

**APPENDIX B**

MBC/09/02

REPORT OF AN INVESTIGATION INTO AN ALLEGATION CONCERNING  
COUNCILLOR V JONES OF BREDHURST PARISH COUNCIL

Tony Drew, Investigating Officer  
19 June 2009

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## Summary

- 1.1 On 24 February 2009 Maidstone Borough Council's Standards Sub-Committee considered an allegation received from Mr Suresh Khanna that Councillor Vanessa Jones may have failed to comply with the Bredhurst Parish Council's Code of Conduct. The Standards Sub-committee decided to refer the allegation to the monitoring officer for further investigation.
- 1.2 Councillor Jones has been a member of Bredhurst Parish Council ('the Council') from 2003. From 2005 until 2007 she was Vice Chairman of the Council. She has been Chairman of the Council from May 2007.
- 1.3 Mr Khanna, the complainant, was a member of Bredhurst Parish Council from 2003, and was subsequently Chairman until his resignation from the Council in May 2007.

### The allegation

- 1.4 It is alleged that:

1.3.1 By making statements about him which questioned his integrity, at Parish Council meetings and at meetings of the Joint Transportation Board, Councillor Jones failed to treat Mr Khanna with respect. [Paragraph 3(1) of the Code of Conduct]

1.3.2 By dismissing representations to Kent Highways Services about access to a new zebra crossing by himself and his daughter, Councillor Jones may have caused her authority to breach equality laws. [Paragraph 3(2)(a) of the Code of Conduct]

1.3.3 By announcing at a Parish Council meeting that she had sought the advice of the Head of Legal Services at Kent County Council as Mr Khanna was likely to be a complainant, Councillor Jones attempted to intimidate Mr Khanna. [Paragraph 3(2)(c) of the Code of Conduct]

1.3.4 By cultivating a very close relationship with the parish clerk, undertaking unauthorized visits with her on Council business and drafting letters with her giving the views of the Council without consulting the Chairman, Councillor Jones acted in a way which was likely to compromise the impartiality of the clerk. [Paragraph 3(2)(d) of the Code of Conduct]

1.3.5 By failing to release accident statistics and a survey on traffic calming, Councillor Jones acted to prevent members of the public from gaining access to information to which they were entitled by law. [Paragraph 4(b) of the Code of Conduct]

1.3.6 By abusing her position on the Council to conduct a vendetta against him, Councillor Jones used her position improperly to secure a disadvantage for Mr Khanna. [Paragraph 6(a) of the Code of Conduct]

1.3.7 By ignoring procedures for getting travel expenses approved and for purchasing office equipment, Councillor Jones failed to use the resources of the authority in accordance with its requirements. [Paragraph 6(b)(i) of the Code of Conduct]

1.3.8 By using the Parish Council as a platform to urge people to get friends and acquaintances to vote for her at the Kent County Council elections in May 2007, Councillor Jones used her position improperly to secure an advantage for herself, and misused resources for political purposes. [Paragraphs 6(a) and 6(b)(ii) of the Code of Conduct]

1.3.9 Through the conduct described above, Councillor Jones acted in a way which could reasonably be regarded as bringing her office or authority into disrepute. [Paragraph 5 of the Code of Conduct]

1.3.10 By disclosing information to the press without Mr Khanna's consent, Councillor Jones breached confidentiality requirements. [Paragraph 4(a) of the Code of Conduct]

### Finding

- 1.5 I have considered whether Councillor Jones failed to comply with paragraphs 3(1), 3(2)(a), 3(2)(c), 3(2)(d), 4(a), 4(b), 5, 6(a), 6(b)(i), and 6(b)(ii) of the Council's Code of Conduct. I have concluded that Councillor Jones failed to comply with paragraph 4(a) but did not fail to comply with the other aforementioned paragraphs of the Code of Conduct.

## **2 Relevant Legislation and Guidance**

- 2.1 The Council adopted the Code of Conduct (2007) on 2 July 2007. It should be noted that some of the events the complainant has referred to took place when the previous Code of Conduct was in force. The allegations concern parts of the Code of Conduct which did not materially change in 2007. While I refer in this report to the relevant paragraphs set out in the 2007 Code, any references to matters which took place before implementation of the 2007 Code should be taken to refer to the counterpart paragraphs of the previous Code.
- 2.2 The paragraphs of the Code of Conduct that are relevant to this investigation are set out below:

*“General obligations*

**3.—(1) You must treat others with respect.**

**(2) You must not—**

*(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);*

*(c) intimidate or attempt to intimidate any person who is or is likely to be—*

*(i) a complainant,*

*in relation to an allegation that a member (including yourself) has failed to comply with his or her authority’s code of conduct; or*

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

**4. You must not—**

*(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—*

*(i) you have the consent of a person authorised to give it;*

*(ii) you are required by law to do so;*

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

*(iv) the disclosure is—*

*(aa) reasonable and in the public interest; and*

*(bb) made in good faith and in compliance with the reasonable requirements of the authority; or*

*(b) prevent another person from gaining access to information to which that person is entitled by law.*

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

**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*

*(b) must, when using or authorising the use by others of the resources of your authority—*

*(i) act in accordance with your authority’s reasonable requirements;*

*(ii) ensure that such resources are not used improperly for political purposes (including party political purposes);”*

**2.3 The Relevant Authorities (General Principles) Order 2001 (SI 2001 No. 1401) sets out the principles which are to govern the conduct of members. The paragraphs which are relevant to this investigation are:**

*“Respect for Others*

*7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age,*

*religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.*

*Leadership*

*10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence."*

### **3 Evidence and Investigating Officer's Consideration of the Facts**

3.1 I have considered evidence from the following people:

Mr Suresh Khanna, complainant - interview on 20 March 2009

Mrs Melanie Fooks, clerk to the Council - telephone interview on 16 April 2009

Mr Andrew Burton, Kent Highways - telephone interview on 28 April 2009

Mrs Pam Merryweather, witness - telephone interview on 29 April 2009

Cllr Charlie Hewitt, member and Vice-Chairman of the Council - telephone interview on 8 May 2009

Mr John Corney, witness - telephone interview on 11 May 2009

Cllr Vanessa Jones, member and Chairman of the Council, and subject of the complaint - interview on 14 May 2009

Abdus Choudhury and Heather Rae, Kent County Council Legal Department - telephone and email questions.

3.2 I have considered documentary evidence provided by Mr Khanna and by Councillor Jones. I have also considered written information provided by Paul Fisher, Monitoring Officer of Maidstone Borough Council, and by the clerk of Bredhurst Parish Council.

3.3 I have not referred in this report to the evidence of Mrs Merryweather because, while she is able to express her opinion as Mr Khanna's friend, she has no personal knowledge of the matters reflected in the specific allegations.

3.4 Information in this section of the investigation report is based upon documentary evidence or evidence from interview records. All witnesses were asked to provide a signed hard copy of their interview record. Signed copies or electronic confirmation of interview records

were received from all parties. Much of the information is uncontroversial and not disputed. However, where it reflects personal opinions I have specified the source (e.g. *Councillor X says ...*). Where there is an apparent conflict of evidence I have indicated my conclusions drawn from the evidence.

- 3.5 It is not the purpose of this investigation to comment upon the merits or otherwise of the zebra crossing scheme, or the process followed by KCCH, or to make any finding in relation to the conduct of the complainant. However, given that aspects of the complaint refer to Councillor Jones' allegedly unfair and misleading statements about the complainant's actions, it is necessary to consider the context in order to establish the extent to which the allegations might be justified.
- 3.6 This is a complex complaint in terms of the number of documents submitted, the long time period it relates to, and the wide ranging nature of the elements of the complaint. I have considered all the evidence submitted by the parties and I have referred in this report to that which is necessary to explain the context and reach a finding on the specific allegations.

#### Background before 2007

- 3.7 Mr Khanna, the complainant, was a member of Bredhurst Parish Council from 2003, and its Chairman from 2004 until his resignation from the Council in May 2007. In 2003 Mr Khanna approached Councillor Jones to encourage her to apply to become a co-opted member of the Council. Councillor Jones was duly co-opted onto the Council in 2003 and became Vice-Chairman in 2005, and then Chairman from the time of Mr Khanna's resignation in 2007.
- 3.8 The 2004 Bredhurst Parish Plan identified a need to introduce traffic calming measures due to a substantial increase in through traffic through The Street, the principal road in the village. The Parish Plan also identified particular safety concerns relating to the village school, exemplified by an incident in about 2000 when a car hit a crash barrier next to the school, and another incident in 2002 when a speeding car mounted the pavement adjacent to the school playground. The Plan included a recommendation for special safety measures around the area of the school as follows: [D1: 31]
- widening footpaths and installing safety barriers;
  - introducing a special 20mph speed limit in the area of the school;
  - installing a footpath in Forge Lane;

- installing a pedestrian crossing from the village green to the school side of The Street.
- 3.9 Mr Khanna says he was the architect of the Parish Plan and fully supported it. [D2]
- 3.10 In response to a communication from the clerk to local residents likely to be most affected by the siting of a zebra crossing in The Street, Mr Khanna replied in an email on 2 November 2006 stating that he was in favour of a pedestrian crossing *'provided that it has no audible warnings and that it is close to the letter box to enable the residents of Hurstwood (including the old people's homes) and Fir Tree Grove to cross safely.'* [D1: 26]
- 3.11 The minutes of a Council meeting in November 2006, chaired by Mr Khanna, indicate that the Council had received no strong objections to its consultation of potentially affected residents and it voted unanimously to seek the advice of Kent County Council Highways (KCCH) regarding a pedestrian crossing as part of a traffic calming scheme, if there were no strong objections subject to design, positioning and cost.

The Council's consideration of a pedestrian crossing, January and February 2007

- 3.12 At the January 2007 Council meeting Mr Khanna presented a discussion document. This document stated: *'The proposed zebra crossing needs to be closer to the letter box, which is where people cross the road at present .... Lights marking the zebra crossing must be shielded to prevent them shining into homes.'* At the meeting KCCH plans were made available showing that the proposed site of the zebra crossing was outside Mr Khanna's house.
- 3.13 At the Council meeting on 7 February 2007 Mr Khanna raised his concerns that the proposed pedestrian crossing, which would abut his drive, posed a danger to pedestrians and drivers alike. He asked the KCCH officer who was present to look at it again. Councillor Jones raised her concerns at the meeting that Councillor Khanna had a prejudicial interest. According to Mr Khanna, Councillor Jones told him in a gruff voice to declare an interest, which he did, and she then told him he should leave the room which he saw no need to do. [D2, D3]
- 3.14 Mr Khanna says a few days after the meeting he had a conversation with the clerk in his capacity as chairman, and he suggested that a lollipop crossing would be a better alternative. [D2]



3.15 In an email to fellow councillors on 21 February 2007 Mr Khanna stated that he had a solution to the location of the pedestrian crossing, suggesting that the site of the zebra crossing should be moved '*a metre or two (within the tolerance allowed for by Kent Highways) to the south. Incidentally let no-one think I am objecting to it being outside my house – I am not.*' [D1: 27]

3.16 On 13 March 2007 Mr Khanna wrote to KCCH as a resident, stating that he now believed that '*the need for a crossing as a means for slowing down traffic no longer exists*' because of other traffic calming measures. He stated that the expense of a crossing was hardly justified in view of the low use it would have, and that it would cause '*a whole range of urban street furniture over several metres, in this case right in front of residential properties and dangerously close to drives into properties.*' Mr Khanna proposed that the case for the crossing should be re-evaluated. [D1: 28]

### **3.17 Investigator's conclusions on the facts:**

- ***Mr Khanna originally supported a traffic calming scheme, one element of which was for a pedestrian crossing.***
- ***It was not unreasonable for Councillor Jones and other members of the Council to have concluded from Mr Khanna's communications that his views about the crossing changed when he knew it was to be sited directly outside his house.***

### Complaint about Mr Khanna to the Standards Board for England

3.18 Councillor Jones says that she became concerned about Mr Khanna's attempts to influence KCCH, councillors and others about the pedestrian crossing, through telephone calls and emails, and she took advice from the Monitoring Officer and from the Standards Board for England. [D3]

3.19 On 26 March 2007 an informal meeting of councillors, including Mr Khanna, took place in order to discuss the concerns that councillors had about Mr Khanna's actions and to explore a possible alternative resolution rather than proceed with a complaint to the Standards Board for England. The outcome of the meeting was that Mr Khanna agreed to issue a written apology for his conduct. He duly wrote to the Council on 27 March 2007 accepting that he had a prejudicial interest and that his actions may have brought the Council into disrepute for which he apologized. He undertook not to seek to influence the Council's decision on the matter improperly. Mr Khanna also wrote a letter of apology to another councillor in response to her having felt patronised by him. [D2, D3]

- 3.20 Councillor Jones took further advice from the Standards Board which led her to believe that, despite Mr Khanna's apology, councillors still had a responsibility to report the matter to the Standards Board. Councillor Jones drafted a complaint and 5 out of 6 councillors signed it. The complaint alleged that Mr Khanna failed to treat other councillors with respect, improperly secured an advantage or disadvantage, failed to disclose a personal interest and failed to withdraw from a meeting in which he had a prejudicial interest. [D3]
- 3.21 At the May 2007 Annual Council meeting Mr Khanna resigned from the Council. Councillor Jones was elected Chairman of the Council. When interviewed for this investigation Mr Khanna said that he resigned partly for health reasons and partly because the atmosphere in Council meetings over the preceding period had become unpleasant, which he ascribed to the way Councillor Jones conducted herself. Mr Khanna said his decision to resign had nothing to do with the investigation of his conduct by the Standards Board. He believed that while there were other signatories to the complaint, Councillor Jones had orchestrated the complaint against him. [D2]
- 3.22 The ethical standards officer (ESO) from the Standards Board found that Mr Khanna did have a personal and prejudicial interest in the proposed pedestrian crossing and that he should have declared it and withdrawn from meetings when it was discussed. The ESO did not find that Mr Khanna had been disrespectful towards other councillors. With regard to lobbying allegations the ESO did not consider it in the public interest to investigate that matter further given that Mr Khanna had resigned from the Council. The ESO's investigation was completed on 7 September 2007 when it decided that in the circumstances of the case no action needed to be taken. [SBE case archive]
- 3.23 Mr Khanna says that rather than letting the matter drop Councillor Jones continued to make references to his conduct having been investigated. Councillor Jones recalled only two occasions when she referred to this. One was in response to Mr Khanna's email to various residents and others in which he made allegations about her conduct and stated that she was being investigated. The other occasion was at Council meeting when a member of the public asked about the investigation into Mr Khanna's conduct. Mr Khanna, who was present as a member of the public, made a statement about this and Councillor Jones also gave factual information about what had occurred. [D1, D2, D3]

### **3.24 Investigator's conclusions on the facts:**

- **The SBE's findings show that Councillor Jones was justified in her concerns about the propriety of Mr Khanna's conduct at Council meeting in February 2007.**
- **Councillor Jones coordinated the process of submitting a complaint about Mr Khanna to the Standards Board.**
- **It would be understandable if Mr Khanna felt aggrieved that a complaint was proceeded with despite him making a written apology, which he had been encouraged to do in the belief that this would prevent the complaint.**
- **The allegations were partly upheld and it is reasonable to conclude from the Standards Board's summary that Mr Khanna's resignation was a factor in its decision that no action needed to be taken.**
- **There is no evidence that Councillor Jones' references to the matter were other than factual.**

Information shared after May 2007 regarding Mr Khanna's views on the zebra crossing

- 3.25 Mr Khanna says that before KCCH proposed any location he originally suggested that a pedestrian crossing should be located near the post box. When he learned of the proposal to site it outside his house, he says he sought for it to be moved 1 or 2 metres within the frontage of his house. He says he also sought a review of the need for a crossing and of the timing of its implementation, and he promoted the alternative of a 'lollipop' manned school crossing which he says was envisaged in the Parish Plan. Mr Khanna says that he suspects Councillor Jones supplied information to the Downs Mail which published an item in December 2008 regarding his attitude to the crossing, which he regards as improper and evidence of a vendetta against him. Mr Khanna states that he never asked for the crossing to be sited outside his neighbours' house at Thatched Cottage, and that Mr Burton was the originator of this suggestion, not Mr Khanna. Mr Khanna alleges that Councillor Jones wrongly stated that he wanted the crossing outside Thatched Cottage and that in doing so she sought to put neighbour against neighbour, and damaged his reputation. [D1, D2]
- 3.26 In July 2007 Mr Khanna sent an email to councillors and KCCH suggesting a 'lollipop' patrol rather than a zebra crossing. He set out his views that a zebra crossing was '*wholly inappropriate anywhere in this small village,*' that it would be environmentally irresponsible and financially unjustified, and that the number of traffic accidents was not statistically significant.

- 3.27 On 31 October 2008 Julian Cook from KCCH emailed the clerk to ask for the Parish Council's views on a request that KCCH had received *'to look at an alternative location to provide this crossing facility, and this is to locate the crossing approximately 13m south of the junction, immediately north of the driveway into Thatched Cottage'*.
- 3.28 In a letter to Mr Khanna dated 23 October 2008 Mr Burton of KCCH referred to Mr Khanna having *'vociferously urged'* KCCH to site the crossing *'outside the post box ..... i.e. outside of Thatched Cottage'*.
- 3.29 At interview Mr Burton said that Mr Khanna was initially not clear about where he wanted the zebra crossing but was clear that he did not want it outside his house. The possibility of siting the crossing outside Thatched Cottage emerged from discussions Mr Burton had with Mr Khanna about the feasibility of various alternatives. Mr Burton said that at a later stage Mr Khanna's position changed to one of opposition to having a zebra crossing anywhere.
- 3.30 At the KCC Joint Transportation Board meeting on 15 October 2008 Councillor Jones stated: *'From the moment he learned it was to be located outside his house, [Mr Khanna] has written continuously to Kent Highways, various KCC members and others, arguing that it was either not needed at all, or should be moved to outside his neighbours' property.'*
- 3.31 The minutes of the Council meeting on 5 November 2008 state: *'another request has been submitted to KCC by [the owner of Laburnum Cottage] that the crossing be installed outside Thatched Cottage.'*
- 3.32 On 19 November 2008 Mr Khanna emailed Mr Burton of KCCH stating: *'Could you also please mark up the suggested alternative location of the zebra crossing between my cottage and The Rowan. It does not need another round of consultation.'*
- 3.33 At interview Councillor Jones stated that she had been told unequivocally by KCCH that Mr Khanna had suggested the pedestrian crossing should be moved to outside his neighbours' property. Councillor Jones said the Council meeting minutes could have described the location as *'13m south of the junction, immediately north of the driveway into Thatched Cottage'* as in KCCH's email but it was more clearly referred to as *'outside Thatched Cottage'*.
- 3.34 Councillor Jones confirms that she gave the notes of her speech at the JTB, to the editor of the Downs Mail and inadvertently gave him an email from Mr Khanna to KCCH: *'It wasn't until a moment later that I realised that attached to the back of my notes were details of an email*

*from SK to KCC/BPC referring to 'blinking lights outside his house'. It was unfortunate that the email was attached to my notes but, given all the speculation and gossip in the village, I do feel with hindsight that the publication of the contents of the email was in the public interest.'* Councillor Jones added: *'the editor of the Downs Mail approached me for my notes, seconds after returning to my seat following my speech. It was not a premeditated or deliberate act, just a spur of the moment action.'* [D3, plus email submission in response to draft report]

3.35 An article appeared in the Downs Mail in December 2008 referring to Mr Khanna as being *'strongly opposed'* to a pedestrian crossing. The article quoted from an email from Mr Khanna to KCCH: *'The crossing would be only 15 feet from my window and the light will flash all day and night. Any reasonable person would conclude that if an alternative cannot be found it would be wrong to impose this on any resident.'* [D1: 46]

3.36 Councillor Jones points out that Mr Khanna sent her and others an email on 14 March 2007 which included similar wording to that quoted by the Downs Mail from the email Mr Khanna had sent to KCCH:

*'Where the crossing is being proposed is only 15 feet from my window and the light will flash all day and all night. Any sensible person would conclude that if an alternative can not be found, it would be wrong to impose this on any resident.'* [D9]

### **3.37 Investigator's conclusions on the facts:**

- ***I consider that Mr Khanna, for very understandable reasons, was opposed to a zebra crossing being sited directly outside his house and he made numerous and vigorous representations to KCCH in an attempt to prevent it.***
- ***Representation of Mr Khanna's position as being that he wanted the crossing outside his neighbour's house, while not entirely inaccurate, was not the most sympathetic and tactful way to describe it. The key issue was that he did not want the crossing outside his house.***
- ***It is not clear how the Thatched Cottage site was first proposed, or by whom; it emerged from discussion between Mr Burton and Mr Khanna. It is implied by some KCCH communications, rightly or wrongly, that Mr Khanna was the originator of the suggestion.***

- **Councillor Jones provided information to the Press including her speech to the JTB and a copy of an email from Mr Khanna to KCCH.**

Statements regarding objections to the pedestrian crossing

- 3.38 Citing the minutes of Council meetings and the transcript of a Kent County Council Joint Transportation Board (JTB) meeting on 15 October 2008, Mr Khanna says Councillor Jones made statements about him which were seriously defamatory and disrespectful. [D1:8]
- 3.39 **Electricity pole** - One of Mr Khanna's grounds for objecting to the pedestrian crossing was linked to an electricity pole which restricted access for his daughter who sometimes visits and who uses a wheelchair.
- 3.40 The minutes of the Parish Council meeting on 1 October 2008 refer to objections lodged by a resident to the siting of the crossing, stating: *'The objector maintains a telegraph pole, located adjacent to the proposed crossing, obstructs the footway and precludes users of large wheelchairs from accessing the crossing and has requested that the crossing be moved. As the pole has been in situ for decades, it is unclear as to why no previous complaint from the resident has ever been received if, as suggested, the pole causes a major obstruction of the footway.'* [D1: 25]
- 3.41 A transcript of Councillor Jones' statement to the JTB states: *'As Mr Khanna has lived in this house for decades, the Parish Council is surprised that the telegraph pole which he is citing as an obstruction to his disabled daughter which is located outside his house [sic]. He is now saying that this telegraph pole precludes his daughter from accessing the crossing which comes as a surprise to the Parish Council. He has lived in this property for many years, and we believe that if it has caused an obstruction prior to now, Mr Khanna would have complained and done what he could to get it moved.'* [D1: 20]
- 3.42 Mr Khanna says that he has been advocating informally to KCC for decades that the footpath outside his home should be widened and he had also approached the electricity company about the electricity pole. He has no documentary evidence of these communications. [D2]
- 3.43 Councillor Jones says she had checked with Mr Burton of KCCH who told her he did not know of any complaint Mr Khanna might have made about this in the past. Councillor Jones said the minutes should have stated that Mr Khanna had not raised the matter with the Parish Council before, but she feels she took all reasonable steps, by asking KCCH

and a previous Chairman of the Parish Council, to establish whether Mr Khanna had raised a complaint before. [D3]

- 3.44 **'Unfounded' comment** - Mr Khanna challenges the veracity of the statement in the November 2008 Parish Council minutes that: *'KCC recommended to the JTB that grounds for the objection [from the owner of Laburnum Cottage] were unfounded and the installation of the crossing should proceed as planned.'* Mr Khanna points out that the KCC officer referred in his report to the objections as *'very significant issues'* and that a recommendation was made that the owner of the pole should be approached with a view to moving it. [D1: 25, D2]
- 3.45 Mr Burton of KCCH, author of the report to the JTB, confirmed his view that Mr Khanna had raised objections which warranted careful consideration. The decision to proceed with the scheme did not imply Mr Khanna's objections were unfounded, but that they were outweighed by the benefits of the scheme to others. [D5]
- 3.46 Councillor Jones says that 'unfounded' was not her word and she now thinks that 'unproven' would have been more appropriate. She said the minutes were a reflection of the Council's opinion, not necessarily her personal opinion. [D3]
- 3.47 **Disability Discrimination Act** - Mr Khanna alleges that by being dismissive of the representations made to KCC about wheelchair access to the crossing for his daughter's wheelchair, Councillor Jones *'attempted to breach the Disability Discrimination Act 1995 equality enactments'*.
- 3.48 **'All from one complainant' comment** - Mr Khanna complains that Councillor Jones wrongly referred to him as the single objector to the zebra crossing. He cited a statement Councillor Jones made to the JTB that: *'Bredhurst Parish Council feels an excessive amount of time has been spent over many months, by KCC officers, Parish, Ward and County Councillors in responding to the barrage of various complaints which have all come from just one individual.'* Mr Khanna says it is untrue that he was the only objector as he knew of others who had raised objections in 2007. Mr Khanna also cites evidence from a survey which demonstrated that not all villagers supported the pedestrian crossing. [D1: 20]
- 3.49 Mr Khanna provided copies of correspondence to KCCH from two neighbours on 19 March 2007 and 27 May 2007, expressing objections to the proposed zebra crossing. [D1: 32, 33]

3.50 Mr Burton from KCCH confirmed that at the final stage of the implementation process, only one person, Mr Khanna, submitted objections to the scheme. [D5]

3.51 At interview Councillor Jones said that it might have been more accurate for her to have referred to Mr Khanna as the 'main' objector. In commenting upon the draft investigation report, Councillor Jones said she felt justified in making her statement to the JTB because at the final stage of the scheme only one person submitted objections to KCCH.

3.52 **Alleged discrimination** - Mr Khanna alleges that Councillor Jones attempted to breach the Disability Discrimination Act by being dismissive of his representations to KCCH on behalf of his severely disabled wheelchair user daughter concerning access to the zebra crossing.

**3.53 Investigator's conclusions on the facts:**

- *The minutes of Council meetings reflect the views of councillors, not specifically the Chairman. Where minutes do not ascribe a view to a particular councillor, it is reasonable to assume, unless there is evidence to the contrary, that the views expressed are accepted by the Chairman who approves and may amend the draft produced by the clerk.*
- *I consider that Councillor Jones did not have sufficient evidence to justify making a public statement that Mr Khanna had not previously raised the matter of the electricity pole, or to imply that Mr Khanna was the only resident to have raised objections about a zebra crossing.*
- *The Council similarly overstated the case when referring to KCCH's view that Mr Khanna's objections were unfounded.*
- *It was for KCCH to take a view on the matter of potential discrimination relating to disability in making its decision about the siting of the zebra crossing. KCCH did not rule in Mr Khanna's favour and any complaint he may have about disability discrimination should be directed to KCCH as the decision-maker.*

Alleged defamatory remarks and legal advice obtained

3.54 Mr Khanna alleges that Councillor Jones invoked and used KCC Legal Services in order to intimidate him and prevent him making a complaint.

3.55 On 1 November 2007 Mr Khanna emailed over 20 people including the clerk, copying his email to the Monitoring Officer. Mr Khanna alleged



that: Councillor Jones had made *'false and malicious allegations'* against him; that Council meeting minutes had been fabricated in places; Councillor Jones *'has been and is being investigated for failing to observe financial procedures designed to prevent fraud and been told that she has broken the rules'*; that she had claimed two or three times more in expenses than anyone else in the history of the Council.

- 3.56 Councillor Jones considered Mr Khanna's email to be defamatory and consulted with other councillors who supported her proposal to seek legal advice on behalf of the Council. Kent County Council Legal Services were consulted, who approved a response to be issued by the clerk, drafted by Councillor Jones. This was sent to recipients of Mr Khanna's email and a copy was displayed on the village noticeboard. The response referred to *'defamatory and factually incorrect emails'* sent by Mr Khanna, and categorically denied that Councillor Jones had ever been investigated, and gave an assurance that her expenses claims were correct.
- 3.57 A year later, on 17 November 2008 Mr Khanna emailed the clerk, copied to other members of the Parish Council and to KCCH officers, asking for copies of the scripts used by Councillor Jones and Councillor Mohabir at the JTB meeting in October 2008 and adding: *'I need to consult my lawyers on these and the statement by Vanessa Jones that I have asked for the zebra crossing to be moved to in front of my neighbour's house, over which I have stayed my hand for a couple of years. I am also not best pleased with what you or Vanessa have fed to the Downs Mail. Please as clerk keep out of this libel'*. He concluded the email as follows: *'If you reply on the parish council's instructions or on any individual's please make this clear explicitly. Otherwise you will be included in any action I might take. In any case the Clerk serves the village, not just the parish council. You need to keep out of this and ask a Councillor to respond.'*
- 3.58 On 15 November 2008 Mr Khanna wrote to members of the JTB. His letter included the following comments: Councillor Jones had *'orchestrated a complaint'* against him to the Standards Board; she had caused the clerk *'her close friend'* to act on her behest in suggesting a zebra crossing; she was the *'only zealous advocate'* of the zebra crossing; there had been *'possible irregular collaboration'* involving KCCH and (by implication) the Parish Council; the Parish Council's position *'gives a lie to its claimed concern to the safety of children'*. He added that: *'parish councillors offered residents help in completing the traffic calming survey'*.
- 3.59 The minutes of the Council meeting on 3 December 2008 state: *'Correspondence from one resident containing derogatory remarks and the threat of legal action against the clerk and individual Parish*

*Councillors has been brought to the attention of BPC. This had been circulated by the author to a wide audience at County and Borough levels. It should be recorded that BPC will not be intimidated in this manner nor allow the good name of individual Councillors or BPC as a whole being brought into disrepute. Whilst BPC does not wish to waste Parish money taking legal action, advice is being sought from [...] Head of Legal and Democratic Services, KCC.’ [D1: 25]*

- 3.60 Following informal discussion with other councillors, Councillor Jones asked the clerk to obtain legal advice, on the basis that Mr Khanna was making potentially defamatory comments and appeared to be threatening possible legal action.
- 3.61 Heather Rae of KCC Legal Services wrote to Mr Khanna on 22 December 2008 stating: *‘we have advised Bredhurst Parish Council that no useful purpose can be served through your continued speculation as to the actions of individual members of the Parish Council and clerk.’*
- 3.62 Abdus Choudhury from Kent County Council Legal Services (KCLS) confirmed that in 2007 and 2008, KCCLS provided legal advice to Bredhurst Parish Council, the content of which is legally privileged. That advice had no connection with KCCH’s involvement in related matters. KCCLS accepts instructions from other public authorities. [D8]

### **3.63 Investigator’s conclusions on the facts:**

- ***I consider that Mr Khanna’s communications of November 2007 and October and November 2008 might reasonably be considered to give grounds for the Council to seek legal advice; the October 2008 email could reasonably be construed as containing a threat of potential legal action.***
- ***I consider that while Mr Khanna might have experienced the reference to the matter in the Council meeting minutes to be provocative and intimidatory, it was not unreasonable under all the circumstances for his intervention to be met with such a response.***

#### Alleged failure to release information

- 3.64 Mr Khanna alleges that Councillor Jones failed to reveal the results of a traffic calming survey conducted in May 2007 by KCCH to which there was a response rate of 19% of the population. He points out that only 22% of respondents in that survey were in favour of a zebra crossing. He says that Councillor Jones suppressed this information, only revealing the results of a later survey of which he is critical. He says he

asked the clerk several times for information about the survey results but she did not provide it. He asked Ben Hilden of KCCH who provided him with the results in an email dated 8 October 2007. He also alleges that Councillor Jones failed to release accident statistics. [D1, D2]

3.65 Andrew Burton of KCCH said that the May 2007 survey received a poor response rate and he was not satisfied that it had been carried out to a satisfactory standard so it would not be appropriate for any decision about funding the scheme to be based upon its results. For that reason KCCH decided to carry out a second survey. Mr Burton said that because of the defects in the first survey, he did not feel it appropriate or helpful to publicise its results. As this was KCCH's survey, it was not open to the Parish Council to disclose information about it. If a member of the public had approached KCCH wanting information about it, that would have been dealt with by KCCH. Regarding accident statistics, these were provided to KCCH by the police. Mr Burton stated that such statistics are not routinely disclosed by KCCH and it would not be open to the Parish Council to disclose such information. [D5]

### **3.66 Investigator's conclusions on the facts:**

- ***It was not in the Parish Council's remit to release information about the original KCCH survey or accident statistics.***

#### Alleged use of position for political purposes

3.67 Mr Khanna attended the Council meeting in May 2007 and alleges that Councillor Jones used the meeting as a platform to urge people to get their friends and acquaintances to vote for her in the County Council elections.

3.68 Mr Corney, who is a friend of Mr Khanna, says that he attended a Council meeting and that Councillor Jones said she was standing as a Conservative candidate in the County Council elections and hoped people would vote for her. This struck him as inappropriate, because parish council meetings were not supposed to be used as a political forum. Mr Corney perceived the comments to have been made in a light-hearted way. [D7]

3.69 When asked if this came across as an indiscretion or as a more serious attempt to abuse her position, Mr Corney said: '*it was really an indiscretion, or perhaps a bit of both*'.

3.70 Councillor Jones could not recall making any statement as described.

### **3.71 Investigator's conclusions on the facts:**

- ***There is a lack of available detail about the content and circumstances of the alleged statement by Councillor Jones.***
- ***If the alleged remark was made, it is not clear that this was during the Council meeting, and in any event it appears to have been a light hearted expression of hope rather than a concerted attempt to persuade.***

#### The role of the clerk

3.72 The complainant alleges that Councillor Jones cultivated a very close relationship with the clerk which compromised the clerk's impartiality. He cites occasions when Councillor Jones took the clerk on visits while he was chairman and drafted letters with the clerk giving the Council's views while he was Chairman.

3.73 Councillor Jones says she knows of no way in which her friendship with the clerk in any way compromises the clerk's impartiality. She could recall no examples of visits she undertook which were 'unauthorised' and Mr Khanna, when Chairman, had raised no such concerns. At that time she and Mr Khanna worked well together and she was not conscious of doing anything behind his back. [D3]

3.74 The clerk says she is very clear that her impartiality has not been compromised by Councillor Jones. She had occasionally accompanied Councillor Jones on visits but knew of no requirement for visits to be authorised by the Chairman in advance. The clerk said that Mr Khanna himself sometimes attended meetings without the prior knowledge of the Council. The clerk assumed that attending meetings with outside bodies was part of the role of the chairman and vice chairman. The clerk said she had worked closely with both Mr Khanna and Councillor Jones as chairman and vice chairman. Councillor Jones had been very helpful in assisting her to understand her role as clerk. [D4]

#### **3.75 Investigator's conclusions on the facts:**

- ***It is not disputed that Councillor Jones and the clerk are friends.***
- ***For the Vice Chairman to assist the clerk with correspondence, or for the clerk to accompany the Vice Chairman on visits, does not of itself imply any lack of impartiality.***
- ***The complainant suggests that Councillor Jones 'cultivated' a friendship with the clerk, implying that this was done deliberately for the purpose of compromising the clerk's***

***impartiality. I have seen no evidence to support such an assertion.***

Alleged irregularities with travel claims

3.76 Mr Khanna alleges that Councillor Jones '*ignored regular procedures for getting travel claims approved by the Chairman*' when he was Chairman. He implies Councillor Jones' claim for 2006/7 was excessive. Mr Khanna says he first noticed this in April 2007 when the clerk asked him to sign Councillor Jones' claim. Mr Khanna further alleges that Councillor Jones caused the clerk to become treasurer of BWAG in order to assist evasion of procedures. Mr Khanna says that on one occasion he queried excessive mileage claimed by Councillor Jones, who told him it was estimated; he says he asked her to amend and resubmit it.

3.77 Councillor Jones denies any irregularity with her claims. She says she submitted her claims to the clerk in the normal way who checked the arithmetic and asked the Chairman and another signatory to sign the cheque. She says Mr Khanna never queried any claim. Councillor Jones says when Mr Khanna was Chairman the Council operated very informally without reference to standing orders or formal procedures. Since Councillor Jones became Chairman, new standing orders and procedures have been introduced including provision for scrutiny of claims by another councillor. [D3]

3.78 The clerk confirmed that when Mr Khanna had been Chairman, she would check members' claims and if satisfied they were reasonable she would preparer a cheque for signature by the Chairman and another signatory. [D4]

3.79 Councillor Jones provided copies of her claims for the relevant period.

***3.80 Investigator's conclusions on the facts:***

- ***There were no formal procedures for processing travel claims at the time Mr Khanna was Chairman.***
- ***There is no evidence to support any suggestion that the travel expenses paid to Councillor Jones did not reflect the expenses she had incurred on Council business.***
- ***Mr Khanna's belief about Councillor Jones' motivation in arranging for the clerk to become treasurer of BWAG is not supported by any evidence.***

Alleged failure to comply with purchasing procedures

- 3.81 Mr Khanna alleges that Councillor Jones failed to follow procedures for the purchase of equipment worth just under £4,000, in that she did not seek the Parish Council's approval and did not obtain three quotes for the items. The equipment in question was purchased from monies allocated for the purpose in September 2006 by Kent County Council for the Bredhurst Woodland Action Group (BWAG) of which Councillor Jones was Chairman. [D2, D3]
- 3.82 Councillor Jones provided an itemized list of a large number of items totaling £3,890. Councillor Jones confirmed that she discussed all items of expenditure in advance with the KCC Funding Manager who specifically sanctioned the purchase of a second gazebo given that other items had cost less than the budget allowed. Councillor Jones provided a copy of the Council's Standing Orders on financial matters. These show no requirement to obtain 3 written quotations unless a contract involves expenditure over £5,000. They also refer to contracts between £500 and £5,000 being at the Council's or committee's discretion after consideration of estimates.
- 3.83 Councillor Jones says that apart from low value stationery items, all items were discussed in depth by the BWAG committee. The only items which exceeded £500 were two gazebos which together came to £523. Councillor Jones says the details of these were circulated to parish councilors and BWAG members for approval. [D3]
- 3.84 The clerk said that at the time of the BWAG purchases the Council's financial procedures were not fully developed, but she was allowed to purchase items up to £500. [D4]
- 3.85 Mr Khanna raised no concerns about the BWAG purchases at the time.

**3.86 Investigator's conclusions on the facts:**

- ***It appears that the Council's financial procedures have been tightened up since the time of the purchases in question.***
- ***From the records I have seen there is no evidence to suggest any improper use of the Council's resources.***
- ***Given the ring-fenced funding allocation for BWAG and discussions which took place with the KCC Funding Manager, there is no evidence to suggest any risk to the Council's finances.***

The relationship between Mr Khanna and Councillor Jones

- 3.87 When Councillor Jones joined the Council she and Mr Khanna did not know each other particularly well. It was Mr Khanna who originally

approached Councillor Jones to encourage her to apply to become a co-opted member of the Council.

- 3.88 Mr Khanna initially had a high opinion of Councillor Jones as an energetic and competent person and from his point of view there was no tension between them although he perceived a tendency, which he found very irritating, for her to involve herself in everything and to jump in and talk during meetings without going through him as chairman. Mr Khanna described Councillor Jones' conduct as becoming '*more disruptive*' in 2006/7. Mr Khanna characterizes Councillor Jones' actions since that time as a vendetta against him. He says this stems from an incident at a Council meeting in March 2007 when he needed to assert his authority as Chairman to tell Councillor Jones not to interrupt. He says Councillor Jones was infuriated by that. [D2]
- 3.89 Councillor Jones perceived that she had a good working relationship with Mr Khanna until January 2007 when she expressed her disquiet at his attempts to influence the proposals for a pedestrian crossing. Before that Mr Khanna had frequently praised her contribution to the Council and to BWAG. Councillor Jones denied conducting any vendetta against Mr Khanna, and said that his conduct in sending repeated emails to a wide range of people, some of which were offensive, amounted to a vendetta against her. [D3]
- 3.90 Mr Corney's view was that there had been a strong clash of personalities between Mr Khanna and Councillor Jones which preceded the zebra crossing issues. He described Mr Khanna as something of a stickler for protocol. He believed that the clash between them built up to the point that there was personal animosity. [D7]
- 3.91 Councillor Hewitt's view was that Councillor Jones had not conducted any vendetta against Mr Khanna, and if anything it had been the other way round. Councillor Hewitt considers that Councillor Jones has only reacted to Mr Khanna's communications rather than instigating the problems between them. It appeared to him that Mr Khanna wanted to make Councillor Jones' life a misery. [D6]
- 3.92 The clerk commented that since the time of complaint to the Standards Board about Mr Khanna in April 2007 she had observed there to be a degree of animosity between Mr Khanna and Councillor Jones. [D4]

## **4 Reasoning**

- 4.1 Of the large number of matters raised by Mr Khanna, my conclusions on the facts indicate that the following matters disclose conduct which needs to be considered further in relation to the Code of Conduct:

- An unsympathetic representation of Mr Khanna's position as being that he wanted the crossing outside his neighbour's house. [Paragraph 3.36]
  - Disclosure of information to the Press including a copy of an email from Mr Khanna to KCCH. [Paragraph 3.36]
  - An inadequately supported assertion that Mr Khanna had not previously raised the matter of the electricity pole, and an implication that Mr Khanna was the only resident to have raised objections to a zebra crossing. [Paragraph 3.52]
  - An overstatement of the case when referring to KCCH's view that Mr Khanna's objections were unfounded. [Paragraph 3.52]
- 4.2 The paragraphs of the Code of Conduct which might potentially apply to the above are 3(1), 4(a), 5, 6a.

Paragraphs 3(1) and 6(a) of the Code of Conduct

- 4.3 Paragraph 3(1) of the Code of Conduct states that a member must treat others with respect. Disrespect encompasses a range of unfair, unreasonable or demeaning behaviour directed by one person against another. Disrespect might potentially arise in relation to what a member says, the manner in which she speaks, and non-verbal behaviour. Guidance produced by the Standards Board for England gives examples including where a member's behaviour is aimed not at attacking another person's opinions, but at the person themselves or their personal characteristics, for example through abusive, offensive or aggressive speech or conduct. The guidance also states that while members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration.
- 4.4 Councillor Jones publicly represented Mr Khanna's position as being the only person to have objected to the zebra crossing and that he wanted it to be outside his neighbour's house, and asserted without sufficient evidence that he had not previously raised the matter of the electricity pole. I consider that in so doing Councillor Jones acted unwisely. I consider it likely that Councillor Jones was personally frustrated and annoyed at Mr Khanna's activities and at the tone of some of his communications. I have seen no evidence that Councillor Jones used offensive or disrespectful language towards Mr Khanna at any point. Under all the circumstances I do not consider that Councillor Jones' actions amounted to disrespectful conduct.

Paragraphs 6(a) of the Code of Conduct



- 4.5 Paragraph 6(a) states that a member must not use his or her position improperly to the advantage or disadvantage of him/herself or anyone else.
- 4.6 I consider that the root of the problem was that Councillor Jones was seeking to promote the zebra crossing as part of the overall traffic calming scheme, while on the other hand Mr Khanna was seeking to prevent it because he understandably did not want it outside his house, and he believed it to be unnecessary. They were both committed to pursuing their conflicting aims and I consider that they perceived themselves as adversaries in relation to the matter. While Mr Khanna believes Councillor Jones to have been motivated by a desire to disadvantage him and to have been conducting a personal vendetta against him, I have seen no evidence to support that premise and I am satisfied that Councillor Jones, like other members of the Council, wanted to promote the scheme because she believed it to be in the public interest. Thus her actions in promoting the scheme and in challenging Mr Khanna's opposition to it cannot reasonably be characterized as improper use of her position for her own advantage, or in order to disadvantage Mr Khanna.
- 4.7 Paragraph 4(a) of the Code
- 4.8 Paragraph 4(a) states that a member must not disclose confidential information, or information believed to be confidential, unless the person concerned has authorized it, or the member is required by law to do so, or the disclosure is for the purpose of obtaining confidential professional advice, or the disclosure is in the public interest.
- 4.9 Councillor Jones passed to the press a copy of an email from Mr Khanna to KCCH, extracts from which subsequently appeared in the local newspaper. Councillor Jones has said this was unfortunate but also that she thought it in the public interest.
- 4.10 It is clear that Mr Khanna had not given his consent for this disclosure. It would be reasonable for him to expect that extracts from an email he had sent to KCCH would not be published in the press without his permission. I consider the disclosure was a breach of confidentiality.
- 4.11 Guidance from the Standards Board for England states that public interest disclosure is only justified in limited circumstances. A disclosure in the public interest needs to involve a serious matter, for example a criminal offence, a miscarriage of justice, failure to comply with a legal obligation, or danger to the health or safety of an individual or damage to the environment. The criterion of seriousness is clearly not met in this case. Additionally any disclosure of confidential

information in the public interest 'must be made in compliance with any reasonable requirements of your authority.'

- 4.12 I consider that the disclosure was not justified and not necessary. The relevant information had been presented to KCCH (and to others through a different email) and it was not appropriate for Councillor Jones to bring about its disclosure to the world at large through the media. I consider that Councillor Jones, through her actions, failed to comply with paragraph 4(a) of the Code of Conduct.

#### Paragraph 5 of the Code of Conduct

- 4.13 Paragraph 5 of the Code of Conduct states that a member must not bring his/her office or authority into disrepute. The Oxford English Dictionary defines disrepute as a 'lack of good reputation or respectability'. A member will have failed to comply with the Code if his or her conduct could reasonably be regarded by an objective observer as bringing the member's office or authority into disrepute. Anything which diminishes public confidence in either a member's office or their authority, or which harms, or could harm, the reputation of an authority, will bring that office or authority into disrepute. The Standards Board's Guide for Members provides as examples dishonest and deceitful behaviour, although other types of conduct might cause disrepute. The test to be applied is whether the member's conduct 'could reasonably be regarded' as bringing their office or authority into disrepute, not that it actually did.
- 4.14 I do not consider that an objective observer in possession of all the relevant facts would conclude that Councillor Jones' actions amounted to disreputable conduct.

## **5 Finding**

- 5.1 I have considered whether Councillor Jones failed to comply with paragraphs 3(1), 3(2)(a), 3(2)(c), 3(2)(d), 4(a), 4(b), 5, 6(a), 6(b)(i), and 6(b)(ii) of the Council's Code of Conduct. I have concluded that Councillor Jones failed to comply with paragraph 4(a) but did not fail to comply with the other aforementioned paragraphs of the Code of Conduct.

TONY DREW  
INVESTIGATING OFFICER

## **Appendix A - Documents relied upon**

D1 paginated bundle of documents provided for Standards Sub-Committee on 24 February 2008

D2 Record of interview with Mr Khanna, 20 March 2009

D3 Record of interview with Cllr Vanessa Jones, 14 May 2009

D4 Record of interview with Mrs Melanie Fooks, 16 April 2009

D5 Record of interview with Mr Andrew Burton, 28 April 2009

D6 Record of interview with Cllr Charlie Hewitt, 8 May 2009

D7 Record of interview with Mr John Corney, 11 May 2009

D8 Email from Abdus Choudhury Kent County Council Legal Department

D9 SK email to VJ, 14 March 2007

NB The investigation report contains extracts from a large number of documents which have been examined in the course of the investigation. Copies of these documents are not all listed here because of their large number, but can be made available to the Standards Committee if necessary.