouncil.gov.uk&gt;

To: Barbara Dunford <barbara.dunford@btopenworld.com>; BERNARD CARINE  
 <bernard.carine@btinternet.com>; Chris Dyke <cdyke@onetel.com>; Dennis Spooner  
 <thespoonergang@hotmail.com>; Geoff Licence <geoff.14@talktalk.net>; Helen Cuming  
 <helen@manana.fsnet.co.uk>; Jonathan Hughes <jhughes@advent-electrical.co.uk>; Michael Stark  
 <mstark4@tiscali.co.uk>; Mike Cuming <mike@manana.fsnet.co.uk>; Pat Marshall  
 <p.marshall356@btinternet.com>; Paul Blackmore <blackmore\_p@yahoo.co.uk>; Paul Young  
 <paul.young@talktalk.net>; Richard Ash <richardash@maidstone.gov.uk>; Trevor Smith  
 <trevor.smith77@talktalk.net>

Subject: Letter from Mrs Licence

Date: Fri, 5 Aug 2011 13:17

In view of the letter circulated from Mrs Licence yesterday Chris will be calling an extraordinary parish council meeting to discuss the issues fully. Date to be circulated in due course.

Regards

Helen Elstone

Mrs Helen Elstone FILCM

Clerk to Bearsted Parish Council

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*Any views or opinions expressed are solely those of the author and do not necessarily represent those of Bearsted Parish Council.*

*If you are not the intended recipient of this email, you must neither take any action based upon its contents, nor copy or show it to anyone.*

*Please contact the sender if you believe you have received this email in error*



MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

Agenda Extraordinary Meeting 110811

<http://cpw.mail.aol.com/34047-111/talktalk-5/en-gb/mail/PrintMess...>

16

From: Clerk <clerk@bearsledparishcouncil.gov.uk>

To: Barbara Dunford <barbara.dunford@btopenworld.com>; BERNARD CARINE <bernard.carine@btinternet.com>; Chris Dyke <cdyke@onetel.com>; Dennis Spooner <thespoonergang@hotmail.com>; Geoff Licence <geoff.14@talktalk.net>; Helen Cuming <helen@manana.fsnet.co.uk>; Jonathan Hughes <jhughes@advent-electrical.co.uk>; Michael Stark <mstark4@tiscali.co.uk>; Mike Cuming <mike@manana.fsnet.co.uk>; Pat Marshall <p.marshall356@btinternet.com>; Paul Blackmore <blackmore\_p@yahoo.co.uk>; Paul Young <paul.young@talktalk.net>; Richard Ash <richardash@maidstone.gov.uk>; Trevor Smith <trevor.smilh77@talktalk.net>

Subject: Agenda Extraordinary Meeting 110811

Date: Sun, 7 Aug 2011 14:52

Attachments: Agenda\_Extraordinary\_Meeting\_110811.pdf (145K)

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I attach agenda for extraordinary meeting to be held this Thursday 11<sup>th</sup> August.

Regards

Helen

## MBC/11/5 - ANNEX B - Documents Submitted by Mrs Wendy Licence

FW: meeting

<http://cpw.mail.aol.com/34047-111/talktalk-5/en-gb/mail/PrintMess...>

17

From: Parish Council Clerk &lt;clerk@bearstedparishcouncil.gov.uk&gt;

To: Barbara Dunford <barbara.dunford@btopenworld.com>; BERNARD CARINE <bernard.carine@btinternet.com>; Dennis Spooner <thespoonegang@hotmail.com>; Geoff Licence <geoff.14@talktalk.net>; Helen Cuming <helen@manana.fsnet.co.uk>; Jonathan Hughes <jhughes@advent-electrical.co.uk>; Michael Stark <mstark4@tiscali.co.uk>; Mike Cuming <mike@manana.fsnet.co.uk>; Pat Marshall <p.marshall356@btinternet.com>; Paul Blackmore <blackmore\_p@yahoo.co.uk>; Paul Young <paul.young@talktalk.net>; Richard Ash <richardash@maidstone.gov.uk>; Trevor Smith <trevor.smith77@talktalk.net>

Subject: FW: meeting

Date: Tue, 16 Aug 2011 10:07

-----Original Message-----

From: Chris Dyke [mailto:cdyke@onetel.com]  
 Sent: 15 August 2011 18:13  
 To: clerk@bearstedparishcouncil.gov.uk  
 Subject: meeting

I am very sorry I had to cancel the extraordinary meeting due last week. When I arrived home that evening I was informed we had been raided by internet and lost a great deal of money. Naturally we were somewhat stunned. The bank has now returned the money so all is well.

From now onwards holidays mean the main players in the event are not all available until the week commencing 5th Sept. We can look at all the paperwork and you can ask any questions you wish to place. I will ask Helen to set a date and venue. This is in preference to tacking it onto the normal meeting as such sensitive issues are not best discussed late in the evening

Regards  
 Chris

MBC/11/5 - ANNEX C - Document 1 Submitted by Parish Councillor Christopher Dyke

29 Greystones Rd  
 Bearsted  
 Kent  
 ME15 8PD

28.9.11

Paul Fisher  
 Head of Legal services  
 MBC

Dear Paul

Complaint of Member Misconduct ref MBC/11/5

Thank you for your letter of the 20<sup>th</sup> Sept.

My first comment is that Mrs Licence is not an employee of the authority as she claims. She was offered work on a self employed basis when the clerk is absent. Her duties were limited to opening mail, checking emails and selling bin bags. She is the third person carrying out this role in the last year, which is on an ad hoc basis.

My record of events shows

1. In the autumn of 2010 the parish finally parted company with the village handyman services provided by Tony Croucher of TCC services. Both sides were unhappy with the arrangement. The council with the level of service provided and TCC with the money paid.
2. The Environment Committee chose to advertise for someone to carry out litter picker duties based on the national minimum rate of pay. They had to choose between Mr Elstone or the son of Tony Croucher from TCC. In view of the above it is no surprise Mr Elstone was appointed.
3. I subsequently received a complaint via Paul Carter of KCC, questioning the methodology of this appointment. I consulted yourself and you confirmed since the pay rate was set in advance there was no competition on price and the procedure was sound. You did offer advice on how to improve matters in the future by not using Mrs Elstone in any future appointment involving her husband.
4. I discussed this with Mrs Elstone and colleagues after our meeting when it was decided to seek a handyman service. We decided to:
  - Remove Mrs Elstone from the process and use Mrs Licence instead
  - Route applications via Mrs Licence.
  - Clr John Hughes opted to stay out of the process because he knows Mr Elstone well.
  - We decided to draw up a list of ideal questions to use in the interview. I asked everyone who felt they had any ideas of questions to send them to Clr P. Young so he could draw up a final list and scoring plan.
5. We received over 20 replies with a late entry from Mr Elstone passed to me by hand in the week before the short listing.
6. Together with Clr Ash and Clr Blackmore we short listed 5 candidates of whom only 3 attended.
7. The actual list of questions was delayed and only passed to me by email from Clr Young on the afternoon of the day of the interviews. It came to my home email and was not seen by anyone until I printed it off that evening in the office. We added another question by hand to the list once Clr Ash and Blackmore had seen the final version.
8. We took care that each interviewer kept his opinion to himself and the weighting until all the scores were collected.
9. Using the score system Mr Elstone came out the clear winner. One candidate was quite unsuited and the other looked reasonable but lived on the other side of Maidstone.

*Dear Paul  
 Copy of  
 response to CoC  
 enquiry received from  
 my memory stick  
 Chris  
 2.12.11*

## MBC/11/5 - ANNEX C - Document 1 Submitted by Parish Councillor Christopher Dyke

My comments are:

1. The original complaint was made against Mrs Elstone. I have accepted I was in error in asking her for her ideas of questions. Hence any blame remains mine only.
2. Neither Mrs or Mr Elstone ever saw the final version of the questions. After our initial discussions I took care not to route any further work via the office up to and including the day of the interview.
3. Mrs Licence did raise her concerns on the evening but I found it difficult to respond since I knew nobody had seen the final question paper. On reflection overnight I asked her to forward what she had seen on BPCs emails. This confirmed item 2. I consulted Clrs Ash Young and decided the process was sound and Mrs Elstone had not acted improperly.

Subsequent events/comments

1. On her return to work Mrs Elstone discovered a range of documents see attached had been opened in her absence. Mrs Licence makes great play of having stumbled across certain emails. She never explained why she was opening other sensitive documents involving the clerk and Clr Ash's Code of Conduct issue. She does not explain why she felt the need to work back through over 200 emails to find the evidence she provides.
2. I felt we now had a second issue on our hands. Somebody was accessing the parish computer. They knew exactly what to look for and where. I do not feel Mrs Licence was capable of doing this as the issues were too complex. She could have opened the computer but would have needed advice and guidance.
3. With over 20 years experience as a union officer and official I am aware that a common response to a 'Whistleblower Complaint' is a counter charge. I was very concerned not to be seen to go down this route without evidence. In particular I wanted to see if we had any evidence that these documents had been printed off or transmitted outside the office in which case the Data protection Act could have been contravened.
4. I consulted you on this issue and took your advice to get in an IT specialist. We were not able to get beyond seeing what had been opened.
5. When reporting to the council I did not mention Mrs Licence by name, nor anyone else. My thoughts at that time were that she may have been manipulated by someone else. I opted to wait and see if any concrete evidence were to arise showing who had opened the documents and if someone outside the office had seen them. What evidence I subsequently obtained is in para 4 of document 14 in the complaint file.

Mrs Licence complains that I did not investigate her complaint but I did investigate the complaint against the clerk. I have some worries about how we collected the questions but feel we went as far as we could to carry out a fair process. A good internal candidate will always have an advantage over an unknown outsider. Conversely if Mr Elstone had not done well in his litter picking duties he would have not been shortlisted.

It was very difficult to respond to Mrs Licence or meet her because we had two problems running in parallel. The DP Act issue took precedence in my mind and I was advised not to meet her until this was resolved.

Mrs Licence complains that we cancelled meetings with the council to discuss the issues. The first was cancelled on the day concerned. When I arrived home I found my wife very upset. Somebody had removed her life's savings from a savings account. I was in no state to run a meeting and Clr Young would not have access to all the information. In deference to my wife I did not want the precise reasons for this decision to be widely known, though I did explain to councillors at a later date after the money was recovered. Subsequent meeting proposals were difficult because many of the main players including myself were on holiday.

I hope this helps your enquiries.

I would like you to contact my predecessor Clr P. Walton and ask him to explain why he advised me using Mrs Licence was a mistake in view of certain events at the Downs Mail.

MBC/11/5 - ANNEX C - Document 1 Submitted by Parish Councillor Christopher Dyke

I also suggest you ask Mrs Licence how someone gained access to the attached list of documents, who saw them and what was the interest in the Code of Conduct complaint against Cllr R. Ash.

Yours sincerely

C. Dyke

11/5/11  
C. Dyke

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews - Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: ~~8:15~~ 8:15 27 / 05 / 11

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.	3	Handyman (Plumber, Mason, Brickwork, Retention, etc.) MECHANICAL ENGINEER PROBLEM SOLVER
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.	2	NOT LICENCED CARRIAGE COMBUSTION
When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.	2	MINS WASTE - SAFE - TAKEN AWAY
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from		

9 / 13

APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

this?	their team			
What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	⑤	14	70
Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	④	14	75
The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	③	72	30
Are you able to give us details of references?	Successful references from previous employers / character references would be desired	④	70	35
		⑤	30	40
		④		
<b>TOTAL SCORE</b>		③⑤		

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Council for Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews - Questions for Candidates

Candidate Name: 31

Date / Time: 8-10

Question	Correct Answer	Candidate Score (1 to 5)	Notes
1 What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.	4	Own business 3. Tool Engineering a problem solver water the garden
2 When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.	2	Not a licence carrier Need skip etc.
3 When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.	3	Take safe then contact Hela or
4 Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from	4	Common sense No marking rise assesser



APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

	this?	their team		
5	What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	4	CBR Risk assessment
6	Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	3	
7	The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	4	Flexible Rises away - very flex
8	Are you able to give us details of references?	Successful references from previous employers / character references would be desired	3	Have CBR FIM. ref
9	What else do you do at the moment		4	Installing a kitchen  Can supply extra part of hand
	<b>TOTAL SCORE</b>			

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews - Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: 27/2010

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	<i>Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.</i>	4	<i>Handyman Property Maint business. Russel-Court Cuxton Engineer - Problem solver. CRB check Pub Liability insure £1m</i>
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	<i>Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.</i>	1.	<i>Not licenced carrier need a skip</i>
When working around the Parish you notice something that you feel needs attention. What action should you take?	<i>Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.</i>	3	<i>Make safe. raise to relevant party</i>
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	<i>Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from</i>	<i>if need be</i>	<i>work at heights. safety. needs 2.</i>

APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

this?	their team		
What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	2	Dangers H+S issues Barriers CRB checks
Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	2	Russett Court Installing hitcher.
The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	3	Flexible job - some carp. plumb paint. stemp v. flexible.
Are you able to give us details of references?	Successful references from previous employers / character references would be desired	3	
Occupations		4	Penenden Heath Parish Hall
<b>TOTAL SCORE</b>			

26/25

was other links  
to tradesmen.

2

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews - Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: 7.45 27/6/11

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance/Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.	(5)	<p style="text-align: right;">NEED KILLING COM</p> <p>if you're - WREN RAILWAY - ENVIRONMENT STEEL - PL IN WORK HOBBERS (FM)</p>
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.	(5)	<p>COSHH CAR / RE-BOOKER BURN OR BURIAL COM</p> <p>WASTE LICENSE + RE-BOOKER OR BURN IT / COMPOST MAN</p>
When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.	(5)	<p>PARISH CLERK + COUNCIL - REPORT - SANCTION, OWNERS</p>
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from	(3)	

APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

this?	their team		
5 6 What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	5	WORLD SUBMITTALS - UNDER INSPECTION 12 SONS + MATE (LOW CR. ON) - NOT ON OWN - HOME VOT - RISK ASSESSMENT, SHEET FOR PUBLIC USE
Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	5	PAVING, LANDSCAPE LIME STONE HANDYMAN, WOODS, ORIGINAL PAINT.
The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	5	NO PROBLEM, YR WORK MON-SUN 7-3PM
Are you able to give us details of references?	Successful references from previous employers / character references would be desired	5	SWILL CARE / DEEP CLEAN, SON HOUSE
WUM 858 - YDUM W		5	YDUM WORK, KCC
<b>TOTAL SCORE</b>		43	

20  
38 (43)

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews – Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: 27/1/2020

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.	5	Railway spray, stem clear, cost cut. Public Liability Ins. Waste Carriers Licence. Going to do swimming Licence Maybe PA/B.
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.	5	Licence - remove Burn on site. Compost heap
When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.	5	Phone John/Helen. discuss - write report for Parish - note on own back
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from	4	2 sons + mate can call on.

APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

this?	their team		
What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required ✓	S	R.A. Footpath closed.
Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	S	rail clearance was Uscaper in emebury Liber Pdr. + some work in parish by handway
The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	S	Youth work evens av 7 - 1500 daily very flexible
Are you able to give us details of references?	Successful references from previous employers / character references would be desired	S	switch Youth Cafe cleaner Mr Hughes
Other occupations?		S	cafe. Playscheme..
<b>TOTAL SCORE</b>	44		

Your Q's  
interested

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews - Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: 7-35 <sup>4.0</sup>/<sub>45</sub> \_\_\_\_\_

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	<i>Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.</i>	5	Time P.L.I
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	<i>Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.</i>	5	
When working around the Parish you notice something that you feel needs attention. What action should you take?	<i>Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.</i>	5	
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	<i>Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from</i>	3	

1  
2  
3  
4



APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

	this?	their team		
5	What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	5	Put up sign. Buy Paul Clark
6	Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	4	landscape gardens
7	The Handyman role will require you to be flexible on hours – what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	5	No problem at all.
8	Are you able to give us details of references?	Successful references from previous employers / character references would be desired	4	.
9	What else do you do at the moment?		4	
	<b>TOTAL SCORE</b>			

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews - Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: 8:00 / 27/6/11

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.	3	<u>QUAL'ED ELECTRICIAN</u> HOBBY - GARDENING DOES PEOPLE CARPENTRY - CARPENTRY, NO GOOD PROGRAM PAINTING, PLUMBING -
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.	0	<u>PASS</u> MTR
When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.	2	IF IT WAS DANGEROUS, I WOULD DO IMMEDIATE ACTION
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from	2	

7/20

APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

this?	their team		PERSONALITY - WORKING -	
What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	1.3	DEPENDS ON ETBIC (METHOD STATEMENT.)	25
Can you give us examples of similar work to that required carried out before, giving examples? <i>TAKEN YOU'RE DONE BY EPORS</i>	Ability to demonstrate previous work & clients would be desired.	2.10	CLUB FOR CLUB - <i>PLAS PENYR</i> BLUNSWOOD, 2 SOBS <i>CONSTRUCTION</i>	30
The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	3.13	DEPENDS ON FLEXIBLE HOURS - BETWEEN + BETWEEN FLEXIBLE	35
Are you able to give us details of references?	Successful references from previous employers / character references would be desired	3.14	PERSONAL ON	40
<i>WHAT ELSE DO YOU DO AT HOME</i>		3		45
	<i>- BLUNSWOOD -</i>		<i>DOES HAVE VEHICLE ✓</i>	
<b>TOTAL SCORE</b>		<i>14</i>		

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

### Handyman Interviews - Questions for Candidates

Candidate Name: 12

Date / Time: 8pm 45

*Don't refer to public liability insurance*

Question	Correct Answer	Candidate Score (1 to 5)	Notes
1 What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.	2	Electrician - qualified Handy - gardening in people's gardens Plumbing Carpentry Nagleyton a package
2 When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.	0	feeling not NO IDGA
3 When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.	2	
4 Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from	1	

APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

	this?	their team		
5	What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	1	
6	Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	3	local gardens done. Fix alarm system mosses Spot.
7	The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	2	Depends on flexibility
8	Are you able to give us details of references?	Successful references from previous employers / character references would be desired		
9	What else do you do at the moment?	As	2	Work on water Electrical work
	<b>TOTAL SCORE</b>			

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

## BEARSTED PARISH COUNCIL

## Handyman Interviews - Questions for Candidates

Candidate Name: \_\_\_\_\_

Date / Time: 27/1950

Question	Correct Answer	Candidate Score (1 to 5)	Notes
What qualifications / experience do you possess to help you carry out the Handyman duties?	Candidates will need to display evidence of Public Liability Insurance, Waste Carriers Licence, relevant industry qualifications etc. Relevant real world experience also required in handyman duties, horticulture etc.	3.	Approved. Electrician semi-retired Do peoples gardening carpentry, plumbing - not bricks painting.
When working in the Parish cutting back hedgerows etc., how do you propose to dispose of the arisings?	Candidate should have a waste carriers licence or intend to burn it on site as any other act is unlawful.	0	Pass
When working around the Parish you notice something that you feel needs attention. What action should you take?	Refer to the Parish Clerk as candidates cannot take any action without prior approval from the Clerk.	2	if dangerous attend immediate longer term refer to clerk
Some tasks may require more than one person under Health and Safety legislation. How would you deal with	Handyman should undertake a Risk Assessment and engage the correct number of suitably qualified people from	1	Not happy

APPENDIX B

MBC/11/5 - ANNEX D - Documents 2 Submitted by Parish Councillor Christopher Dyke

this?	their team		
What prep work and paperwork (if any) should be carried out before undertaking any task?	A Risk Assessment relating to each task undertaken will be required	1	Method statements 'nothing'
Can you give us examples of similar work to that required carried out before, giving examples?	Ability to demonstrate previous work & clients would be desired.	2	Peoples gardens in D wood other garden jobs Fire alarm orchard spot
The Handyman role will require you to be flexible on hours - what are your thoughts on this?	Candidates will need to demonstrate their willingness to be flexible and show commitment to possible unsociable hours as and when needed.	4	depends on hours between between.
Are you able to give us details of references?	Successful references from previous employers / character references would be desired	2	see above
Other occupations		2	private work varies by recommendation.
<b>TOTAL SCORE</b>	17/45	13	

Q's.  
mileage  
hid

**Recent Documents**New1 Contract of employmentOpen2 HMRC duplicated P45 CEP3 Handyman contractConvert4 Disciplinary procedure5 Grievance ProcedureSave6 WHISTLEBLOWING7 WHAT THE PARISH COUNCIL HAS DONE SO FA...8 List of Parish Council Powers and who does w...Save As ▶9 Kevin letter re Code of Conduct 120410

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grievance[1]Prepare ▶

Mrs M Hobbs.Market Manager

Letterhead

Send ▶

Renaissance Crafts letter to parents 2011

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Close



## MBC/11/5 - ANNEX E - Computer Print Outs Submitted by Parish Councillor Christopher Dyke

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29 Greystones Rd  
Bearsted  
Kent  
ME15 8PD  
31.7.11

Wendy Licence  
14 Trapfield Close

Dear Mrs Licence

Following your recent letter I have today taken legal and professional advice to close my investigation. You need to appreciate to do this I have had to talk to a wide range of councillors and contacts within the Borough Council.

Your complaint covered three issues:

**1. Appointment of Litter Picker**

This was the subject of an earlier investigation following a complaint sent to the council via Paul Carter. The legal advice given confirmed by setting a price on the work involved, the competitive element in tendering was removed and the process followed was sound. As you offered no new evidence on this issue I consider it closed.

**2. Appointment of Handyman**

This appointment followed the recommendations we had received following the above. At the full Council meeting held on the 10<sup>th</sup> May 2011 I discussed arrangements for filling this post with colleagues. I asked a range of people including the clerk to submit potential standard questions to Paul Young to prepare for the interview. During this process Mr Elstone was asked to confirm the new job did not overlap his existing duties. The copies of emails sent at that time only relate to this initial trawl. The final choice of questions was only prepared by Paul on the day of the interview (27<sup>th</sup> June 2011) and were sent to me direct. Mr Elstone obviously had some idea what would be involved but he did not know what additional questions had been added. The suggestions from the clerk were obvious things to ask in the circumstances.

If you have any issues with this they should be directed at myself since the clerk was acting under my direction.

**3. Insurance of other people working for the litter picker.**

Thank you for pointing out that D. Elstone's insurance did not cover this. The policy has now been amended

I do not find any issue to reprimand the clerk. Any 'internal appointment' always puts the internal candidate at an advantage if they are good at their job. Conversely they are at a disadvantage if they have performed badly. Mr Elstone seems to have performed very well as a litter picker. I anticipate he will do equally well as our Handyman.

Yours sincerely

Chris Dyke  
Parish Chairman

MBC/11/5 - ANNEX L - Responses to Draft Report

Annexe L2.txt

From: cdyke@onete1.com  
 Sent: 18 January 2012 19:25  
 To: Keith Trowell  
 Subject: Re: CONFIDENTIAL : Code of Conduct Complaint MB/11/4 -  
 ComplainantC11r.  
 Geoff Licence (My Ref : KET/T001474)

Dear Keith

With regards the appointment of the handyman I have nothing to add/comment.

With regards the possible breach of the Data Protection Act I do have serious issues.

It was decided between myself, the clerk and Paul Young that there was evidence to show an unauthorised access to the parish files on the computer.

I feel it is my duty as Chair and even as a citizen to report when I feel a crime may have been committed. I did that in the first instance to my colleagues. If in stating the time period and location of such possible an event causes Mr and Mrs Licence to feel they were accused that is not my problem.

By invoking the CoC both Mr and Mrs Licence could be seen to be standing in the way of a possible criminal investigation.

Such an investigation should in my opinion take precedence over the CoC inquiry.

It would certainly seem strange for someone reporting that a crime may have taken place should be subject to an CoC investigation.

It could be said that the events do not justify such a serious approach but the incident was one of the major causes of the clerk going on long term sick leave.

The likelihood is now that the Clerk will be well placed to take legal action against the Council. Such an event would prove both costly and damaging.

Regards

Chris Dyke

Quoting Keith Trowell <Keith.Trowell@tunbridgewells.gov.uk>:

> Please find attached for your perusal a copy of my draft report  
 > relating to the above-mentioned complaint. The various Annexes are  
 > not included at this stage but can be provided if you wish to see  
 > them.  
 >  
 > I shall be grateful if you will consider the draft and e-mail me with  
 > any comments you may have.  
 >  
 > Many apologies for the huge delay that have arisen in this matter.  
 >  
 > Regards,  
 >  
 > Keith E.Trowell  
 > Group Manager & Deputy Monitoring Officer Legal Services Tunbridge  
 > Wells Borough Council Town Hall Royal Tunbridge Wells Kent TN1 1RS  
 >  
 > DX : 3929 Tunbridge wells  
 >  
 > T: 01892 554481  
 > F: 01892 554027  
 >  
 > keith.trowell@tunbridgewells.gov.uk<mailto:keith.trowell@tunbridgewell  
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 >  
 > Document: TM001474/013877  
 >

MBC/11/5 - ANNEX L - Responses to Draft Report

[keith.trowell@tunbridgewells.gov.uk](mailto:keith.trowell@tunbridgewells.gov.uk)

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Document: TM001486/013871

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MBC/11/5 - ANNEX L - Responses to Draft Report

**From:** Wendy Licence [wendylicence@yahoo.co.uk]  
**Sent:** 30 January 2012 08:35  
**To:** Keith Trowell  
**Subject:** Re: CONFIDENTIAL : Code of Conduct Complaint MB/11/5 -  
 Complainant Mrs. Wendy Licence (My Ref : KET/T001486)  
**Attachments:** Reply to Draft.doc

Dear Mr Trowell

Re:- Complaint MBC/11/5

Thank you for sending me your draft report and the accompanying annexes. I am concerned at the inconsistencies in the evidence particularly with regard to the interviews and documents provided by some members. Have the inconsistencies been investigated to establish the truth? The Councillors have all replied to my allegations and I presume that I am allowed to reply to their comments and allegations.

I am concerned that it appears that the potential breaches of the Code of Conduct referred to by the Sub-Committee have not been properly examined as Paragraph 19.5 mentions breaches which are not in the Referral Notice. Furthermore, the Sub-Committee has identified *Par 3 (ii) (b) you must not bully any person* to be investigated and the draft report has not covered this, please can you explain why?

I am also shocked by Cllr Dyke's allegation that somehow I (and possibly my husband) are conspiring with Les Etheridge who is someone we hardly know. I am also shocked by the allegations that I have been trying to discredit both the clerk and Cllr Ash, and this is something which is quite untrue. The allegations are pure speculation on Cllr Dyke's part, and completely untrue, and have no relevance to this investigation which is about the Members conduct.

I am also concerned that my complaint should be seen in the realm of "relationships within the Parish" as to the ordinary man in the street it would clearly be about the Members actions at the irregularities in appointment of the Handyman, which I had quite legitimately raised.

I am also shocked by the closing remarks in 20.3 of the report and, in particular, the reference to "previous knowledge" as I thought that the investigation would be conducted in a fair and unbiased manner. Please can you explain what previous knowledge you have considered? How has this previous knowledge influenced your decision? What does the phrase "potential further complaints" mean? Are there outstanding complaints against BPC to be considered?

I am concerned that in 20.2, having concluded "*that Cllr Dyke's actions as regards the appointment process breached the Code*" you suggest that no further action is required as he intends to resign. To date, he has resigned as Chairman but still intends to stay on the Council. There does not seem to be any proper undertaking given by Cllr Dyke to resign from BPC and I would suggest the time frame is extremely loose and totally unacceptable. What happens if he does not resign? I am alarmed that someone who has been found in breach of the Code may continue on the Council.

Much of the Draft Report is based on hearsay and speculation and I believe that the Report, as it stands, is flawed and the Sub-Committee's Decision Notice of Referral for Investigation needs to be properly addressed.

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Please find enclosed accompanying response to your draft report. I am sorry if this appears long but I have quoted extensively from the report so that it would be clear as to what I am referring to, hence the length of my reply. If you need any further clarification on any matter please don't hesitate to contact me.

Yours sincerely

Wendy Licence (Mrs)

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**From:** Keith Trowell <Keith.Trowell@Tunbridgewells.gov.uk>  
**To:** wendyllicence@yahoo.co.uk  
**Sent:** Monday, 16 January 2012, 17:40  
**Subject:** CONFIDENTIAL : Code of Conduct Complaint MB/11/5 - Complainant Mrs. Wendy Licence (My Ref : KET/T001486)

Please find attached for your perusal a copy of my draft report relating to the above-mentioned complaint. The various Annexes are not included at this stage but can be provided if you wish to see them.

I shall be grateful if you will consider the draft and e-mail me with any comments you may have.

Many apologies for the huge delay that have arisen in this matter.

Regards,

**Keith E.Trowell**  
Group Manager & Deputy Monitoring Officer  
Legal Services  
Tunbridge Wells Borough Council  
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Document: TM001486/013874

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**Executive Summary**The Allegations

2.3 Cllr Hughes accepted Helen Elstone's questions and actually asked *her* to forward them to Cllr Dyke which is shown in my appendix 3.

Investigation Outcome

2.5 (a) *"although there were irregularities in the appointing of the Parish handyman these did not affect the legitimacy of the appointment ....etc"*

I believed that this investigation is concerning Member Code and not the legitimacy of the appointment which would be a BPC internal investigation.

It was made quite clear by Paul Fisher's, who wrote to Cllr Dyke, via BPC's Office, on 27.4 11, that the Clerk should have no part in the recruitment process. Therefore having been given sound legal advice and choosing to ignore it, and in some cases blatantly disregarding it by asking the Clerk to be involved, could reasonably be seen to have breached the Member Code of Conduct.

2.5 (b) *"the irregularities in the appointment process may reasonably be regarded as having brought BPC and its Chairman into disrepute"*

This relates to paragraph 4 of the Code. If this is the case then all Councillors involved in the recruitment process may reasonably be regarded as having brought BPC into disrepute and have broken the Code as it was made quite clear by Paul Fisher's letter of 27.4 11 to Cllr Dyke, sent via BPC's Office, that the Clerk should have no part in the recruitment process. All the Councillors involved were aware of this advice.

2.5 (e) I would dispute this statement as if you treat someone with respect you do not *"make false and inaccurate allegations"* against them. Therefore it is reasonable to conclude that there has been a breach of the Code.

**Legislation, the Code and Guidance**

4.4 The Standards Sub-Committee also said that 3(ii) (b) *you must not bully* was also identified as a potential breach of the Code in respect of Cllr Dyke. This does not seem to have been part of the investigation.

**Interviews, Evidence & Consideration**

5.1 Cllr Young is the Vice Chairman of BPC, not Cllr Hughes.

**6. Background**

6.1 I am surprised and concerned that my complaint should be seen in realms of *"Relationships within the Parish"* as I thought the complaint I raised was regarding the conduct of Members during the appointment of the handyman. I fail to see how this is about *"highly personalised issues"* which is merely Cllr Dyke's opinion. I believe the recruitment process was actually a straightforward procedural issue with guidance from Paul Fisher (in his letter to Cllr Dyke dated 27.4.11), to help BPC follow correct procedures.

**Documents Submitted by Cllr Dyke**

8.1 Is this a typo? Should it be 2011?

**12 Interview of Cllr Young**

12.1 Cllr Young's email of 3.10.11 show many inconsistencies.

Cllr Young has failed to show that the questions he provided were very different from the ones the Clerk had provided. There were in fact minimal alterations to the questions that the Clerk had provided. In question 1 the word "Handyman" was added. Question 5 was tweaked but not sufficiently to have made any significant difference to the question. The questions of examples of work, flexibility and references are usual questions that could be expected at an interview as were the extra questions the Panel asked.

In his email of 3.10.11, Cllr Young says that *"as we wanted the interview process to remain impartial and "kept away from our clerk."* he then goes on to admit that some of the questions and answers were the ones drafted by the clerk so he knew that the clerk had been involved.

Cllr Young claims that he made the questions *"relevant to the job description"* but in fact there was no job description.



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12.1 (b) Again I can only re-iterate that Cllr Young has failed to show that the questions he provided were very different from the ones the Clerk had provided. There were in fact minimal alterations to the questions that the Clerk had provided. In question 1 the word "Handyman" was added. Question 5 was tweaked but not sufficiently to have made any significant difference to the question. The questions of examples of work, flexibility and references are usual questions that could be expected at an interview as were the extra questions the Panel asked.

**Interview of Cllr Hughes**

13.1 I refute Cllr Hughes' allegation in his reply of 26.9.11, that my complaint is malicious and his implication that my complaint is linked to the anonymous complaint to Paul Carter is completely fictitious. The first time I heard of a complaint being sent to Paul Carter was when I shadowed the Clerk at the Full Parish Council meeting in March 2011. I believe it is important to look into this allegation as it will show that there is very definitely no link between the two complaints. I believe that Cllr Hughes' statement is in fact malicious and is trying to undermine my credibility.

I am concerned that Cllr Hughes speculates I am motivated by my husband who is to stand as a rival to Cllr Ash in May 2012 elections as at the time I was in the Parish office, my husband was recovering from heart surgery and was quite ill so there was no thought of him standing as a Borough Councillor. In fact, at the time, the concern was whether he would be fit enough to continue as Parish Councillor.

Cllr F Hughes is not an impartial Parish Councillor as the minutes of BPC's meetings shows she always says what her husband says.

13.1 (a) This is the first time that there has been any mention that Cllr Hughes avoided being on the interview panel because he had been working with Dave Elstone on small jobs. If this is true, this will give BPC yet another problem as one of the councillors giving the handyman work is someone who actually works with him on small jobs. In my appendix 4, Helen Elstone tells Cllr Dyke that Cllr Hughes suggested that Cllrs Dyke and Ash be on the panel as he (Cllr Hughes) and Cllr Carine will be identifying works. This is quite extraordinary as it is quite normal for managers to interview potential employees.

13.1 (b) Mr Elstone was actually appointed litter picker in February 2011 and not 2 years ago. Records in BPC Office will confirm this.

13.1 (c) Cllr Hughes did send the questions to Mrs Elstone which is shown in my appendix 3 so his statement is not true.

13.1 (g) The advertisement was for Assistant Clerk and the communication (dated 13.5 11) to Paul Fisher refers to me as so. Cllr Hughes was not involved in my appointment so would not have necessarily known my title.

**Interview of Cllr Dyke**

16.1 (a) Cllr Dyke stated that "*Others had been appointed previously on similar terms*". There had been one previous part time clerk who actually worked regular hours and had a contract of employment.

16.1 (c) BPC has always had a Handyman. When Mr Elstone became litter picker it was just part of the job which the previous handyman had done.

16.1 (e) I was never asked to draw up the advertisement, I was only asked to receive the applications and administer the recruitment process. I do not know who drew up the advertisement.

16.1 (g) I am surprised that Cllr Dyke states here that the intention was to send the interview questions to the short listed candidates, this has never been stated before and yet in 16.1 (g) he says that "*..it could not be right..*" referring to Mrs Elstone sending the questions to her husband in 16.1 (m)

16.1 (i) Why was there no mention of horticulture in the advertisement? Cllr Dyke would have seen the advertisement before it was published.

16.1 (l) Following the interviews I did not say that Mr Elstone had seen the questions as at the time I had only seen the email (appendix 3) from Cllr Hughes to Mrs Elstone regarding the questions. In his statement of 4<sup>th</sup> October 2012, Cllr Blackmore confirms "*Wendy then stated "I think Helen may have seen three of the questions."*"

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**16.1 (m)** "He thought that could not be right.." In Cllr Blackmore's comments 17.1 (f) he states that "Cllr Dyke said he was aware that the questions had gone through the Parish Office.." and this actually contradicts what Cllr Dyke says here.

**16.1 (o)** I refute Cllr Dyke's statement that he phoned me the following evening as I phoned him and I can produce an itemised phone bill which shows my call to him. Not only did he tell me to send the letter of confirmation of job offer (Cllr Dyke had phoned Mr Elstone after the interviews to offer him the job) but he also told me to send letters to the unsuccessful candidates.

**16.1 (q)** In 16.1 (o) Cllr Dyke confirms he felt that there was not a problem with the interview process and yet here he says he hoped the letters had not gone out; this would seem to be quite contradictory.

**16.1 (r)** I am extremely shocked by Cllr Dyke's statement which speculative rather than factual. In particular, I am amazed that Cllr Dyke felt that someone was looking for something "against Cllr Ash who may be a rival to Cllr Licence in the Borough elections next year" as at that time my husband was recovering from heart surgery and our concern was whether or not he would be fit to continue a Parish Councillor as his health was still quite poor, so there was no way that any thought of becoming a Borough Councillor was being given any consideration at that time. I can not understand why Cllr Dyke should say such a thing. I believe that such an allegation is little more than a smoke screen and actually has nothing to do with the issue at hand.

With regards to discovering the email it was most certainly by chance that I found it. At that time I believed the recruitment process to be completely fair and honest, after all I had been asked to oversee the procedure so that Mrs Elstone would have no involvement and I had no reason to think otherwise. I genuinely discovered the email while I was trying to track down contact details of a company Mrs Elstone had asked me to contact.

**16.1 (t)** This is another statement which has shocked me, it is completely untrue and I believe it to be completely speculative. Mr Etheridge was on BPC some time ago and I had met him at the Christmas Council Meeting in 2009. I saw him again earlier this year when I was in the office as he popped in for something but I don't think, from the conversation we had, that he recognised me. I was not aware of any tension between him and Mrs Elstone and there is no "relationship" between Mr Etheridge and my husband, they only know each other through being on BPC at the same time and because Mr Etheridge is on the hall committee. Cllr Licence runs the Youth Club and has had contact with Mr Etheridge in that capacity from obtaining the hall keys. I am astounded that Cllr Dyke has alleged that I was effectively conspiring with someone I have only met on a couple of occasions.

**16.1 (v)** Again, this is repetition of previous speculation and there is to be nothing to back up Cllr Dyke's allegations and the reason for this is that Cllr Dyke's allegations are completely untrue. Cllr Dyke mentions the Whistle blowing policy, which I had also requested protection under but only to learn that the Clerk advised BPC that it did not have one as it had not been adopted.

**16.1 (w)** The minutes of the meeting of 19<sup>th</sup> July clearly show that Cllr Dyke gave enough information to allow Councillors to work out who he was talking about. Cllr Dyke specified that it happened when the clerk was absent due to training. Documents accessed were identified at the meeting but the meeting was not properly minuted.

**16.2** I am shocked by Cllr Dyke's subsequent statement which is complete speculation with no factual basis. The key issue in this investigation is the conduct of members during the appointment of the handyman.

The evidence given in the form of a print out of the documents which had been accessed is weak as it is only a brief list of documents and does not support the claim that they were opened in an "accurate order" and, if the full list was submitted, it would prove otherwise because I looked quickly at most of the documents to try to get up to speed with what was current.. To focus on this point is merely an example of the diversionary tactics which the Chairman uses.

I have no knowledge of any claims by Mr Etheridge. Neither myself or my husband have any idea what Cllr Dyke is referring to. Cllr Dyke has failed to prove his allegation.

My complaint is only against councillors who were involved in the recruitment process. Cllr Dyke's statement is absolutely incredulous and as, not only I am not sure what he is talking about, I really do not know how to respond to it. It sounds like some kind of conspiracy theory, which actually has no substance, and I think this is little more than another smokescreen to try to cast aspersions on my actions.

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"When this failed to reveal, etc., they switched their complaint to one third of the council.." again I am shocked by Cllr Dyke's insistence on some kind of conspiracy theory. In 16.1 (t) Cllr Dyke says "...he thought of Cllr Licence as quiet and easy going and not behind anything" and here he is accusing us both of conspiracy. There is inconsistency in Cllr Dyke's evidence.

If the Council is in disarray it is because Cllr Dyke has blatantly disregarded legal advice given by Paul Fisher in the recruitment of the Handyman. Furthermore, he is trying to turn away the focus of the problem by making scurrilous accusations against myself and my husband.

16.3 Having seen the email attached in Annex E, I am confused as to how this relates to me. This is clearly an email, sent 1<sup>st</sup> July 2010, from Mr Etheridge to Cllrs Dyke and Young and Cllr Dyke has not explained how they dealt with this at the time. Neither has Cllr Dyke explained how this relates to either myself or my husband. I do not know what Mr Etheridge's concerns were.

### **Analysis of Evidence and Reasoning**

18.6 What evidence is there that Cllr Hughes had actually formulated any questions?

Why is it "*unsurprising that he (Cllr Hughes) would have had some conversation with the clerk as to questions for potential applicants*"? Paul Fisher clearly advised (in his letter dated 27.4.11) that Mrs Elstone should have no involvement with the recruitment process and by having "*conversation with the Clerk*" Cllr Hughes completely disregarded the legal advice that Paul Fisher gave. Any reasonable person would consider that, in the light of the legal advice from Paul Fisher, it was EXTREMELY surprising that Cllr Hughes would have discussed anything about the recruitment process with the Clerk. As Chairman of the Environment Committee and drawing up the criteria for the handyman role it is obvious that Cllr Hughes would have been best placed to formulate questions so there was no reason for him to talk to and involve the clerk about potential questions. I am absolutely surprised that any councillor would discuss such matters with Mrs Elstone given the legal advice received and the fact that there had been a previous complaint concerning the appointment of Mr Elstone as litter picker. Therefore Cllr Hughes must have used his position improperly and his actions are extremely likely to bring BPC into disrepute if they become known.

18.7 What "*skill set*" was required? There was no job description and the job advertisement was vague so no candidate could be expected to know. Cllr Young admitted he knew of the Clerk's involvement (12.1(b)) and he also anticipated that there may be problems with the appointment (12.1 (d)) so it would seem quite reasonable to expect that he would be careful to ensure that the whole process was honest and fair.

There were in fact minimal alterations to the questions that the Clerk had provided. In question 1 the word "Handyman" was added. Question 5 was tweaked but not sufficiently to have made any significant difference to the question. The questions of examples of work, flexibility and references are usual questions that could be expected at an interview as were the extra questions the Panel asked.

Again, Cllr Young knew of Paul Fisher's advice that Mrs Elstone be kept out of the equation and he was aware of the Clerk's questions and answers. It is quite reasonable to expect that any fair-minded person would be concerned at the appointment considering the circumstances. They would also be alarmed to learn that Cllr Young had been given legal advice for the Clerk to be "kept away" from the recruitment process, he knew of the clerk's involvement and did not act on it. Therefore Cllr Young's actions are extremely likely to bring BPC into disrepute if they become known.

18.8 (b) How can the questions have been the "*type that would be expected...*" when they did not match the job description in the advertisement?

18.8 (d) "*...they believed then and subsequently...*" what evidence is there that the Panel believed "*subsequently*"? There is no note of such statement.

18.8 (e) Cllr Ash admitted (15.1 (c)) that it was agreed that Mrs Elstone should not be involved in the recruitment process and this confirms that the councillors involved were aware of the advice Paul Fisher had given. Cllr Dyke admitted (16.1 (d)) "*Paul Fisher advised and suggested the Helen Elstone should stand aside from the process of appointing a more general handyman.*" and again this confirms that councillors were aware of Paul Fisher's advice.

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In knowing this, the panel would have known there was something wrong with the procedure when I informed them that some questions had come through the office. It is reasonable to assume that this action, if known, will bring BPC into disrepute in the eyes of an ordinary man.

18.9 *"I find that there was no deliberate wrongdoing on the part of the Panel"* yet the panel were aware that Mrs Elstone should not be involved in the recruitment process, they knew the questions had come through the office and they still allowed the appointment to be made. I believe an ordinary man on the street could reasonably think this to be wrong and again, if this becomes known, it will bring BPC into disrepute.

18.10 *"In essence it is agreed that Cllr Dyke certain statements that others considered to be not only inappropriate but also such as to place him in breach of the Code of Conduct"* I do not understand what is meant by this statement, please can you explain this.

18.12 Cllr Dyke's view is purely supposition and there are no facts to support this. Cllr Dyke has failed to prove his allegation. There is no substance to the suggestion that I took advantage of Mrs Elstone's absence and Cllr Dyke admitted that it was not easy to prove anything (16.1 (w) ) and this is because there was actually nothing to prove. The evidence given in the form of a print out of the documents which had been accessed is weak as it is only a brief list of documents and does not support the claim that they were opened in an *"accurate order"* (16.2) because, if the full list was submitted, it would prove otherwise. To focus on this point is merely an example of the diversionary tactics which the Chairman uses.

18.15 (b) This should read *"... the Parish Clerk was on a training course...."* as stated in the minutes of 19<sup>th</sup> July.

18.16 (a) Cllr Dyke says he *"..felt it was proper and legitimate to voice his concerns."* It would be right to voice his concerns in front of a committee, in camera, but this was in an open meeting and, while there were no members of the public present, the minutes are public documents and as such the allegations are available for public scrutiny.

18.16 (b) Cllr Dyke states he avoided *"... dates, times..."*. The minutes of F&GP Committee clearly contradict this as Cllr Dyke is recorded as saying *"During the Clerk's recent absence, due to training.."*

18.19 Cllr Dyke is recorded as saying *"..Such actions are a breach of the Data Protection Act"* is an accusation and it was clearly directed at the individuals concerned.

18.20 Re F&GP Committee. *"..perceptions and interpretations.."* Cllr Dyke was quite definite in what he told the committee. Cllr Dyke did not say it was his perception or interpretation of the situation, it was spoken as fact.

18.21 In 18.18 you state that you *"...accept that Cllr Dyke's statement to F&GP Committee were such that Parish Councillors present may have assumed a link to Mrs Licence."..... ..it seems to me that his statements would have at the very least raised a suspicion in the minds of some Members that Mrs Licence had behaved improperly. Additionally it seems imprudent to have mentioned criminal offences and involving the police at that time."* and this actually substantiates the allegations against Cllr Dyke that he breached the Code.. Furthermore, it was in an open meeting and, while there were no members of the public present, the minutes are public documents and as such the allegations are available for public scrutiny.

18.22 The analysis that my husband and I have *".. read a little more into the situation than actually exists..."* is flawed. Cllr Dyke has already stated that he believes there has been *"..some collusion between Mr Etheridge and Cllr Licence and his wife..."*; Cllr Hughes in his email of 26.9.11 talks of *"..anonymous complaint via Paul Carter...."* *"..link between the two complaints."* and *"..Mr Geoff Licence.. who is likely to stand... against Richard Ash..."*. This certainly proves that the anonymous complaint to Paul Carter which was mentioned at the F&GP meeting was alluded to me. Perhaps more to the point, it clearly shows that it is actually Cllrs Dyke and Hughes, and Cllr Young (who has tried to prove my "crimes") who are reading more into the situation than actually exists. Furthermore, their allegations are of a serious nature and are libelous.

*"...Cllr Dyke found himself in a difficult situation that he handled with diligence.."* If Cllr Dyke had diligently followed the legal advice that Paul Fisher had given him this whole situation would never have arisen.

## 19. Conclusion

19.2 If Cllr Dyke is a *"conscientious Chairman"* it would be reasonable to expect him to have diligently adhered to the legal advice he asked for and was given by Paul Fisher in his letter of 27.4.11. A conscientious man would also be consistent in his evidence.

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19.5 I am concerned that the Sub Committee which met on 19<sup>th</sup> September did not identify the potential breaches of the Code which have been mentioned here. I refer to the referral notices dated 21.9.11 which sets out the relevant paragraphs:-

Cllr Ash:- *"That by his conduct in relation to the appointment of a Parish Handyman, Cllr Ash  
a) conducted himself in a manner which could reasonably be regarded as bringing his office and authority into disrepute (par 5)"*

Cllr Blackmore:- *"That by his conduct in relation to the appointment of a Parish Handyman, Cllr Blackmore  
a) conducted himself in a manner which could reasonably be regarded as bringing his office and authority into disrepute (par 5)"*

Cllr Young:- *"That by his conduct in relation to the appointment of a Parish Handyman, Cllr Young  
a) conducted himself in a manner which could reasonably be regarded as bringing his office and authority into disrepute (par 5)"*

Cllr Hughes:- *"That by his conduct in relation to the appointment of a Parish Handyman, Cllr Hughes  
a) Compromised his impartiality of those who work for, or on behalf of BPC (par 3 (ii) (d)  
b) conducted himself in a manner which could reasonably be regarded as bringing his office and authority into disrepute (par 5)"  
c) used his position as a member improperly to confer or secure for any other person an advantage or disadvantage (par 6)*

I do not understand why it would seem the investigation has assessed other parts of the Code in respect of these Members. I am also concerned that Par 20.2 of this report would contradict the statement here in regards to Cllr Dyke.

## 20 Closing Remarks

20.2 What happens if Cllr Dyke does not resign? It is generally known that Cllr Dyke intends to stay in the Chair until ongoing problems with Bearsted Cricket Club are resolved. In 16.2 of this report it is recorded that Cllr Dyke will resign the Chair at the end of January 2012 and resign from the council as soon as the Code is concluded. There does not seem to be any proper undertaking given and I would suggest the time frame is loose and completely unsatisfactory.

## 20.3

This final paragraph is based on pure speculation and completely flawed.

What is the "*previous knowledge*" referred to here? I am extremely concerned that this previous knowledge may have been prejudicial to the investigation. It was only after a careful consideration that I felt I had to report this matter outside BPC and the matter has always been about the conduct of the named councillors in the recruitment process and also Cllr Dyke's remarks during the F&GP Committee meeting of 19.7.11 so I am extremely concerned that there is an influence of previous knowledge, I believed the purpose of this investigation was that it would be completely impartial. Please can you tell me what previous knowledge you have considered?

*"..from potential further complaints.."* again what are these? How has this affected the investigation? I believe that the first sentence of 20.3 makes the investigation flawed and the findings unsafe.

*"I fear that there exists a tendency in some quarters to allow personal and political differences to disturb effective service to the community"* What is the evidence for this statement? I do not believe my complaint is due to personal matters as there is no personal benefit of any kind to either myself, family or friends, indeed, I have actually lost out because since raising my concerns about the recruitment process of the Handyman, I have not worked in the Council Office. So taking this action has been costly to me personally.

What "*political differences*" are being referred to here? I understand that Cllr Dyke has speculated that I took advantage of the clerk being away to try to gain information on the clerk and Cllr Ash, but nothing could be further from the truth. I find his allegation shocking and offensive and also libelous. Also, there is absolutely nothing to substantiate this allegation.

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MBC/11/5 Confidential reply

You "*..understand that as a result,..etc.. the current Parish Clerk is presently on extended medical absence.*" Is this statement the result of medical evidence being provided to prove that this is the case? I would like to suggest that if the Clerk is on sick leave it may be that being "found out" has actually caused her stress. It would seem that this is what Cllr Dyke has speculated in 16.2 and I believe this should not form part of the closing remarks as, again, there is no evidence to support the statement.

MBC/11/5 - ANNEX L - Responses to Draft Report

**From:** geoff.14@talktalk.net  
**Sent:** 30 January 2012 09:18  
**To:** Keith Trowell  
**Subject:** Re: CONFIDENTIAL : Code of Conduct Complaint MB/11/4 -  
Complainant Cllr. Geoff Licence (My Ref : KET/T001474)  
**Attachments:** MBC114 Response.doc

Dear Keith,

I attach my response to your report. sorry it's a bit long but I wanted to go over all the points.

Chris Dyke resigned as chairman on 20th January by e-mail from deputy chairman. I hope that is the correct date, because a letter of resignation has not yet been seen. He walked out of the meeting on the 17th January as he refused to chair it. He has not resigned from the council. He still wishes to remain on the council.

Please call me if anything which I have commented on is not clear.

Thanks for your help.

Kind Regards

Geoff Licence

-----Original Message-----

From: Keith Trowell <Keith.Trowell@Tunbridgewells.gov.uk>

To: geoff.14@talktalk.net

Sent: Mon, 16 Jan 2012 17:48

Subject: CONFIDENTIAL : Code of Conduct Complaint MB/11/4 - Complainant Cllr. Geoff Licence (My Ref : KET/T001474)

Please find attached for your perusal a copy of my draft report relating to the above-mentioned complaint. The various Annexes are not included at this stage but can be provided if you wish to see them.

I shall be grateful if you will consider the draft and e-mail me with any comments you may have.

Many apologies for the huge delay that have arisen in this matter.

Regards,

Keith E. Trowell  
Group Manager & Deputy Monitoring Officer  
Legal Services  
Tunbridge Wells Borough Council

MBC/11/5 - ANNEX L - Responses to Draft Report

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Document: TM001474/013878

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MBC/11/5 - ANNEX L - Responses to Draft Report**Documents Submitted by Cllr Dyke**

**8.1** Is this a typo? Should it be 2011?

**10. Interview of Wendy Licence 14.11.11**

**10.1** Mrs Licence's complaint is also *Par 3.1- you must treat others with respect*

**10.2** What does “ did not provide purported allegations” mean?

**12. Interview of Cllr Dyke**

**12.1 (a)** I am extremely shocked by Cllr Dyke's statement and I believe it to be speculative rather than factual. In particular, I am amazed that Cllr Dyke felt that someone was looking for something “*against Cllr Ash who may be a rival to Cllr Licence in the Borough elections next year*” as at that time I was recovering from heart surgery and my concern was whether or not I would be fit to continue a Parish Councillor as my health was still quite poor, so there was consideration of becoming a Borough Councillor at that time. I consider myself to be a conscientious Parish Councillor working for the benefit of the community so I was more concerned as to whether or not I would fulfill my duties properly considering my health at that time. I cannot understand why Cllr Dyke should say such a thing. I believe that such an allegation is little more than a smoke screen and actually has nothing to do with the issue at hand.

With regards to my wife discovering the email it was most certainly by chance that she found it. At that time she believed the recruitment process to be completely fair and honest, after all she had been asked to oversee the procedure so that Mrs Elstone would have no involvement and she believed that to be the case. Again this is pure speculation rather than fact. I had no hand in directing my wife to any e-mail.

**12.1 (c)** This is another shocking statement and it is completely untrue and I believe it to be pure speculation. I only know Mr Etheridge from being on BPC. I was not aware of any tension between him and Mrs Elstone and there is no “relationship” between Mr Etheridge and myself. My only dealings with Mr Etheridge is because he is on the hall committee and I run the Youth Club and have contact with Mr Etheridge only in that capacity. He is not or never has been a personal friend but merely an acquaintance. I am astounded that Cllr Dyke has alleged that there has been some kind of conspiracy here.

**12.1 (e)** Again, this is repetition of previous speculation and there seems to be nothing to back up Cllr Dyke's allegations. Cllr Dyke mentions the Whistle blowing policy, which my wife had also requested protection under but the F&GP Committee was told by the Clerk that it did not have one as it had not yet been adopted.

**12.1 (f)** The minutes of the meeting of 19<sup>th</sup> July clearly show that Cllr Dyke gave enough information to allow Councillors to work out who he was talking about. Cllr Dyke specified that it happened when the clerk was absent due to training. Documents accessed were identified at the meeting but the meeting was not properly minuted.

**12.(g)** When Cllr Dyke spoke at the F&GP Committee Meeting on 19<sup>th</sup> July he did not look at all in my direction so he cannot say my body language gave councillors this impression. This is NOT FACT.

## MBC/11/5 - ANNEX L - Responses to Draft Report

12.2 I am shocked by Cllr Dyke's subsequent statement which is complete speculation with no factual basis. The key issue is the investigation of Cllr Dyke's remarks at the F&GP committee on 19<sup>th</sup> July 2011.

The evidence given in the form of a print out of the documents which had been accessed is weak as it is only a brief list of documents and does not support the claim that they were opened in an "accurate order" as, if the full list was submitted, it would prove otherwise. To focus on this point is merely an example of the diversionary tactics which the Chairman uses.

I have no knowledge of any claims by Mr Etheridge. Neither myself or my wife have any idea what Cllr Dyke is referring to. My complaint is only against Cllr Dyke. His statement is absolutely incredulous and as, not only am I not sure what he is talking about, I am also not sure how to respond to it. It sounds like some kind of conspiracy theory, which actually has no substance, and I think this is little more than another smokescreen. Surely your investigation should be based on fact not wild inaccurate theories. If this evidence is relied upon, or repeated I contend that it is libel and I will be seeking legal advice.

*"When this failed to reveal..etc., they switched their complaint to one third of the council.."* again I am shocked by Cllr Dyke's insistence on some kind of conspiracy theory. In 16.1 (t) Cllr Dyke says *"..he thought of Cllr Licence as quiet and easy going and not behind anything"* and here he is accusing me and my wife of a conspiracy. This is an inconsistency in Cllr Dyke's evidence.

12.3 Having seen the email attached in Annex E I am confused as to how this relates to me. This is clearly an email from Mr Etheridge to Cllrs Dyke and Young and Cllr Dyke has not explained how they dealt with this at the time. I do not know what Mr Etheridge's concerns were. This, so called, evidence must not be taken into account.

### 13. Analysis of Evidence & Reasoning

13.3 *"In essence it is agreed that Cllr Dyke certain statements that others considered to be not only inappropriate but also such as to place him in breach of the Code of Conduct."* What does this mean please? The sentence does not make sense.

13.4 *".. the allegation is a little vague.."* Can you say why this is vague please? If the allegation is vague the Sub- Committee would not have referred it to you.

13.7 Cllr Dyke's view is purely supposition and there are no facts to support this. There is no substance to the suggestion that anyone took advantage of Mrs Elstone's absence and Cllr Dyke admitted that it was not easy to prove anything (16.1 (w) ) and this is because there was nothing to prove. The evidence given in the form of a print out of the documents which had been accessed is weak as it is only a brief list of documents and does not support the claim that they were opened in an "accurate order" (16.2) as, if the full list was submitted, it would prove otherwise. To focus on this point is merely another example of the diversionary tactics which the Chairman uses.

13.9 (b) This should read *"... the Parish Clerk was on a training course...."* as stated in the minutes of 19<sup>th</sup> July. Everyone present on 19<sup>th</sup> July was aware that Wendy was in the office at that time.

## MBC/11/5 - ANNEX L - Responses to Draft Report

**13.10 (b)** Cllr Dyke states he avoided "... dates, times...". The minutes of F&GP Committee clearly contradict this as Cllr Dyke is recorded as saying "*During the Clerk's recent absence, due to training..*".

**13.13** Cllr Dyke is recorded as saying "*..Such actions are a breach of the Data Protection Act*" is an accusation and it was clearly directed at the individuals concerned.

**13.14** Re F&GP Committee. "*..perceptions and interpretations..*" Cllr Dyke was quite definite in what he told the committee. Cllr Dyke did not say it was his perception or interpretation of the situation, it was spoken as fact.

**13.16** The analysis that my wife and I have "*.. read a little more into the situation than actually exists...*" is flawed. Cllr Dyke has already stated that he believes there has been "*..some collusion between Mr Etheridge and Cllr Licence and his wife...*"; Cllr Hughes in his email of 26.9.11 talks of "*..anonymous complaint via Paul Carter...*" "*..link between the two complaints.*" and "*..Mr Geoff Licence.. who is likely to stand... against Richard Ash...*". This certainly proves that the anonymous complaint to Paul Carter which was mentioned at the F&GP meeting was alluded to my wife. Perhaps more to the point, it clearly shows that it is actually Cllrs Dyke and Hughes, and Cllr Young (who has tried to prove her "crimes") who are reading more into the situation than actually exists.

**13.15** In 13.12 you state that you "*...accept that Cllr Dyke's statement to F&GP Committee were such that Parish Councillors present may have assumed a link to Mrs Licence..... ..it seems to me that his statements would have at the very least raised a suspicion in the minds of some Members that Mrs Licence had behaved improperly. Additionally it seems imprudent to have mentioned criminal offences and involving the police at that time.*" and this actually substantiates the allegations against Cllr Dyke that he breached the Code.. Furthermore, was in an open meeting and, while there were no members of the public present, the minutes are public documents and as such the allegations are available for public scrutiny. The committee voted 6 to 1 to inform the police.

#### **14. Conclusion**

**14.3** If Cllr Dyke is a "*conscientious Chairman*" it would be reasonable to expect him to diligently adhere to the legal advice he asked for and was given by Paul Fisher in his letter of 27.4.11. A conscientious man would also be consistent in his evidence.

#### **15. Closing Remarks**

**15.3** What is the "*previous knowledge*" referred to here? I am extremely concerned that this previous knowledge may have been prejudicial to the investigation. It was only after a careful consideration that I felt I had to report this matter outside BPC and the matter has always been about Cllr Dyke's remarks during the F&GP Committee meeting of 19.7.11 so I am extremely concerned that there is an influence of previous knowledge, I believed the purpose of this investigation was that it would be completely impartial. Please can you tell me what previous knowledge you have considered?

MBC/11/5 - ANNEX L - Responses to Draft Report

"*..from potential further complaints..*" again what are these? How has this affected the investigation? I believe that the first sentence of 15.3 makes the investigation flawed and the findings unsafe.

What "*political differences*" are being referred to here? I do not belong to any political party and I have no axe to grind against Cllr Ash who is an experienced and competent Borough Councillor. I understand that Cllr Dyke has speculated that my wife took advantage of the clerk being away to try to gain information on the clerk and Cllr Ash, but nothing could be further from the truth. I find his allegation shocking and offensive. Also, there is absolutely no proof to substantiate this allegation.

I feel that in your conclusion you have been influenced by spurious so called evidence from Cllr Dyke who ignored Paul Fisher's advice and involved the clerk in the appointment of her husband as handyman. How on earth can you call him conscientious?

Cllr Marshall told me after the meeting on 19<sup>th</sup> July that the way Cllr Dyke brought up these accusations was to indicate a link between phone calls to the clerk and letters to Paul Carter with my wife. Again there is no evidence to support this.

Complaint – MBC/11/5

REPORT OF AN INVESTIGATION INTO ALLEGATIONS  
CONCERNING PARISH COUNCILLORS CHRISTOPHER DYKE, JON  
HUGHES, RICHARD ASH, PAUL BLACKMORE AND PAUL YOUNG  
OF BEARSTED PARISH COUNCIL

FINAL REPORT – ANNEXE M

Additional Information and Finding in Relation  
to Paragraph 3(2)(b) of the Code of Conduct

Keith Trowell, Investigating Officer

28<sup>th</sup> February 2012

My Ref : TM001486

**1. Introduction**

- 1.1 It has been brought to my attention that as a result of missing information from the papers supplied to me I have failed in my final Investigation Report to address the Standards Sub- Committee's concern that there was a potential breach of paragraph 3(2)(b) of the Code. In consequence I have produced this additional Annexe to rectify the omission.
- 1.2 During the course of my investigation I did bear in mind the possibility that there may be breaches of the Code that had not been specifically referred to in my instructions including whether evidence of bullying existed.

**2. Executive Summary**

- 2.1 Mrs Licence's allegations do not include any allegation of bullying and she does not seek to support such an allegation in itself. One, however, needs to consider whether the evidence supporting the alleged breaches complained of would also indicate that Cllr Dyke bullied Mrs Licence contrary to paragraph 3(2)(b) of the Code.
- 2.2 I have concluded that there is no evidence to support the contention that Cllr Dyke bullied any person in breach of 3(2) (b) of the Code.

**3. Analysis of the Evidence**

- 3.1 Whilst Mrs Licence does not allege bullying there are circumstances in which the allegations of slanderous statements at the Parish Council's F&GP Committee meeting on 19<sup>th</sup> July 2011 could be said to amount to bullying. However, as I have concluded that paragraphs 3(1) and 3(2)(d) have not been breached due in part to lack of evidence, I do not consider the statements to be bullying.
- 3.2 I have also considered whether Cllr Dyke's actions following Mrs Licence's initial complaints concerning the handyman appointment amounted to bullying. I accept that Cllr. Dyke failed to meet with Mrs Licence to discuss her concerns but then summoned her to a meeting without disclosing what the meeting was to be about and, subsequently cancelled that meeting but I do not regard this as sufficient evidence to conclude that these were acts of bullying.

**4. Finding**

- 4.1 On the basis of the information provided and evidence obtained that Cllr Dyke has not bullied any person in breach of paragraph 3(2)(b) of the Code.

Complaint – MBC/11/4

REPORT OF AN INVESTIGATION INTO AN ALLEGATION  
CONCERNING PARISH COUNCILLOR CHRISTOPHER DYKE OF  
BEARSTED PARISH COUNCIL

Keith Trowell, Investigating Officer

February 2012

My Ref : TM001474

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Annexe	
A	Extract from The Guide for Members May 2007 published by the Standards Board for England
B	Documents Submitted by Parish Councillor Geoff Licence
C	Documents Submitted by Parish Councillor Christopher Dyke
D	E-Mail from Leslie Ethridge dated 1 <sup>st</sup> July 2010
E	Complainant's Response to Draft Report
F	Subject Member's Response to Draft Report

- 1.1 This report is submitted in consequence of Maidstone Borough Council's Standard Sub-Committee's decision on 19<sup>th</sup> September 2011 to refer Complaint MBC/11/4 for investigation. On the same date the Committee also referred for investigation a related Complaint MBC/11/5 which is the subject of a second report.
- 1.2 Due to the related nature of the complaints and referrals my investigations have been carried out in tandem and this, in part, has contributed to the delays in submitting the draft Reports.
- 1.3 Throughout this Report I shall abbreviate and refer to Parish Councillor Christopher Dyke as "Cllr Dyke", Parish Councillor Geoff Licence as "Cllr Licence", Bearsted Parish Council's Finance and General Purposes Committee as F&GP Committee" and Beasted Parish Council as "BPC".

## **2. Executive Summary**

### The Allegation

- 2.1 Cllr Licence, a member of BPC, has made a formal complaint alleging that Cllr Dyke, Chairman of BPC, by his conduct during a meeting of the BPC's F&G Committee on 19<sup>th</sup> July 2011 failed to treat others with respect and conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.
- 2.2 In particular Cllr Licence states that Cllr Dyke told the Committee at the meeting on 19<sup>th</sup> July 2011 that " ... someone had hacked into the office computer and looked at and downloaded confidential documents about two weeks ago." and that "... this person is known and had had a guiding hand.". Cllr Dyke also told the meeting that what had happened was a breach of the Data Protection Act and a criminal offence.
- 2.3 Cllr Licence believes that it was obvious to all present that Cllr Dyke was referring to Mrs, Wendy Licence. Additionally Cllr Licence says that there was no agenda item covering this matter and that the allegations were made during the public part of the meeting.

### Investigation Outcome

- 2.4 I have investigated this complaint at the behest of Maidstone Borough Council's Monitoring Officer. The interviews that I have conducted and the evidence that I have considered do not in my opinion support the allegations to a sufficient degree to justify further investigation.
- 2.5 After thorough investigation I was able to establish the facts and conclude that whilst Cllr Dyke's conduct may have appeared to some to have included making false and inaccurate allegations I have found that there has not been a failure to comply with the Code.

## **3. Parish Councillor Christopher Dyke's Official Details**

3.1 Cllr Dyke and has been Chairman of BPC since May 2011. He is also Chairman of the Parish Council's Finance and General Purposes Committee.

3.2 In respect of the period covering the matter under investigation Cllr Dyke has given a written undertaking dated 10<sup>th</sup> May 2011 to observe the Code of Conduct.

#### **4. Legislation, the Code of Conduct and Guidance**

4.1 This investigation was carried out under and in accordance with Part 3 of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.

4.2 Disclosure of information in this report and of the documents comprising the annexes hereto may be an offence under Section 63 of the Local Government Act 2000.

4.3 Bearsted Parish Council adopted the Code of Conduct (2007) on 12<sup>th</sup> July 2007.

4.4 The paragraphs of the Code of Conduct that were relevant to this investigation are paragraphs 3(1) and 5 as set out below :-

*Paragraph 3(1) - You must treat others with respect*

*Paragraph 5 - You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute*

4.5 The Guide for Members May 2007 published by the Standards Board for England aims to provide a general understanding of the Code of Conduct and its requirement. Chapter 2 of the Guide deals with paragraph 3 of the Code and relevant extracts are annexed to this report (Please see Annexe A).

#### **5. Interviews, Evidence & Considerations**

5.1 I have interviewed in person :-

Cllr Geoff Licence, the Complainant

Mrs Wendy Licence

Cllr Christopher Dyke, Bearsted Parish Council Member and the Chairman of the Parish Council and Chairman of that Council's Finance and General Purposes Committee, the subject of the complaint.

5.2 All those who I have interviewed have willingly and fully co-operated with my enquiries for which I record my thanks.

5.3 I have endeavoured to contact Mr. Patrick Walton, former parish councillor and BPC chairman but without success.

5.4 Following each of the interviews I sent a summary of my interview notes to the respective interviewees seeking and receiving confirmation that the notes were an accurate representation of the answers given.

5.5 I have considered documentary evidence provided by the Cllrs Licence and Dyke and referred to my notes of interviews. Much of the information obtained is factually uncontroversial but the personal opinions expressed are more so.

5.6 In reaching my conclusions I have had regard to the 2007 Guide for Members referred to above.

## **6. Background**

6.1 Relationships within the Parish have become strained and it appears apparent that there has been a tendency to allow personal feelings to cloud the Council's civic function. The Chairman has publically stated that he had not anticipated that he would be faced with the 'highly personalised' issues that had arisen.

## **7. Documents Submitted by Parish Councillor Geoff Licence**

7.1 The documents submitted by Cllr. Licence are annexed to this report (Please see Annexe B).

7.2 These documents were submitted with Cllr Licence's formal complaint form and comprise –

- (a) a statement of details dated 4<sup>th</sup> September 2011; and
- (b) draft Minutes of the PC's Finance and General Purposes Committee meeting on 19<sup>th</sup> July 2011.

## **8. Documents Submitted by Parish Councillor Christopher Dyke**

8.1 Subsequent to the Standards Sub-Committee's decision on 19<sup>th</sup> September 2010 Cllr Dyke submitted a response which is annexed to this report (Please see Annexe C).

8.2 Following the investigation interview on 2<sup>nd</sup> December 2011 Cllr Dyke commented on the interview notes and referred to an e-mail which is annexed to this report (Please see 12.2 and 12.3 below and Annexe D).

## **9. Interview of Parish Councillor Geoff Licence 14<sup>th</sup> November 2011**

- 9.1 In response to my enquiries and questions Cllr Licence expanded slightly upon the content of his complaint, gave some detail of his personal circumstances and clarified certain elements. In general, however, there was little to add the statement that accompanied his complaint form.
- 9.2 Cllr. Licence did specifically reiterate that the Chairman's comments at the meeting on 19<sup>th</sup> July 2011 would have been understood by most, if not all, of those present to relate to Mrs. Licence and himself.
- 9.3 In addition Cllr Licence considered the Chairman's statement at that meeting that a criminal offence had been committed was incorrect and misleading. Cllr Licence also referred to paragraph 7.3 of the Minutes of the Parish Council on 13<sup>th</sup> September 2011 which he regarded as inaccurate.

#### **10. Interview of Mrs Wendy Licence on 14<sup>th</sup> November 2011**

- 10.1 Mrs Licence was interviewed primarily in connection with her separate complaint against a number of Parish Councillors including the Chairman. In that complaint Mrs Licence had made some reference to the statements made at the F&GP meeting on 19<sup>th</sup> July 2011 but that was not the subject of her complaint.
- 10.2 In addition to answering questions relating to her complaint Mrs Licence confirmed that she was very concerned over the Chairman's statements at the meeting. She believes that inaccurate and false allegations were made against her and, by implication, against Cllr Licence.

#### **11. Interview of Parish Councillor Pat Marshall on 29<sup>th</sup> November 2011**

- 11.1 In response to my enquiries and questions Cllr Marshall provided answers and comments as follows :
- (a) She was not aware of the details of the matter until Mrs. Licence telephoned her, as a senior councillor and impartial person, to ask that she accompany her to a meeting with the Parish Council Chairman, Chris Dyke. It was clear to her that Mrs. Licence had genuine concerns but she did not ask for her opinion. She believed that Cllr Dyke had asked Cllr Ash to accompany him but the meeting did not take place.
- (b) Mrs. Licence was appointed to see fair play in the handyman appointment process.
- (c) She was mortified at the General Purposes & Finance Committee meeting on 19<sup>th</sup> July 2011 when, out of the blue, Cllr Dyke said there was something he wanted to discuss. He started by saying something along the lines of that when he took on the job he did not think it would be so vitriolic and went on to mention abusive telephone calls to the Parish Clerk. He also spoke ~~131~~ about the anonymous letter to Paul Carter

(Leader of KCC) which led to Paul writing to him about the 'litter picker' appointment. Cllr Dyke had showed her the letter from Paul Carter just before the start of the meeting and asked for her advice to which she said he should not to discuss it and should speak to Paul Fisher. The item was removed from the agenda and she believed that Cllr Dyke did consult with Paul Fisher afterwards.

- (d) The meeting did not move into closed session. She feels that it should have done although no members of the public were actually in attendance. The Chairman said that he had concerns referring to the abusive telephone calls, the anonymous letter and the complaint by Mr. Street against Cllr Ash.
- (e) The Chairman went on to say that the Parish Council's computer had been hacked into, personal files downloaded and the Whistleblowing Act downloaded. There were two new councillors present and she wondered what they thought about this. One of the new councillors asked who had access and the Clerk said that she had been away for 3 days and that there was a relief in. The Chairman then said that it was obvious who had done it and referred to a guiding hand behind it. At this point she thought that it was obvious to all that he was referring to Mrs. Licence and that they could have thought that Cllr Licence was the guiding hand. The proposal as she recalled it was for the IT Department of Maidstone BC to look into the accessing/hacking of the computer and, if it were so, it was a criminal offence under the Data Protection Act and the police should be informed.
- (f) Knowing something of the background she felt very sorry for Cllr Licence who was present and must have felt humiliated and embarrassed by what had been said and proposed. When the proposal, as amended, was voted on Cllr Licence abstained.
- (g) She was hesitant as she felt that involving the police before Maidstone's IT had looked into the matter was premature. Also she felt confused as she was uncertain whether this related to Mrs. Licence. Everyone was stunned by the proceedings.
- (h) Minutes were subsequently produced and she e-mailed the Clerk, with copies to all Councillors including the Chairman, saying that she had concerns that the item concerned was discussed in an open meeting and that whilst there were no members of the public present she felt that due to the sensitive nature of the matter, the discussion of the item should have been 'in camera' and the relevant Minute confidential. She did not receive a response and the Minutes were published unaltered.
- (i) Mrs. Licence had raised the matter with Cllr Dyke in confidence but he kept fobbing her off. He would not say what he wanted to discuss when he requested a meeting.

- (j) Cllr Dyke had asked for evidence in the form of copies of e-mails. Mrs. Licence printed them off and provided them to him.
- (k) Mrs. Licence was appointed as relief cover for the Clerk when she was absent on holiday, training or sickness. She had been appointed that year. When asked if she had a contract, Mrs. Licence said not.
- (l) The offending item was not on the agenda but it was still voted on which is an irregularity.
- (m) She has been on the Parish Council for 40 years and things have never been like this. It is not a happy Parish at present.

## **12. Interview of Parish Councillor Christopher Dyke on 2<sup>nd</sup> December 2011**

12.1 In response to my enquiries and questions Cllr Dyke provided answers and comments and he expanded some of the points made. During the interview Cllr Dyke stated that :-

- (a) Mrs. Licence was self-employed. There was no contract of employment. Her appointment was just to cover the Clerk's absence on an ad hoc basis. Others had been appointed previously on similar terms.
- (b) Dave Elstone was employed as 'litter picker' on the minimum wage. There had been an anonymous complaint to Paul Carter regarding the appointment and advice was received from Paul Fisher to the effect that as the contract was at a fixed price, nothing improper occurred.
- (c) As time went on it became apparent that there was a wider range of tasks to be undertaken and that a different arrangement was required.
- (d) Paul Fisher advised and suggested that Helen Elstone should stand aside from the process of appointing a more general handyman. Mrs. Elstone was so advised and told that Mrs. Licence would handle the appointment process. Mrs. Elstone had no involvement in the process apart from her input to the sample questions.
- (e) Mrs. Licence was asked to help draw up the advertisement, receive the applications and administer the process.
- (f) At around this time he had a conversation that included Paul Young and Mrs. Elstone when interviews and model questions were discussed. It was suggested that draft questions be sent to Cllr. Young for him to draw them together. He acknowledged that it was a mistake to have this conversation when Mrs. Elstone was present.
- (g) The intention was to compile a shortlist and send the interview questions to the shortlisted candidates. However, Cllr. Young did not supply draft

questions until about an hour before the interviews. The Panel added three questions to the list and copied the questions at the Parish Office. The interview panel then decided who was going to ask each question and the scoring system.

- (h) Each member of the interviewing panel looked through the applications independently and made their own shortlists of 5 candidates, All the applications were received via Mrs. Licence except that from Mr. Elstone which was given direct to him by Mrs. Elstone on the ground that it may otherwise not have been received in time. Mr. Elstone's application was not opened before any of the other applications.
- (i) The Panel's choices and parameters were different. He was keen that the appointee lived, in or next to, the village, had horticultural knowledge and sufficient availability. Only one candidate was from Bearsted, a fireman. The applicant from Horsmonden pulled out and, in the event, only 3 arrived for interview.
- (j) After each interview each member of the Panel independently scored each candidate before seeing the next candidate. The completed score sheets were very similar. Mr. Elstone came out as the clear winner, he scored 140 and the others 90 or 60 respectively.
- (k) The whole process had been delayed by the anonymous complaint to Paul Carter. The Parish has another contractor for the bigger work.
- (l) Following the interviews Mrs. Licence raised concerns. She said that Mr. Elstone had seen the model questions. He queried this saying Mr. Elstone could not have seen the questions as he had only just seen them. Mrs. Licence said that Mrs. Elstone had been involved in the question setting and had sent the questions to Mr. Elstone.
- (m) He thought that could not be right and that the Panel had made the joint decision to go ahead with the appointment.
- (n) He had thought about the matter overnight and wondered whether he had missed something. Mrs. Licence had raised the matter nervously and he thought that he may have appeared dismissive.
- (o) The following day he rang Mrs. Licence and asked what had led her to believe something improper had occurred. Mrs. Licence referred to e-mails she had seen. He requested copies of those e-mails and asked her not to send out the appointment letter until later. He was shown the printed e-mail and saw that these were not the questions asked. Mrs. Elstone would have had an idea of the questions but they were questions that would have been expected and he did not consider that the outcome was prejudiced particularly as the scoring of the candidates was so clear.
- (p) Two other issues were raised. One relating to Mr. Elstone's waste disposal licence and the other concerning insurance. The first was raised and rectified



within 4 or 5 weeks. The second related to Mr. Elstone's son helping with some work without insurance. Mr. Elstone was told that his son needed to be on the insurance. He put this omission down to inexperience and the issue was rectified.

- (q) By the Friday following the interviews, he was not sure if the letters had been sent out. He had hoped not but when he realised they had, he decided to stick with the Panel's decision.
- (r) The background leading up to the Finance and General Purposes Committee meeting on 19<sup>th</sup> July includes the fact that the computer shows as list of the most recent "Word" documents opened. The first two items on the list related to the Elstone's licensed company and were unsurprising. The other documents were of more concern, for example Mrs. Elstone's contract of employment and details of the code of conduct complaint against Cllr Ash. Mrs. Elstone was very distressed at this and telephoned Cllr. Young. He (Cllr Dyke) felt that someone was looking for something against the Clerk and against Cllr Ash who may be a rival to Cllr Licence in the Borough elections next year, so he and Cllr Young, who is something of an IT specialist, examined the computer history. They found a large number of hits relating to chocolate and a significant number relating to employment protection. Mrs. Licence had claimed that she had come across an e-mail by chance but that e-mail was some 210 e-mails back so Cllr Young thought it virtually impossible to find it by chance. He (Cllr Dyke) had, however, when Mrs. Licence took up her role, told her that she could look through things and familiarise herself with matters and also that she should feel free to look at records.
- (s) He did investigate Mrs. Licence's first complaint which was against the Clerk. As a result he wrote to her saying that the Clerk was free of any blame and, if there had been an error, it was his in asking the Clerk to supply some model questions.
- (t) He nevertheless felt that there had been some 'guiding hand' and believed that someone may have been taking advantage of Mrs. Licence being in the Parish Office. He referred to tension between the Hall Manager (Leslie Etheridge) and Mrs. Elstone and to Cllr. Licence's relationship with the Hall Manager. He, however, thought of Cllr. Licence as quiet and easygoing and not as being behind anything.
- (u) He had asked Cllr. Young if he could establish what documents had been copied but he had been unable to do so. He also approached Paul Fisher to see if Maidstone's IT specialists could assist but were told, after a long delay, they could not partly because the times were confused with the wrong dates on the new computer.
- (v) He was concerned that there was a very serious issue and that someone was trying to find information on Cllr. Ash and Mrs. Elstone but delayed discussing the matter in case more information came to light. He also felt constrained by

their whistleblowing policy which made it difficult to suggest any complaint against Mrs. Licence.

- (w) By 19<sup>th</sup> July he decided that he had to say in broad terms what his concerns were. He was aware that it was not easy to prove anything and in raising the issue at the Committee meeting deliberately did not name anyone, did not refer to specific dates and did not identify what documents had been accessed. He did consider going to the police but decided to await developments.
- (x) When he made reference to a 'guiding hand' he did not have Cllr. Licence in mind. He does not believe that all those present at the meeting on 19<sup>th</sup> July would have assumed the references were to Cllr. and Mrs. Licence. It was, in his view, more likely that Cllr. Licence's body language indicated that his wife may have been involved.

12.2 Subsequent to my interview of Cllr Dyke he has made the following comment :

"For me the key issue is not the appointment of the handyman but the actions of Mrs license in opening such a range of documents in such an accurate order. I have attached the original email sent to me by cllr Ethridge last year which triggered off a whole range of events. It is my belief that there has been collusion between Mr Ethridge and Cllr License and his wife to try and back up Cllr Ethridges claims or find new evidence against the clerk. When this failed to reveal anything of importance they have switched their complaint to one third of the council and myself in particular. We now have a council in disarray and a clerk on long term sick leave as a result. For myself I feel I have done my best in amazingly difficult circumstances. I am now accepting the wishes of my wife to stand down as chair from the end of Jan 2012 and resign from the council as soon as the CoC is completed"

12.3 The e-mail referred to in the preceding paragraph is attached at Appendix D.

### **13. Analysis of the Evidence and Reasoning**

13.1 Cllr Licence alleges that Cllr Dyke was in breach of paragraphs 3(1) and 5 of the Code of Conduct by virtue of his failure to treat others with respect and conducting himself in a manner which could reasonably be regarded as bringing his office or the Parish Council into disrepute.

13.2 The compliant centres around the statements made by Cllr Dyke at the parish Council's Finance and General Purposes Committee meeting on 19<sup>th</sup> July 2011.

13.3 There is general consensus as to what occurred and was said at the F&GP meeting although there is some differing recollection of actual words spoken. In essence Cllr Dyke made statements that others considered to be inappropriate and such as to place him in breach of the Code of Conduct.

- 13.4 During my interview of Cllr Licence he was given the opportunity to provide further and specific details of the allegations. Whilst he did add some detail, there was nothing else he wished to add..
- 13.5 The nub of the complaint is that Cllr Dyke made public statements that, at the very least, suggested that Mrs. Licence had behaved improperly thereby failing to accord her due respect and bringing BPC into disrepute. I have distilled the complaint to two issues. Firstly, were Cllr Dyke's statements justified or improperly spoken wrong and, secondly, did those statements amount to a breach of the Code.
- 13.6 Cllr Dyke is firmly of the view that some improper use was made of BPC's computer and it was reasonable for him to make his concerns known to all Members of BPC. Cllr Dyke has stated that he that in the light of the cumulative computer record of documents that had been accessed he believed that advantage had been taken at the Parish Clerk's temporary absence.
- 13.7 Having decided to alert BPC's Members of his concerns Cllr Dyke was anxious to express them in broad terms. He states that he was aware that it was not easy to prove anything and was extremely careful not to name anyone, not to indicate what documents had been accessed and not to refer to any specific dates.
- 13.8 Notwithstanding Cllr Dyke's intention, some, including Cllr and Mrs. Licence are convinced that Cllr Dyke's statements could relate only to them. They also take the view that others would easily link them to the statements.
- 13.9 Specifically, Cllr Licence maintains that –
- (a) Cllr Dyke told the Committee that 'someone had hacked into the office computer and looked at and downloaded confidential documents about two weeks ago' and that 'this person is known and had a guiding hand'.
  - (b) As Cllr Dyke had said this had happened while the Parish Clerk was on holiday training course, it was obvious to all Councillors that he was referring to Mrs. Licence and that the person guiding her was him.
- 13.10 In response Cllr Dyke says that –
- (a) He felt it was proper and legitimate to voice his concerns.
  - (b) He avoided referring to names, dates times and documents.
  - (c) His reference to a guiding hand did not refer to Cllr Licence.

- (d) He had authorised Mrs. Licence's access to the BPC's computer and had encouraged her to familiarise herself with matters and to look through records in order to do so.
  - (e) He had requested from Mrs. Licence copies of the e-mails to which she had referred and she provided these.
- 13.11 The allegations contained in the compliant are serious and could potentially give rise to breaches of the Code of Conduct. It is, however, important to examine the allegations in context. On one hand the Chairman had valid concerns that he believed the parish Council should be aware of and on the other certain individuals in the full knowledge of the background believed that the concerns related to and enabled them to be identified by others.
- 13.12 I accept that Cllr Dyke's statements to the F&GP Committee were such that Parish Councillors present may have assumed a link to Mrs. Licence. Members of the public were not present at that time so I have left that element to one side. Whilst Cllr Dyke made some effort to avoid specifics it seems to me that his statements would have at the very least raised a suspicion in the minds of some Members that Mrs. Licence had behaved improperly. Additionally it seems imprudent to have mentioned criminal offences and involving the police at that time.
- 13.13 I also accept that to those immediately concerned the Item 14 ii) of the Minutes of the F&GP Committee meeting could be taken as referring to them. I disagree, however, that they were accusatory towards individuals.
- 13.14 I have had regard to the information provided by Cllr Mrs. Marshall which is largely supportive of the Complainant's views. We are though dealing with perceptions and interpretations in this instance so I do not believe that this information adds significant weight.
- 13.15 The investigation and the interviews conducted have failed to substantiate the allegations to sufficient extent to lead me to believe that that Cllr Dyke's actions amount to a breach of the Code of Conduct.
- 13.16 My impression gained from the lengthy interviews is that there is an element of tension between the parties and, indeed, between factions within PC. Clearly Cllr Licence and his wife feel considerably aggrieved but I do wonder whether they have read a little more into the situation than actually exists. Conversely Cllr Dyke found himself in a difficult situation that he handled with diligence albeit that with hindsight the matter could have been dealt with differently.

#### 14. Finding

- 14.1 In drawing my conclusion I have had regard to the Guidance mentioned in 4.5 above. That Guidance states, as far as is relevant, in relation to paragraph 3(1) –

*“ ... individuals should not be subject to unreasonable or excessive personal attack. ... ”*

And in relation to paragraph 5 –

*“As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your office or your authority. ... ”*

- 14.2 Cllr Licence has a genuine and understandable concern relating to the overall events of which this complaint forms a part and which are the subject of a separate report.

- 14.3 Having considered all of the above I have concluded that Cllr Dyke is a conscientious Chairman who found himself dealing with a difficult and challenging situation that he dealt with to the best of his ability. The facts as they appear to me do not show that Cllr Dyke failed to treat others with respect or that his conduct could reasonably be regarded as bringing his office or authority into disrepute. I have therefore found that there has not been any failure to comply with the Code of Conduct5. **Closing Remarks**

- 15.1 A difficult balance has been struck in assessing this investigation as much turns on personal perceptions of Cllr and Mrs Licence. They have a genuine belief that Cllr Dyke made open allegations against them which were totally unjustified although I have noted that Cllr Licence did not disclose an interest in the matter as soon as he believed that the Chairman was referring to himself and his wife. Cllr Dyke, however, considered it to be his duty to make known his concerns
- 15.2 It is apparent to me that BPC is operating in an atmosphere of tension and mistrust. I fear that there exists a tendency in some quarters to allow personal and political differences to disturb effective service to the community. I understand that as a result the current Parish Clerk is presently on extended medical absence and the current Chairman has resigned from that position.
- 15.3 I provided copies of my draft report to the parties and received a number of observations from both Cllrs Dyke and Licence. These responses are annexed (Please see Annexe E and F). I have carefully considered these comments, criticisms and questions and concluded that they do not change my analysis or conclusion.

Keith E. Trowell  
Group Manager (Legal Services)  
& Deputy Monitoring Officer  
Tunbridge Wells Borough Council

6<sup>th</sup> February 2012

# 2

## General obligations under the Code of Conduct

CHAPTER 2

### Treating others with respect

See Paragraph 3(1)

You must treat others with respect.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

### Complying with equality laws

See Paragraph 3(2)(a)

You must not do anything which may cause your authority to breach any equality laws.

Equality laws prohibit discrimination on the grounds of sex, race, disability, religion or belief, sexual orientation and age.

The provisions of these laws are complex. In summary, there are four main forms of discrimination:

- Direct discrimination: treating people differently because of their sex, race, disability, religion or belief, sexual orientation or age.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their sex, race, disability, religion or belief, sexual orientation or age, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of sex, race, disability, religion or belief, sexual orientation or age, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.

- **Victimisation:** treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality. They also impose specific positive duties on certain authorities.

Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

## Bullying and intimidation

**See Paragraphs 3(2)(b) and 3(2)(c)**

You must not bully any person including other councillors, council officers or members of the public.

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

This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.



You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code of Conduct.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

### Compromising the impartiality of officers of the authority

#### See Paragraph 3(2)(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.

You should not approach or pressure anyone who works for, or on behalf of, the

authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### Disclosing confidential information

#### See Paragraph 4(a)

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.

- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
- The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
  1. the disclosure must be reasonable
  2. the disclosure must be in the public interest
  3. the disclosure must be made in good faith
  4. the disclosure must be made in compliance with any reasonable requirements of your authority
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to re-occur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
  - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- (a) A criminal offence is committed.
- (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
- (c) A miscarriage of justice occurs.
- (d) The health or safety of any individual is in danger.
- (e) The environment is likely to be damaged.
- (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.

3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

## Preventing access to information

### See Paragraph 4(b)

You must not prevent anyone getting information that they are entitled to by law.

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the *Freedom of Information Act 2000* or those copies of minutes, agendas, reports and other documents of your authority which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting [www.ico.gov.uk](http://www.ico.gov.uk) or by calling 0845 630 6060.

## Disrepute

### See Paragraph 5

You must not bring your office or authority into disrepute while acting in your official capacity, or at any time through criminal activity that leads to a criminal conviction.<sup>2</sup>

<sup>2</sup> Transitional Note: Until such time as there is Parliamentary approval for amendments to section 52 of the *Local Government Act 2000* which reinstates the situation prior to Collins J's decision in *Livingstone v Adjudication Panel for England 2006*, the Code of Conduct does not apply to conduct outside of the performance of your functions as a member. Only if you have engaged in an activity which has a link with the functions of your office will any conduct in your private capacity be covered by the Code of Conduct. If the legislative amendments are passed, the Code of Conduct will also apply to criminal activity which has led to a conviction.

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

## Using your position improperly

### See Paragraph 6(a)

You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member.

In addition to paragraph 6(a), paragraph 12 is also relevant to the proper use of your position. Paragraph 12 supports your role as a community advocate, representing and speaking for the concerns of your community, even where you have a prejudicial interest. This right applies to you at meetings where you have a statutory right

to speak or you are provided with the same opportunity to speak as ordinary members of the public would be allowed. If your authority does not allow members of the public to attend the relevant meeting for the purpose of speaking to it, paragraph 12 will not apply to you unless you have a statutory right to speak on the matter.

You must leave the room or chamber immediately after you have made the representations, given your evidence, or answered questions, and make no further attempt to influence the decision. If the meeting decides that you must stop speaking to the meeting, even if you have more to say, you must stop and leave the room. If you fail to comply with the meeting's direction or paragraph 12 of the Code of Conduct, you may be found to have improperly influenced the decision.

## The authority's resources

### See Paragraph 6(b)(i)

You must only use or authorise the use of the resources of the authority in accordance with its requirements.

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use

these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code of Conduct.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.

## Using resources for proper purposes only

### See Paragraphs 6(b)(ii) and 6(c)

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the *Local Government Act 1986*.

You should never use council resources for

purely political purposes, including designing and distributing party political material produced for publicity purposes.

However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code of Conduct.

## Considering advice provided to you and giving reasons

### See Paragraph 7

Please note: paragraph 7 is not mandatory for parish councils. However, your parish may choose to include an obligation to take account of your clerk's advice in the Code your authority adopts.

You must have regard to advice from your monitoring officer or chief finance officer where they give it under their statutory duties.

If you seek advice, or advice is offered to

you, for example, on whether or not you should register a personal interest, you should have regard to this advice before you make your mind up. Failure to do so may be a breach of the Code of Conduct.

You must give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by your authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected.

Where members disagree with officer recommendations in making a decision, members will need to take particular care in giving clear reasons for the decision.

## MBC/11/4 - ANNEX B - Documents Submitted by Parish Councillor Geoff Licence

## Complaint of Member Misconduct – Bearsted Parish Council

I believe that Chris Dyke (Chairman) has breached Section 2 (b) and Section 4 of the Code of the Code of Conduct during the meeting of the Finance and General Policy Committee which took place on 19th July 2011

**2. A Member must :**

*(a) promote equality by not discriminating unlawfully against any person.*

*(b) treat others with respect and*

*(c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.*

**4. A Member must not in his official capacity, or any other circumstance, conduct himself in a manner, which could reasonably be regarded as bringing his office or authority into disrepute.**

My wife, Wendy, has been working in the Parish Office on a casual basis to cover for the Clerk's (Helen Elstone) holidays and she was also asked to help with the appointment of the village handyman as the Clerk's husband was expected to apply and the Parish Council had decided that Helen Elstone, the Clerk, should not be involved with the recruitment process. During her time in the office Wendy inadvertently discovered that the Clerk had been actively involved in securing the job of village handyman for her husband and Wendy brought this to the attention of Chris Dyke the Chairman. Chris Dyke asked Wendy for evidence of this and Wendy printed the incriminating emails for him.

I am aware that Wendy has been trying to get this problem resolved and has spoken to Chris Dyke about the matter and she has also written to him. On 14<sup>th</sup> July, Chris Dyke requested a meeting with Wendy and myself. I declined attending a meeting as I felt that the issue of the irregularities in the appointment of the handyman was something that Wendy had brought to the Chairman's attention and that it was nothing to do with me. (NB The meeting between Chris Dyke and Wendy never happened)

On 19<sup>th</sup> July, in an open meeting of the Finance & General Policy Committee, Chris Dyke told the Committee that 'someone had hacked into the office computer and looked at and downloaded confidential documents about two weeks ago'. He also said that 'this person is known and had had a guiding hand'. He said that this had happened while Helen Elstone was on holiday so it was obvious to all Councillors that he was referring to Wendy, as they would have known that she was in the office at that time, and that the person guiding her was me. He also said that what had happened was a breach of the Data Protection Act and a criminal offence.

MBC/11/4 - ANNEX B - Documents Submitted by Parish Councillor Geoff Licence

## Complaint of Member Misconduct – Bearsted Parish Council

I was completely shocked by these allegations. I really did not know what to say or do. This particular item was not on the agenda and it was held in an open public meeting. This was part of a list of problems that the Council had and it was reported in such a way that it sounded like the same person (Wendy) was guilty of all the things stated. I found this grossly insulting and humiliating and I abstained in the vote. Later, I was told by another Councillor that they felt that Chris had worded things in such a way at the meeting it was obvious he was talking about Wendy and that I was clearly implicated in the act.

When the draft minutes were circulated, they have been framed in such a way that they accuse me, and my wife of criminal behaviour. I find this absolutely shocking and I believe that all this has been done to humiliate me and also to intimidate Wendy so that she would not pursue the problems that she has discovered with the appointment of Helen Elstone's husband as handyman.

I have never complained about a councillor before but feel compelled to do so now. I have taken legal advice and have been told that there was no breach of the Data Protection Act. My wife, Wendy was given the password by the clerk as she ran the office whilst the clerk was on training or holiday. If there was any personal information on the computer it should not have been there. No documents have been given to anyone except the Chairman. I believe that Chris Dyke has breached the Parish Council's Code of Conduct by failing to treat a fellow councillor with respect.

I also believe that Chris Dyke behaviour in the handling of this matter is in breach of Section 4 of the Code of Conduct "*A Member must not in his official capacity, or any other circumstance, conduct himself in a manner, which could reasonably be regarded as bringing his office or authority into disrepute.*" I believe that Chris Dyke's behaviour in an open public meeting could bring the council into disrepute as he has made false and libelous allegations against my wife and myself.



## MBC/11/4 - ANNEX B - Documents Submitted by Parish Councillor Geoff Licence

## BEARSTED PARISH COUNCIL

Minutes of the Meeting of the Finance and General Purposes Committee held at Madginford Hall, Egremont Road, Bearsted on Tuesday 19th July 2011 at 7.30pm

Present: Messrs Dyke, Hughes, Licence, Smith, Stark and Young, Madams Dunford and Marshall MBE together with the Clerk, Mrs Elstone.

1) Apologies for Absence: None

2) Election of Committee Chairman and Vice Chairman including Declaration of Acceptance of Office

It was proposed that the Chairman and Vice Chairman of the full council act in those capacities upon this committee also. Agreed unanimously.

3) Declaration of Interest: None other than those declared within the Register of Interest. Mr Hughes advised that he had been lobbied in respect of item 14 - Correspondence - Heather Langley bench

4) Terms of Reference

The Clerk produced a draft copy of the Terms of Reference for approval. Mr Stark agreed to continue to carry out the internal audit checks.

5) Audit Commission

- Audit 2009-2010

i) The Clerk advised that no response has been received to date regarding the outcome of the challenge made regarding the accounts. The Audit Commission advises that this has been passed to the District Auditor for referral to the Legal Officer and should be with the parish shortly.

ii) The anticipated audit cost resulting from this challenge is £2,000. The annual bill for audit is £550.

iii) Question was raised as to what action should be taken once the decision is known. It was agreed that in the interest of openness and transparency the matter should be reported to residents. Councillors are still concerned that it is only Bearsted that is being questioned regarding payments to the JPG. All other parishes have had their accounts for the year audited with no question regarding the payments.

iv) If the parish council is found not to have acted within the law it is unknown what action will be taken against them or whether the insurance policy will cover the council for a reimbursement.

- Audit 2010-2011

i) Since the challenge on the accounts will not affect any figures contained within them, the Audit Commission have now issued revised Notice of Audit posters which have been placed within the notice boards. New date for submission of accounts is 2nd September. The accounts were approved at the June full council meeting so once this date arrives the Clerk can submit them without further consultation with the council.

6) Land and Buildings Account

i) It was agreed that £5,000 should be transferred to the account from the precept, as agreed at the January finance committee meeting, and that the increase of funds within the account should be one of the goals within the four year plan for the council.

Discussion took place as to how this could be achieved. It was agreed that the type of land that would be purchased should be identified as part of these plans.

ii) It was suggested that enquiries be made to see if 100-200 residents would be prepared to act as a guarantor for £1,000 each. These guarantees could be used to secure a mortgage should any land become available.

## MBC/11/4 - ANNEX B - Documents Submitted by Parish Councillor Geoff Licence

iii) As Boughton Monchelsea are known to be purchasing land around their parish it was proposed that they be invited to the October meeting to discuss how they achieved this. Mr Hughes proposed that he invites a local accountant to the meeting also to act as business advisor on the issue.

iv) It was agreed that following this meeting a set of targets be identified to move the matter forward.

**Action: Funds to be transferred from current account to Land and Building account. Boughton Monchelsea representative and accountant to be invited to October meeting**

## 7) Asset register

i) The addition of the low level lighting onto the asset register at a cost of £18,075 will result in an additional insurance premium of £82.39 – agreed

ii) War Memorial – cover currently stands at £20,000 which is considered low.

**Action: Clerk to get quotation for replacement and cover revised accordingly**

iii) Question was raised as to whether the drains in Church Landway fall under South East Water or whether they are a private sewer

**Action: Clerk to ascertain ownership**

## 8) Future banking practices

i) Discussion took place regarding the transfer of accounts to Unity Bank. This is an action that a number of parish council's have undertaken with good reviews. This will allow for internet banking and online monitoring.

ii) Question raised as to whether a deposit account is also offered by the group as at present all parish funds sit within such an account and are 'swept' to the current account to cover payments.

**Action: Clerk to prepare report for September full council meeting giving comparison details re charges, interest etc.**

iii) Youth Forum account – signatories on the account need to be amended. It was therefore agreed that these be Mr Licence and Madams Dunford and Marshall. In the interim payment to Madginford Hall, in respect of Youth Club hall hire was agreed for payment from current account.

**Action: Forms to be completed and returned to Clerk for action  
Funds to be transferred to current account when signatories set up**

## 9) Budget Monitoring – 1st quarter 2011-2012

i) Question was raised regarding the admin budget being over the quarterly target. It was agreed that this amount has peaks and troughs throughout the year and would be maintained within the annual figure.

ii) Classic Car show – following discussions with the insurance company it transpires those events held on the Green that are not solely parish events will require their own events insurance cover. It was proposed that Mr Hill is co-opted to the Community committee, as organiser of the event, and is asked to hand over ownership to the council, with him maintaining control of the day, but being accountable to the parish. The same could be done for the Sports and Activity Day, although the Community Warden's agreement to the parish council having overall say over the event was questioned.

**Action: Clerk to contact Philip Hill and Dawn Riach-Brown regarding the matter**

iii) Income – these figures will be reduced this year following the cancellation of Music on the Green.

- The Farmers Market income prediction is based on 20 stalls per market, however this is not being achieved. It was noted that this was set up as a community project and was not intended to be an income generator for the parish.

## MBC/11/4 - ANNEX B - Documents Submitted by Parish Councillor Geoff Licence

## 10) Councillors Allowance

Request from Mr Ash that the committee consider reducing the maximum number of meetings a councillor could claim for, in terms of the allowance, to the original figure of 20 meetings, since all councillors are now eligible to claim.

✚ Mr Young proposed that Mr Ash's proposal be accepted. Agreed

## 11) Standing Orders

Clerk advised that the 2010 Standing Orders had not been amended to show how Code of Conduct matters be dealt with. It was agreed that all incidents be reported to the Finance and General Policy committee for action.

*Action: Clerk to amend Standing Orders and issue to councillor on disc for reference. Hard copies available for Councillors upon request.*

## 12) Financial Regulations

i) Since the adoption of the Financial Regulations in March 2009 NALC have issued the following amendments:

- Item 6.5(b) Increase in amount Clerk can pay out for urgent repairs/replacements to £500 from £200;

- Item 11(b) The suggested figure for tenders increased to £20,000

As a matter of note the Clerk advised that at the recent Clerk's conference MBC issued the following figures:

- THRESHOLDS FOR INVITATION TO TENDER (ITT)

✓	Supplies, Services & Works	£75,000 MBC
✓	Supplies & Services	£156,442 EU
✓	Works	£3,927,260 EU

In response to these figures, Councillors agreed that the threshold should be increased to £30,000, in light of the costs associated with recent works.

ii) The Clerk referred the following items to the councillors:

- Item 2.5 states that a three year forecast of Revenue and Capital Receipts and Payments is prepared at the same time as the annual budget. This has not been carried out in the past and should be introduced.

*Action: Clerk to ensure this matter is considered at budget preparation*

- Item 14.3 – Annual health and safety inspection of assets to be carried out

*Action: Clerk to carry out*

✚ It was proposed by Mr Hughes, seconded Mr Young that the outlined amendments be approved. Agreed

*Action: Revised Financial Regulations to be issued along with Standing Orders to all councillors on disc*

## 13) General Policy Review

i) The Clerk presented a list of policies required by law, suggested policies and those already approved or requiring adoption. It was agreed that all policies be put in place for a uniform adoption at the October meeting.

*Action: Policies to be prepared for consideration*

ii) Grant policy – a revised policy was circulated amongst councillors for consideration. This takes the principles of the current policy and expands them.

✚ It was proposed by Mr Young, seconded Mr Stark that the revised policy be adopted. Agreed

*Action: Policy to be amended*

iii) Youth Club policies – Mr Licence advised that once he had passed his Introduction to Youth Work course he could be named as the designated Child Protection person within the policies.

- Regarding the club's first aid policy Mrs Riach-Brown and Mrs Cuming are qualified first aiders.

## MBC/11/4 - ANNEX B - Documents Submitted by Parish Councillor Geoff Licence

- Question raised regarding first aid training for all councillors.

*Action: Clerk to ascertain who is first aid trained and identify in-house training*

## 14) Correspondence

i) Request for donation towards cost of purchasing bench in memory of Heather Langley. The Borough Solicitor has advised that this would be permitted, despite Miss Langley's political standing.

Mr Hughes stated that the parish council maintains the memorial benches on the Green, following installation, as per the Sponsor a Seat policy, developed by Mike Harris. This could be the parish council's contribution to this cause.

Mr Licence felt that as a member of the Bearsted and Thurnham Society Miss Langley did a lot for the parish however, on no other occasion has the parish council contributed to such a purchase.

Discussion followed regarding the placement of memorial benches. Would Miss Langley's bench be more appropriate on BWT land as she was a member of the Trust?

\* It was proposed by Mr Young, seconded by Mr Hughes that the parish decline to contribute for reasons of political neutrality, advising that the parish will take over maintenance of the bench, following installation.

ii) Mr Dyke advised councillors that when accepting chairmanship of the council, in 2010, he had not anticipated that he would be faced with the highly personalised and vitriolic issues that have occurred in that time. These have included:

- Abusive telephone calls and actions against the Clerk;
- Complaints from resident that the parish council is not doing its job properly;
- Referral, by a councillor, to the monitoring officer regarding the conduct of a fellow councillor;
- Complaint to Paul Carter regarding the employment of the litter picker and Handyman;
- The most recent of these incidents is one of great concern which has caused

sleepless nights and affected the home life of himself, Mr Young and the Clerk.

During the Clerk's recent absence, due to training, the parish council computer's records were accessed with personal files being opened, emails sifted to find specific information and employment related websites visited. These files were opened in a succinct manner which would suggest that the perpetrator knew the exact information they were seeking.

The perpetrator is known but what is not known is whether they were acting alone; the reasoning behind these actions and what the information gained will be used for.

Such actions are a breach of the Data Protection act, and therefore a criminal offence.

\* Mr Stark, seconded by Mr Smith proposed that the matter be referred to the police.

Mr Dyke proposed that prior to this the examination of the computer takes place so that all the facts are before the parish council. A request has been sent to MBC for a technician to visit the office to ascertain whether these files were just opened or whether they were copied and/or printed, thus removing them from the confines of the office.

\* The proposal was therefore amended to read: It was proposed that Mr Dyke, following examination of the computer, refer the matter to the police.

Vote – 6 for, 1 abstention.

Mr Young requested that if any councillor had any information regarding this matter they approach either himself or Mr Dyke. All information offered will be treated in confidence.

*Action: Clerk to chase MBC regarding computer examination*

## 15) Date of next meeting 18th October 2011

There being no further business the meeting closed at 9.15 p.m.

MBC/11/4 - ANNEX B - Documents Submitted by Parish Councillor Geoff Licence**Action Points from Finance and General Policy Committee 19th July 2011**

Land & Buildings a/c	Transfer £5000 Boughton Monchelsea rep and accountant to be invited to October meeting	Clerk
Asset Register	Replacement cost quotation to be requested Ownership of sewer to be identified	Clerk
Future Banking	Report on Unity Bank to be prepared Youth Forum forms to be completed Cost of hall hire to be transferred to current account upon completion of forms	Clerk BD, GL, PM Clerk
Budget Monitoring	Email to Philip Hill and Community Warden re ownership of events	Clerk
Standing Orders	Document to be amended and circulated	Clerk
Financial Regulations	Document to be amended and circulated Three year forecast to be introduced Health and Safety inspection of assets to be carried out	Clerk
General Policy Review	Policies to be prepared and circulated Grant policy to be amended and circulated First aid courses to be identified	Clerk
Correspondence	Chase MBC re technician visit	Clerk

**Items for Ratification**

- 1) Councillors Allowances – Maximum meeting allowance to be amended to 20
- 2) Standing Orders, Financial Regulations and Grant policy to be approved
- 3) Donation towards cost of bench to be refused with maintenance being covered by PC

29 Greystones Rd  
 Bearsted  
 Kent  
 ME15 8PD

28.9.11

Paul Fisher  
 Head of Legal services  
 MBC

Dear Paul

Complaint of Member Misconduct ref MBC/11/5

Thank you for your letter of the 20<sup>th</sup> Sept.

My first comment is that Mrs Licence is not an employee of the authority as she claims. She was offered work on a self employed basis when the clerk is absent. Her duties were limited to opening mail, checking emails and selling bin bags. She is the third person carrying out this role in the last year, which is on an ad hoc basis.

My record of events shows

1. In the autumn of 2010 the parish finally parted company with the village handyman services provided by Tony Croucher of TCC services. Both sides were unhappy with the arrangement. The council with the level of service provided and TCC with the money paid.
2. The Environment Committee chose to advertise for someone to carry out litter picker duties based on the national minimum rate of pay. They had to choose between Mr Elstone or the son of Tony Croucher from TCC. In view of the above it is no surprise Mr Elstone was appointed.
3. I subsequently received a complaint via Paul Carter of KCC, questioning the methodology of this appointment. I consulted yourself and you confirmed since the pay rate was set in advance there was no competition on price and the procedure was sound. You did offer advice on how to improve matters in the future by not using Mrs Elstone in any future appointment involving her husband.
4. I discussed this with Mrs Elstone and colleagues after our meeting when it was decided to seek a handyman service. We decided to:
  - Remove Mrs Elstone from the process and use Mrs Licence instead
  - Route applications via Mrs Licence.
  - Clr John Hughes opted to stay out of the process because he knows Mr Elstone well.
  - We decided to draw up a list of ideal questions to use in the interview. I asked everyone who felt they had any ideas of questions to send them to Clr P. Young so he could draw up a final list and scoring plan.
5. We received over 20 replies with a late entry from Mr Elstone passed to me by hand in the week before the short listing.
6. Together with Clr Ash and Clr Blackmore we short listed 5 candidates of whom only 3 attended.
7. The actual list of questions was delayed and only passed to me by email from Clr Young on the afternoon of the day of the interviews. It came to my home email and was not seen by anyone until I printed it off that evening in the office. We added another question by hand to the list once Clr Ash and Blackmore had seen the final version.
8. We took care that each interviewer kept his opinion to himself and the weighting until all the scores were collected.
9. Using the score system Mr Elstone came out the clear winner. One candidate was quite unsuited and the other looked reasonable but lived on the other side of Maidstone.

*Copy of  
 response to CoC  
 enquiry received from  
 my memory stick  
 Chris 2.12.11*

MBC/11/4 - ANNEX C - Document 1 Submitted by Parish Councillor Christopher Dyke

My comments are:

1. The original complaint was made against Mrs Elstone. I have accepted I was in error in asking her for her ideas of questions. Hence any blame remains mine only.
2. Neither Mrs or Mr Elstone ever saw the final version of the questions. After our initial discussions I took care not to route any further work via the office up to and including the day of the interview.
3. Mrs Licence did raise her concerns on the evening but I found it difficult to respond since I knew nobody had seen the final question paper. On reflection overnight I asked her to forward what she had seen on BPCs emails. This confirmed item 2. I consulted Clrs Ash Young and decided the process was sound and Mrs Elstone had not acted improperly.

Subsequent events/comments

1. On her return to work Mrs Elstone discovered a range of documents see attached had been opened in her absence. Mrs Licence makes great play of having stumbled across certain emails. She never explained why she was opening other sensitive documents involving the clerk and Clr Ash's Code of Conduct issue. She does not explain why she felt the need to work back through over 200 emails to find the evidence she provides.
2. I felt we now had a second issue on our hands. Somebody was accessing the parish computer. They knew exactly what to look for and where. I do not feel Mrs Licence was capable of doing this as the issues were too complex. She could have opened the computer but would have needed advice and guidance.
3. With over 20 years experience as a union officer and official I am aware that a common response to a 'Whistleblower Complaint' is a counter charge. I was very concerned not to be seen to go down this route without evidence. In particular I wanted to see if we had any evidence that these documents had been printed off or transmitted outside the office in which case the Data protection Act could have been contravened.
4. I consulted you on this issue and took your advice to get in an IT specialist. We were not able to get beyond seeing what had been opened.
5. When reporting to the council I did not mention Mrs Licence by name, nor anyone else. My thoughts at that time were that she may have been manipulated by someone else. I opted to wait and see if any concrete evidence were to arise showing who had opened the documents and if someone outside the office had seen them. What evidence I subsequently obtained is in para 4 of document 14 in the complaint file.

Mrs Licence complains that I did not investigate her complaint but I did investigate the complaint against the clerk. I have some worries about how we collected the questions but feel we went as far as we could to carry out a fair process. A good internal candidate will always have an advantage over an unknown outsider. Conversely if Mr Elstone had not done well in his litter picking duties he would have not been shortlisted.

It was very difficult to respond to Mrs Licence or meet her because we had two problems running in parallel. The DP Act issue took precedence in my mind and I was advised not to meet her until this was resolved.

Mrs Licence complains that we cancelled meetings with the council to discuss the issues. The first was cancelled on the day concerned. When I arrived home I found my wife very upset. Somebody had removed her life's savings from a savings account. I was in no state to run a meeting and Clr Young would not have access to all the information. In deference to my wife I did not want the precise reasons for this decision to be widely known, though I did explain to councillors at a later date after the money was recovered. Subsequent meeting proposals were difficult because many of the main players including myself were on holiday.

I hope this helps your enquiries.

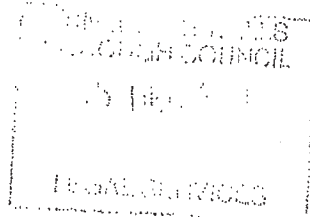
I would like you to contact my predecessor Clr P. Walton and ask him to explain why he advised me using Mrs Licence was a mistake in view of certain events at the Downs Mail.

MBC/11/4 - ANNEX C - Document 1 Submitted by Parish Councillor Christopher Dyke

I also suggest you ask Mrs Licence how someone gained access to the attached list of documents, who saw them and what was the interest in the Code of Conduct complaint against Cllr R. Ash.

Yours sincerely

C. Dyke





MBC/11/4 - ANNEX E - Councillor Geoff Licence's Response to Draft Report

**From:** geoff.14@talktalk.net  
**Sent:** 30 January 2012 09:18  
**To:** Keith Trowell  
**Subject:** Re: CONFIDENTIAL : Code of Conduct Complaint MB/11/4 -  
Complainant Cllr. Geoff Licence (My Ref : KET/T001474)  
**Attachments:** MBC114 Response.doc

Dear Keith,

I attach my response to your report. sorry it's a bit long but I wanted to go over all the points.

Chris Dyke resigned as chairman on 20th January by e-mail from deputy chairman. I hope that is the correct date, because a letter of resignation has not yet been seen. He walked out of the meeting on the 17th January as he refused to chair it. He has not resigned from the council. He still wishes to remain on the council.

Please call me if anything which I have commented on is not clear.

Thanks for your help.

Kind Regards

Geoff Licence

-----Original Message-----

From: Keith Trowell <Keith.Trowell@Tunbridgewells.gov.uk>  
To: geoff.14@talktalk.net  
Sent: Mon, 16 Jan 2012 17:48  
Subject: CONFIDENTIAL : Code of Conduct Complaint MB/11/4 - Complainant Cllr. Geoff Licence (My Ref : KET/T001474)

Please find attached for your perusal a copy of my draft report relating to the above-mentioned complaint. The various Annexes are not included at this stage but can be provided if you wish to see them.

I shall be grateful if you will consider the draft and e-mail me with any comments you may have.

Many apologies for the huge delay that have arisen in this matter.

Regards,

Keith E.Trowell  
Group Manager & Deputy Monitoring Officer  
Legal Services  
Tunbridge Wells Borough Council

MBC/11/4 - ANNEX E - Councillor Geoff Licence's Response to Draft Report

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Royal Tunbridge Wells  
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keith.trowell@tunbridgewells.gov.uk  
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Document: TM001474/013878

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MBC/11/4 - ANNEX E - Councillor Geoff Licence's Response to Draft Report

**Documents Submitted by Cllr Dyke**

**8.1** Is this a typo? Should it be 2011?

**10. Interview of Wendy Licence 14.11.11**

**10.1** Mrs Licence's complaint is also *Par 3.1- you must treat others with respect*

**10.2** What does “ did not provide purported allegations” mean?

**12. Interview of Cllr Dyke**

**12.1 (a)** I am extremely shocked by Cllr Dyke's statement and I believe it to be speculative rather than factual. In particular, I am amazed that Cllr Dyke felt that someone was looking for something “*against Cllr Ash who may be a rival to Cllr Licence in the Borough elections next year*” as at that time I was recovering from heart surgery and my concern was whether or not I would be fit to continue a Parish Councillor as my health was still quite poor, so there was consideration of becoming a Borough Councillor at that time. I consider myself to be a conscientious Parish Councillor working for the benefit of the community so I was more concerned as to whether or not I would fulfill my duties properly considering my health at that time. I cannot understand why Cllr Dyke should say such a thing. I believe that such an allegation is little more than a smoke screen and actually has nothing to do with the issue at hand.

With regards to my wife discovering the email it was most certainly by chance that she found it. At that time she believed the recruitment process to be completely fair and honest, after all she had been asked to oversee the procedure so that Mrs Elstone would have no involvement and she believed that to be the case. Again this is pure speculation rather than fact. I had no hand in directing my wife to any e-mail.

**12.1 (c)** This is another shocking statement and it is completely untrue and I believe it to be pure speculation. I only know Mr Etheridge from being on BPC. I was not aware of any tension between him and Mrs Elstone and there is no “relationship” between Mr Etheridge and myself. My only dealings with Mr Etheridge is because he is on the hall committee and I run the Youth Club and have contact with Mr Etheridge only in that capacity. He is not or never has been a personal friend but merely an acquaintance. I am astounded that Cllr Dyke has alleged that there has been some kind of conspiracy here.

**12.1 (e)** Again, this is repetition of previous speculation and there seems to be nothing to back up Cllr Dyke's allegations. Cllr Dyke mentions the Whistle blowing policy, which my wife had also requested protection under but the F&GP Committee was told by the Clerk that it did not have one as it had not yet been adopted.

**12.1 (f)** The minutes of the meeting of 19<sup>th</sup> July clearly show that Cllr Dyke gave enough information to allow Councillors to work out who he was talking about. Cllr Dyke specified that it happened when the clerk was absent due to training. Documents accessed were identified at the meeting but the meeting was not properly minuted.

**12.(g)** When Cllr Dyke spoke at the F&GP Committee Meeting on 19<sup>th</sup> July he did not look at all in my direction so he cannot say my body language gave councillors this impression. This is NOT FACT.

## MBC/11/4 - ANNEX E - Councillor Geoff Licence's Response to Draft Report

**12.2** I am shocked by Cllr Dyke's subsequent statement which is complete speculation with no factual basis. The key issue is the investigation of Cllr Dyke's remarks at the F&GP committee on 19<sup>th</sup> July 2011.

The evidence given in the form of a print out of the documents which had been accessed is weak as it is only a brief list of documents and does not support the claim that they were opened in an "accurate order" as, if the full list was submitted, it would prove otherwise. To focus on this point is merely an example of the diversionary tactics which the Chairman uses.

I have no knowledge of any claims by Mr Etheridge. Neither myself or my wife have any idea what Cllr Dyke is referring to. My complaint is only against Cllr Dyke. His statement is absolutely incredulous and as, not only am I not sure what he is talking about, I am also not sure how to respond to it. It sounds like some kind of conspiracy theory, which actually has no substance, and I think this is little more than another smokescreen. Surely your investigation should be based on fact not wild inaccurate theories. If this evidence is relied upon, or repeated I contend that it is libel and I will be seeking legal advice.

*"When this failed to reveal...etc.. they switched their complaint to one third of the council.."* again I am shocked by Cllr Dyke's insistence on some kind of conspiracy theory. In 16.1 (t) Cllr Dyke says *"..he thought of Cllr Licence as quiet and easy going and not behind anything"* and here he is accusing me and my wife of a conspiracy. This is an inconsistency in Cllr Dyke's evidence.

**12.3** Having seen the email attached in Annex E I am confused as to how this relates to me. This is clearly an email from Mr Etheridge to Cllrs Dyke and Young and Cllr Dyke has not explained how they dealt with this at the time. I do not know what Mr Etheridge's concerns were. This, so called, evidence must not be taken into account.

### **13. Analysis of Evidence & Reasoning**

**13.3** *"In essence it is agreed that Cllr Dyke certain statements that others considered to be not only inappropriate but also such as to place him in breach of the Code of Conduct."* What does this mean please? The sentence does not make sense.

**13.4** *".. the allegation is a little vague.."* Can you say why this is vague please? If the allegation is vague the Sub- Committee would not have referred it to you.

**13.7** Cllr Dyke's view is purely supposition and there are no facts to support this. There is no substance to the suggestion that anyone took advantage of Mrs Elstone's absence and Cllr Dyke admitted that it was not easy to prove anything (16.1 (w) ) and this is because there was nothing to prove. The evidence given in the form of a print out of the documents which had been accessed is weak as it is only a brief list of documents and does not support the claim that they were opened in an "accurate order" (16.2) as, if the full list was submitted, it would prove otherwise. To focus on this point is merely another example of the diversionary tactics which the Chairman uses.

**13.9 (b)** This should read *"... the Parish Clerk was on a training course...."* as stated in the minutes of 19<sup>th</sup> July. Everyone present on 19<sup>th</sup> July was aware that Wendy was in the office at that time.

MBC/11/4 - ANNEX E - Councillor Geoff Licence's Response to Draft Report

**13.10 (b)** Cllr Dyke states he avoided "... dates, times...". The minutes of F&GP Committee clearly contradict this as Cllr Dyke is recorded as saying "*During the Clerk's recent absence, due to training..*".

**13.13** Cllr Dyke is recorded as saying "*..Such actions are a breach of the Data Protection Act*" is an accusation and it was clearly directed at the individuals concerned.

**13.14** Re F&GP Committee. "*..perceptions and interpretations..*" Cllr Dyke was quite definite in what he told the committee. Cllr Dyke did not say it was his perception or interpretation of the situation, it was spoken as fact.

**13.16** The analysis that my wife and I have "*.. read a little more into the situation than actually exists..*" is flawed. Cllr Dyke has already stated that he believes there has been "*..some collusion between Mr Etheridge and Cllr Licence and his wife..*"; Cllr Hughes in his email of 26.9.11 talks of "*..anonymous complaint via Paul Carter...*" "*..link between the two complaints.*" and "*..Mr Geoff Licence.. who is likely to stand... against Richard Ash..*". This certainly proves that the anonymous complaint to Paul Carter which was mentioned at the F&GP meeting was alluded to my wife. Perhaps more to the point, it clearly shows that it is actually Cllrs Dyke and Hughes, and Cllr Young (who has tried to prove her "crimes") who are reading more into the situation than actually exists.

**13.15** In 13.12 you state that you "*...accept that Cllr Dyke's statement to F&GP Committee were such that Parish Councillors present may have assumed a link to Mrs Licence..... ..it seems to me that his statements would have at the very least raised a suspicion in the minds of some Members that Mrs Licence had behaved improperly. Additionally it seems imprudent to have mentioned criminal offences and involving the police at that time.*" and this actually substantiates the allegations against Cllr Dyke that he breached the Code.. Furthermore, was in an open meeting and, while there were no members of the public present, the minutes are public documents and as such the allegations are available for public scrutiny. The committee voted 6 to 1 to inform the police.

#### **14. Conclusion**

**14.3** If Cllr Dyke is a "*conscientious Chairman*" it would be reasonable to expect him to diligently adhere to the legal advice he asked for and was given by Paul Fisher in his letter of 27.4.11. A conscientious man would also be consistent in his evidence.

#### **15. Closing Remarks**

**15.3** What is the "*previous knowledge*" referred to here? I am extremely concerned that this previous knowledge may have been prejudicial to the investigation. It was only after a careful consideration that I felt I had to report this matter outside BPC and the matter has always been about Cllr Dyke's remarks during the F&GP Committee meeting of 19.7.11 so I am extremely concerned that there is an influence of previous knowledge, I believed the purpose of this investigation was that it would be completely impartial. Please can you tell me what previous knowledge you have considered?

MBC/11/4 - ANNEX E - Councillor Geoff Licence's Response to Draft Report

*"..from potential further complaints.."* again what are these? How has this affected the investigation? I believe that the first sentence of 15.3 makes the investigation flawed and the findings unsafe.

What *"political differences"* are being referred to here? I do not belong to any political party and I have no axe to grind against Cllr Ash who is an experienced and competent Borough Councillor. I understand that Cllr Dyke has speculated that my wife took advantage of the clerk being away to try to gain information on the clerk and Cllr Ash, but nothing could be further from the truth. I find his allegation shocking and offensive. Also, there is absolutely no proof to substantiate this allegation.

I feel that in your conclusion you have been influenced by spurious so called evidence from Cllr Dyke who ignored Paul Fisher's advice and involved the clerk in the appointment of her husband as handyman. How on earth can you call him conscientious?

Cllr Marshall told me after the meeting on 19<sup>th</sup> July that the way Cllr Dyke brought up these accusations was to indicate a link between phone calls to the clerk and letters to Paul Carter with my wife. Again there is no evidence to support this.

MBC/11/4 - ANNEX F - Councillor Christopher Dyke's Response to Draft Report

From: cdyke@onetel.com  
Sent: 18 January 2012 19:25  
To: Keith Trowell  
Subject: Re: CONFIDENTIAL : Code of Conduct Complaint MB/11/4 -  
ComplainantCllr.  
Geoff Licence (My Ref : KET/T001474)

Dear Keith

With regards the appointment of the handyman I have nothing to add/comment.

With regards the possible breach of the Data Protection Act I do have serious issues.

It was decided between myself, the clerk and Paul Young that there was evidence to show an unauthorised access to the parish files on the computer.

I feel it is my duty as Chair and even as a citizen to report when I feel a crime may have been committed. I did that in the first instance to my colleagues. If in stating the time period and location of such possible an event causes mr and mrs licence to feel they were accused that is not my problem.

By invoking the CoC both Mr and Mrs Licence could be seen to be standing in the way of a possible criminal investigation.

Such an investigation should in my opinion take precedence over the CoC inquiry.

It would certainly seem strange for someone reporting that a crime may have taken place should be subject to an CoC investigation.

It could be said that the events do not justify such a serious approach but the incident was one of the major causes of the clerk going on long term sick leave.

The likelihood is now that the Clerk will be well placed to take legal action against the Council. Such an event would prove both costly and damaging.

Regards

Chris Dyke

Quoting Keith Trowell <Keith.Trowell@Tunbridgewells.gov.uk>:

- > Please find attached for your perusal a copy of my draft report
- > relating to the above-mentioned complaint. The various Annexes are
- > not included at this stage but can be provided if you wish to see
- > them.
- >
- > I shall be grateful if you will consider the draft and e-mail me with
- > any comments you may have.
- >
- > Many apologies for the huge delay that have arisen in this matter.
- >

MBC/11/4 - ANNEX F - Councillor Christopher Dyke's Response to Draft Report

- > Regards,
- >
- > Keith E.Trowell
- > Group Manager & Deputy Monitoring Officer Legal Services Tunbridge
- > Wells Borough Council Town Hall Royal Tunbridge Wells Kent TN1 1RS
- >
- > DX : 3929 Tunbridge Wells
- >
- > T: 01892 554481
- > F: 01892 554027
- >
- > keith.trowell@tunbridgewells.gov.uk<mailto:keith.trowell@tunbridgewell
- > s.gov.uk> www.tunbridgewells.gov.uk<http://www.tunbridgewells.gov.uk/>
- >
- > Document: TM001474/013877
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**Hearing Procedures for the Standards Sub Committee**

**1. Application**

- 1.1. This procedure applies to hearings of the Sub Committee of the Standards Committee about alleged breaches of the Member Code of Conduct by Borough or Parish Members.

**2. Interpretation**

- 2.1. "Code" means the code referred to in paragraph 1.
- 2.2. "Investigator" means either or the Monitoring Officer or other investigating officer, and his or her nominated representative.
- 2.3. "Legal advisor" means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the Council.
- 2.4. "Member" means the member of Council or voting co-opted member or member of a parish council who is the subject of the allegation being considered by the Sub-Committee, unless stated otherwise. It also includes the member's nominated representative.
- 2.5. "The Chairman" refers to the person presiding at the hearing.
- 2.3 "The Matter" is the subject matter of the Investigator's report.
- 2.4 "The Sub-Committee Support Officer" means an officer of the Council responsible for supporting the Sub-Committee's discharge of its functions and recording the decisions of the Sub-Committee.

**3. Modification of Procedure**

- 3.1. The Sub-Committee may vary this procedure where it is appropriate to do so in the interests of fairness.

**4. Representation**

- 4.1. The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Sub-Committee, another person.

**5. Legal advice**

- 5.1. The Sub-Committee may take legal advice from its legal advisor at any time during the hearing or its deliberations. The substance of any legal advice given to the Sub-Committee should be shared with the Member and the Investigator if they are present.

**6. Preliminary and Procedural issues**

- 6.1. At the start of the hearing, the Chairman shall invite all participants to introduce themselves and indicate their role at the hearing, clarify that they are aware of this procedure and deal with the following:
- 6.1.1. Disclosures of interest
  - 6.1.2. Confirm that the Sub-committee is quorate
  - 6.1.3. Explain any proposed change to the procedure arising from the pre-hearing process
  - 6.1.4. Decide whether to proceed in the absence of the Member  
If the Member is not present at the start of the hearing the Sub-Committee shall consider any reasons which the Member has provided for not attending the hearing and shall decide whether to proceed in the absence of the Member or adjourn the hearing;
  - 6.1.5. Exclusion of Press and Public  
The Sub-Committee shall normally meet in public but may determine whether to exclude the Press or public from all or any part of the hearing and shall consider and determine any request to do so after hearing the reasons in support of the request.
  - 6.1.6. Clarify matters arising from the pre-hearing process as to what evidence is agreed and what points of difference there are for the Sub-Committee to determine.

**7. Admission of breach**

- 7.1 If the Member admits that he/she has failed to comply with the Code in the manner described in the Investigator's report, the Sub-Committee may make a determination that the Member has failed to comply with the Code and proceed directly to consider whether any penalty should be applied under paragraph 9.

**8. Hearing evidence**

- 8.1. Where there are points of difference in the evidence, the Sub-Committee shall hear the evidence of the Investigator and the Member in the following order:
- 8.1.1. The Investigator shall present his/her report, having particular regard to any points of difference identified by the Member and why he/she concluded, on the basis of his/her findings of fact that the Member had/had not failed to comply with the Code. The Investigator may call witnesses to give evidence on the points of difference.
  - 8.1.2. The Member may ask questions of these witnesses and of the Investigator.
  - 8.1.3. At any time the members of the Sub-Committee may question the Investigator and witnesses.
  - 8.1.4. The Member may respond to the Investigator's report and may call any witnesses to give evidence on the points of difference.
  - 8.1.5. The Investigator may ask questions of the Member and these witnesses.
  - 8.1.6. At any time the members of the Sub-Committee may question the Member and witnesses.
  - 8.1.7. If the Member disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigator is not present, the Sub-Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Sub-Committee may then:
    - 8.1.7.1. continue with the hearing, relying on the information in the Investigator's report;
    - 8.1.7.2. allow the Member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary; or
    - 8.1.7.3. postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present if he or she is not already.

## **APPENDIX C**

- 8.1.8. The Sub Committee may invite the Investigator and the Member to summarise their representations on the points of difference, with reference to the evidence of the witnesses.
- 8.1.9. The Sub Committee may adjourn and resume the hearing if it needs to hear evidence from any person not present.
- 8.1.10. The Sub Committee shall require the room to be vacated (or move to another room) to enable it to deliberate on the representations and evidence and to make its findings of fact and decision as to whether there was a breach of the code.
- 8.1.11. The Sub Committee may require the hearing to be resumed if it needs to hear further evidence.
- 8.1.12. The Sub Committee shall resume the hearing to announce its decision or give all parties notice of the date and time on which it shall be resumed.
- 8.1.13. The Sub Committee may, prior to deliberating on whether there was a breach of the code, if it considers appropriate, announce its findings of fact and hear further representations on whether the findings amount to a breach of the code.
- 8.1.14. If the Sub Committee considers that it requires additional evidence not available at the hearing in order to come to a finding, it may (on not more than one occasion) adjourn the hearing and require the Monitoring Officer to seek further information or undertake further investigation on points specified by the Sub-Committee.

## **9. Decision and Penalty**

- 9.1. If the Sub-Committee decides that the Member has not failed to follow the Code of Conduct, the Sub-Committee can move on to consider whether it should make any recommendations to the Standards Committee.
- 9.2. If the Sub-Committee decides that the Member has failed to follow the Code, it will consider any oral or written representations from the Investigator and the Member as to:
  - 9.2.1. whether or not the Sub-Committee should set a penalty; and
  - 9.2.2. what form any penalty should take.

## **APPENDIX C**

- 9.3. The Sub-Committee may question the Investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 9.4. The Sub-Committee shall then require the room to be vacated (or move to another room) to enable it to decide whether a penalty is to be applied and in what form.
- 9.5. The Sub-Committee shall resume the hearing to announce its decision or give all parties notice of the date and time on which it shall be resumed.
- 9.6. The Sub-Committee may apply the penalties, as applicable and as appropriate, that are indicated in **"Standards Sub-Committee Decision-Making Process"**.

### **10. The Close of the Hearing**

- 10.1. The Chairman will indicate when the written form of the Sub-Committee's decision is likely to be available and arrangements for providing this to the Member [**Please see "Standards Sub-Committee Decision-Making Process"**].
- 10.2. Following the close of the hearing, the Sub-Committee's Support Officer will agree a formal written notice of the Sub-Committee's decision and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 20 of the Standards Committee (England) Regulations 2008.

**Excluding the public from hearings**

**Standards for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private:**

1. At the hearing, the Sub-Committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the *Local Government Act 1972* (as modified in relation to local determinations by Standards Committees). If the Sub-Committee considers that 'confidential information' is likely to be revealed during the hearing, the Sub-Committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
2. The Sub-Committee also has the power to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The Sub-Committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The Sub-Committee also has a duty to act fairly and in line with the rules of natural justice.
3. Article 6 says that the public may be excluded from all or part of the hearing if it is in the interests of:
  - 3.1. morals;
  - 3.2. public order;
  - 3.3. justice;
  - 3.4. national security in a democratic society; or
  - 3.5. protecting young people under 18 and the private lives of anyone involved.
4. There should be a public hearing unless the Sub-Committee decides that there is good reason, which falls within one of the five categories above (3.1 to 3.5), for the public to be excluded.
5. The Sub-Committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to 'receive and impart information and ideas without interference by public authority'. Any restrictions on this right must be 'prescribed by law and...necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for

preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary’.

6. Conflicting rights often have to be balanced against each other. The committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Sub-Committee) may interfere with this right unless it is:

6.1. in line with the law; and

6.2. necessary in a democratic society in the interests of:

6.2.1. national security;

6.2.2. public safety;

6.2.3. the economic wellbeing of the country;

6.2.4. preventing crime or disorder;

6.2.5. protecting people’s health and morals (which would include protecting standards of behaviour in public life); or

6.2.6. protecting people’s rights and freedoms.

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the Sub-Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

7. In relation to people’s rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be ‘necessary in a democratic society’. A measure will only be ‘necessary’ if it meets ‘a pressing social need’, and any restriction on people’s rights must be ‘proportionate’.

8. Standards for England recommends that a Standards Committee should move to a private room when considering its decisions. We do not consider that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

**Categories of exempt information under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determination by Standards Committee)**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
  - To give notice under or by virtue of which requirements are imposed on a person.
  - To make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
  - 7(a) Information which is subject to any obligation of confidentiality.
  - 7(b) Information which relates in any way to matters concerning national security.
  - 7(c) Information presented to a Standards Committee, or to a sub-committee, set up to consider any matter under Regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.



**Standards Sub-Committee Decision-Making Process**

**The finding of the Sub-Committee**

1. Following its hearing, the Sub-Committee can make one of the following findings:
  - 1.1. the Member has not failed to follow the authority's Code of Conduct;
  - 1.2. the Member has failed to follow the authority's Code of Conduct, but no action needs to be taken; or
  - 1.3. the Member has failed to follow the authority's Code of Conduct and should be penalised.

**Penalties**

2. If the Sub-Committee finds that a Member has failed to follow the Code of Conduct and that he or she should be penalised, it may do any one or a combination of the following:
  - 2.1. censure the Member. This is the only form of penalty available when dealing with a person who is no longer a Member of the authority;
  - 2.2. restrict the Member's access to the premises or their use of the resources of the relevant authority for up to six months, provided that any such restrictions imposed upon the member:
    - 2.2.1. are reasonable and proportionate to the nature of the breach; and
    - 2.2.2. do not unduly restrict the member's ability to perform his functions as a member
  - 2.3. Partial suspension of that member for a period up to a maximum of six months.
  - 2.4. Suspension of that member for a period up to a maximum of six months.
  - 2.5. A requirement that that member submit a written apology in a form specified by the Standards Sub-Committee.
  - 2.6. A requirement that that member undertake training as specified by the Sub-Committee

## **APPENDIX C**

- 2.7. A requirement that that member participates in such conciliation as specified by the Sub-Committee
  - 2.8. Partial suspension of that member for a period up to a maximum of six months or until such time as he submits a written apology in a form specified by the Sub-Committee
  - 2.9. Partial suspension of that member for a period up to a maximum of six months or until such time as he undertakes such training or participates in such conciliation as the Sub-Committee may specify
  - 2.10. Suspension of that member for a period up to a maximum of six months or until such time as he submits a written apology in a form specified by the Sub-Committee
  - 2.11. Suspension of that member for a period up to a maximum of six months or until such time as he undertakes such training or participates in such conciliation as the Sub-Committee may specify.
3. Subject to paragraph 4, any sanction imposed shall commence immediately following its imposition by the Sub-Committee.
  4. The Sub-Committee may direct that a sanction imposed under any of subparagraphs 2.2 to 2.11 of paragraph 2 shall commence on such date, within a period of six months after the imposition of that sanction, as the sub-committee may specify in their direction.

### **Deciding a Penalty**

5. When deciding a penalty, the Sub-Committee should make sure that it is reasonable and in proportion to the member's behaviour. Before deciding what penalty to set, the Sub-Committee should consider the following questions, along with any other relevant circumstances.
  - 5.1. What was the member's intention? Did the member know that he or she was failing to follow the Code of Conduct?
  - 5.2. Did the member get advice from officers before the incident? Was that advice acted on in good faith?
  - 5.3. Has there been a breach of trust?
  - 5.4. Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
  - 5.5. What was the result of failing to follow the Code of Conduct?
  - 5.6. How serious was the incident?

## **APPENDIX C**

- 5.7. Does the member accept he or she was at fault?
- 5.8. Did the member apologise to the relevant people?
- 5.9. Has the member previously been warned or reprimanded for similar misconduct?
- 5.10. Has the member failed to follow the Code of Conduct before?
- 5.11. Is the member likely to do the same thing again?
- 5.12. How will the sanction be carried out?
- 5.13. Are there any resource or funding implications? For example , if a subject member has repeatedly or blatantly misused the authority's IT resources, the sub-committee may consider withdrawing those resources

### **Notice of the Sub-Committee's Findings**

6. The Sub-Committee should announce its decision at the end of the hearing. It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day. The officer providing administrative support to the Sub-Committee will normally also draft minutes of the meeting.
7. As soon as possible after the hearing, the Sub-Committee must give its full written decision to the relevant people. Ideally the Sub-Committee will give its full written decision to those people within two weeks. The relevant people are:
  - 7.1. the member who is the subject of the finding;
  - 7.2. the complainant
  - 7.3. the Standards Committees of any other authorities concerned;
  - 7.4. any parish/town councils concerned; and

### **Full Written Decision Format**

8. The front cover of the Sub-Committee's full written decision should include:
  - 8.1. the name of the authority;
  - 8.2. the name of the member who the allegation has been made about;

## **APPENDIX C**

- 8.3. the name of the person who made the original allegation (unless there are good reasons for keeping his or her identity confidential);
  - 8.4. case reference numbers of the principal;
  - 8.5. the name of the Sub-Committee member who chaired the hearing;
  - 8.6. the names of the Sub-Committee members who took part in the hearing;
  - 8.7. the name of the Monitoring Officer;
  - 8.8. the name of the IO who investigated the matter (where applicable);
  - 8.9. the name of the clerk of the hearing or other administrative officer;
  - 8.10. the date of the hearing; and
  - 8.11. the date of the report.
9. The Sub-Committee's full written decision should include:
- 9.1. a summary of the allegation;
  - 9.2. the relevant section or sections of the Code of Conduct;
  - 9.3. a summary of the evidence considered and representations made;
  - 9.4. the findings of fact, including the reasons for them;
  - 9.5. the finding as to whether or not the member failed to follow the Code of Conduct, including the reasons for that finding;
  - 9.6. the penalties applied, if any, including the reasons for any penalties; and
  - 9.7. the right to appeal

### **Making the Findings Public**

10. The Sub-Committee must also arrange for a summary of the decision and reasons for that decision to be published in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities.

## **APPENDIX C**

- 11.If the Sub-Committee finds that a member did not fail to follow the authority's Code of Conduct, the public summary must say this, and give reasons for this finding. In these cases, the member involved is also entitled to ask that no summary of the decision should be passed to local newspapers.
- 12.If the Sub-Committee finds that a member failed to follow the Code of Conduct, but that no action is needed, the public summary must say that the member failed to follow the Code, outline what happened and give reasons for the Sub-Committee's decision not to take any action.
- 13.If the Sub-Committee finds that a member failed to follow the Code and it sets a penalty, the public summary must say that the member failed to follow the Code of Conduct, outline what happened, explain what penalty has been set and give reasons for the decision made by the Sub-Committee.
- 14.The Sub-Committee's reports and minutes should be available for public inspection for six years after the hearing. However, sections of documents relating to parts of the hearing that were held in private will not have to be made available for public inspection.