

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
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2 June 2017

To: MEMBERS OF THE STANDARDS HEARING PANEL
(Copies to all Members of the Council)

**NB ONLY MEMBERS
OF THE PANEL MAY
PARTICIPATE**

Dear Sir/Madam

Your attendance is requested at a meeting of the Standards Hearing Panel to be held in the Civic Suite, Gibson Building, Kings Hill on Monday, 12th June, 2017 and Tuesday, 13th June 2017 commencing at **10.00 am**

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for absence
2. Declarations of Interest

Decisions to be taken by the Committee

3. The Hearing Panel to determine whether the confidential report may be considered in public
4. Code of Conduct Complaint against three Parish Councillors 5 - 136

Matters for consideration in Private

5. Exclusion of Press and Public

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information

PART 2 - PRIVATE

Decisions to be taken by the Committee

MEMBERSHIP

Cllr D A S Davis (Chairman)

Cllr Mrs P A Bates
Cllr D J Cure
Prof M McKinlay

Mr W E Stead
Mr D Thornevell
Mr D S Ashton (Independent Person)

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TONBRIDGE & MALLING BOROUGH COUNCIL
HEARING PANEL OF THE JOINT STANDARDS COMMITTEE

12 June 2017

Report of the Monitoring Officer

Part 2 - Private

Delegated

LGA 1972 - Sch 12A Paragraph 1 and 2 – Information relating to an individual and information which is likely to reveal the identity of an individual

1 CODE OF CONDUCT COMPLAINT

Members are asked to consider the report of Mr Richard Lingard Solicitor in respect of a complaint made by Mrs Sheila Smith (Chair of Governors of Wrotham School) that Councillors Robin Betts, Harry Rayner and Mike Taylor have breached the Codes of Conduct of Wrotham Parish Council and Borough Green Parish Council.

1.1 Introduction

- 1.1.1 On 18 March 2016 I received a complaint from Mrs Sheila Smith, Chair of Governors of Wrotham School about the conduct of Cllrs Harry Rayner and Robin Betts (both of Wrotham Parish Council) and Cllr Mike Taylor (of Borough Green Parish Council).
- 1.1.2 The allegation concerns the alleged conduct of the 3 councillors during the afternoon of Friday 4 March 2016, when they attended at Wrotham School and asked to have a meeting with Mr Matthew Wright (Head Teacher of the School) about financial matters relating to the application of funds for the purchase of a boiler for the school changing rooms. The 3 councillors concerned all believed that the use of funds for such a purchase was contrary to the terms of a Community Use Agreement for the 3G Pitch facility at the school to which the school, Wrotham Parish Council and Borough Green Parish Council were all parties.
- 1.1.3 The complaint passed both of the initial assessment tests i.e. the legal jurisdiction test and the local assessment criteria test. Having consulted the Chairman, Vice-Chairmen and Independent Person(s), my view was that the complaint should proceed to investigation.

- 1.1.4 The investigatory functions in respect of this matter have been delegated to an independent investigator. Mr Lingard is a Solicitor and former Head of Legal & Democratic Services at Guildford Borough Council. He is experienced in acting as an independent investigator, and since 2011 has conducted and reported on 25 investigations covering allegations of misconduct.
- 1.1.5 A copy of Mr Lingard's report is attached as **Annex 1**. The report is confidential at this stage pursuant to paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972. As with all exempt information decisions, the Hearing Panel must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure. In most cases the public interest in transparent decision making by the Hearing Panel will outweigh the subject member's interest in limiting publication of an unproven allegation that has yet to be determined.
- 1.1.6 If the Hearing Panel is minded to hold the hearing in public, then copies of the Investigation Report will be distributed to any persons present, and published on the Council's website.
- 1.1.7 In summary Mr Lingard has concluded that there have been breaches of the Wrotham and Borough Green Parish Councils' Codes of Conduct on the part of Cllr Harry Rayner (Wrotham PC), Cllr Robin Betts (Wrotham PC) and Cllr Mike Taylor (Borough Green PC consisting of a failure to observe the following Member Obligations –
- (1) To behave in such a way that a reasonable person would regard as respectful; and
 - (2) Not to act in a way which a reasonable person would regard as bullying or intimidatory
- Arising out of the manner in which each of them conducted themselves while on Wrotham School premises on the afternoon of Friday 4 March 2016.
- 1.1.8 Mr Lingard further concludes that there has been a breach of the Wrotham Parish Council Code of Conduct on the part of Cllr Harry Rayner consisting of a failure by him to observe the Member Obligation to behave in such a way that a reasonable person would regard as respectful arising out of the circulation of his email dated 9 March 2016.
- 1.1.9 Subsequent to the finalisation of the report Cllr Betts has sent written comments to Mr Lingard on its contents. These comments are attached **as Annex 2**.

1.2 Legal Implications

- 1.2.1 Section 28(4) of the Localism Act 2011 requires that *“a failure to comply with a relevant authority's code of conduct is not to be dealt with otherwise than in accordance with the arrangements made under subsection (6)...”*

- 1.2.2 Those arrangements are the “Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011” as adopted by the Council and attached to this report at **Annex 3**.
- 1.2.3 Therefore the entire procedure for dealing with the allegation is contained within those arrangements.
- 1.2.4 Paragraph 14 of the Arrangements provides that either a Hearing Panel or Monitoring Officer has *“the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.”*

1.3 Key Issues/ recommendations

1.3.1 The Panel are asked to consider whether

- (1) Councillors Rayner and Betts have breached the provisions of the Wrotham Parish Council Code of Conduct; and
- (2) Councillor Taylor has breached the provisions of the Borough Green Parish Council Code of Conduct.

- 1.3.2 The role of the Hearing Panel is to decide whether it agrees with the conclusions set out in the report of the Investigating Officer. The relevant standard of proof is the civil standard i.e. the balance of probabilities. This means that the Panel has to be satisfied that it is more likely than not that the Code in question has been breached.
- 1.3.3 If the Hearing Panel concludes that there has been a breach of the Code(s), the available sanctions are set out at paragraph 4 of the ‘Procedure for Investigating the Complaint’ at **Annex 3**.

contact: Adrian Stanfield

Adrian Stanfield
Director of Central Services & Monitoring Officer

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Report of an Investigation into a Complaint brought by
Mrs. Sheila Smith against Cllrs Harry Rayner and
Robin Betts of Wrotham Parish Council and Cllr Mike
Taylor of Borough Green Parish Council

Private & Confidential

Final Version

17 October 2016

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Richard Lingard – Curriculum Vitae

Educated at Magdalen College School Oxford and Southampton University, I qualified as a solicitor in 1980. I trained in private practice and spent four years in the commercial sector before going into local government.

Until my retirement in September 2011, I was the Head of Legal & Democratic Services and Monitoring Officer at Guildford Borough Council for whom I worked for some 30 years.

Since 2011, I have conducted and reported on some 25 investigations covering allegations of misconduct against City, County, Borough, Town and Parish Councillors and Council Officers and have carried out a number of procedural and governance reviews for local authorities. I also provide training sessions on ethical standards.

EXECUTIVE SUMMARY

This is my draft report of an investigation that I have carried out into alleged breaches of the Codes of Conduct of Wrotham and Borough Green Parish Councils on the part of three Parish Councillors, Harry Rayner and Robin Betts (both of Wrotham PC) and Mike Taylor (of Borough Green PC)

The matters at issue formed the subject of a complaint submitted to Mr. Adrian Stanfield, the Monitoring Officer of Tonbridge & Malling Borough Council (TMBC) by Mrs Sheila Smith on 18 March 2016 arising from events that took place at Wrotham School on the afternoon of Friday 4 March 2016.

I have concluded that there have been breaches of the respective Codes of Conduct of Wrotham Parish Council and Borough Green Parish Council on the part of Cllrs Harry Rayner and Robin Betts (WPC), and Cllr Mike Taylor (BGPC)

1. INTRODUCTION

- 1.1 The complainant in this matter is Mrs Sheila Smith, who is Chair of the Governors of Wrotham School, the Head Teacher of which is Mr Matthew Wright.
- 1.2 The complaint (reproduced as **Appendix 1**) concerns the alleged conduct of the three councillors mentioned above who arrived at Wrotham School during the afternoon of Friday 4 March 2016 (without an appointment) and asked to have a meeting with Mr. Wright about financial matters concerning the application of funds to the purchase of a replacement boiler for the school changing rooms in contravention (as they considered it) of the terms of a Community Use Agreement to which the school and both Parish Councils (amongst others) were party.
- 1.3 Mr. Wright was unable and unwilling to meet the councillors there and then because of previous commitments and the complaint is that he was prevented by the acts and / or omissions of one or more of the councillors from leaving the school premises. He also considers that he was bullied or intimidated by one or more of them.
- 1.4 All three councillors deny that they behaved otherwise than politely towards Mr. Wright and they reject the allegations that they bullied or intimidated him or prevented him from leaving the school premises.
- 1.5 An additional element of the complaint concerns Cllr Rayner only and relates to the contents of an email that he sent on 9 March 2016. Further details appear below.

2. BACKGROUND TO THE COMPLAINT AND SCOPE OF THE INVESTIGATION

- 2.1 A number of years ago, TMBC was approached by Wrotham School ('the School') to discuss the possibility of using the field adjacent to the School, Whitegates Field, as a site for an all-weather floodlit football pitch. TMBC, which owns the field, agreed to grant a lease of the field to the School.
- 2.2 The overall cost of the project was split between funding from the Football Foundation (50%) and contributions from TMBC, Kent County Council (KCC), Grange Park School, Borough Green Junior Football Club, Wrotham Parish Council (WPC) and Borough Green Parish Council (BGPC).
- 2.3 On 15 December 2010, the School entered into a Community Use Agreement (CUA) with all the funding partners mentioned above (except the Football Foundation) who were collectively defined in the CUA as the 'Steering Group'. This was, and remains, the only formal

agreement between the School and the Steering Group, subsequent discussions concerning possible revisions to the CUA not having resulted in any formal amendments.

2.4 TMBC has been represented on the Steering Group by officers from its Leisure Services Department, most recently in the person of Beverley Emmerson, Sports Development Officer, who chaired the meetings of the group. Other members nominated their own representatives and it was in this capacity that Councillors Rayner, Betts & Taylor attended meetings of the group on behalf of their respective Parish Councils.

2.5 It may be noted for information that whilst Cllrs Betts and Taylor are both members of TMBC, Cllr Rayner is not a borough councillor.

2.6 It is not necessary for the purposes of this report to detail all the provisions of the CUA but the key clause which is relevant to the matters giving rise to the complaints against the three Councillors is Paragraph 11.4, which provides as follows:

'Where it is clear that the School Facility is generating an operational surplus from the income it receives in respect of Community Use or other third party use, after all Operating Costs have been paid, such surplus will be used to create the sinking fund to: (a) maintain, repair and renew fixed life elements of the School Facility, and the School Amenities and then (if possible) to (b) increase the use of the School Facility and / or (c) improve and increase the School Facility and the School Amenities and subject to Clause 11.1 above the pricing policy may affect this'.

'Operating Costs' are defined in the CUA as being 'staff costs and administration, lighting, cleaning and routine maintenance, insurance premiums, non-capital equipment, repair and replacement and any other costs attributable to the use of the School Facilities and the School Amenities including any costs or loss caused by the negligence or willful damage of any of the Community Groups or otherwise arising from Community Use'.

The 'School Facility' is the 3G Pitch (so called and to which further reference is made below), whilst the 'School Amenities' are *'changing and car parking facilities next to or close to the WSCA forming part of the School premises.'*

It is understood that the 'WSCA' is one and the same thing as the 3G Pitch.

2.7 The issue that gave rise to the incident on 4 March 2016 was whether the School had breached the terms of the CUA by applying funds from the community use of the facility to the purchase of a new boiler for the changing facility.

2.8 The clear view of TMBC is that the purchase of the new boiler did not contravene the provisions of the CUA and that there was in any event no obligation upon the School to secure the agreement of the Steering Group to the expenditure involved.

2.9 Although, as appears below in the record of my interviews with them, Councillors Rayner, Betts and Taylor are convinced that it should be otherwise, my brief, the scope of the investigation and, therefore this report, do not extend to an examination of this issue.

2.10 Specifically, my investigation and report are confined to the manner in which the three councillors conducted themselves on 4 March and, in relation to Cllr Rayner only, to the contents of an email that he sent some five days later to a number of parties and in which he is alleged to have impugned the integrity of the School's Governors and Head Teacher.

3. PROVISIONS CONSIDERED

3.1 In common with arrangements at all local authorities, WPC and BGPC members are required to comply with a Code of Conduct. Both councils have adopted the NALC Code of Conduct, the text of which is set out in **Appendix 2** to this report.

3.2 Although the complainant in this case did not specify which paragraph(s) of the Code she considers that the councillors may have breached, nor is she under any obligation to do so, I agree with Mr. Stanfield's view that the following paragraphs are relevant here:

'Member Obligations

1. *He / she shall behave in such a way that a reasonable person would regard as respectful*
2. *He / she shall not act in a way which a reasonable person would regard as bullying or intimidatory'*

3.3 TMBC has its own Code of Conduct but as neither Cllr Betts nor Cllr Taylor, both of whom are TMBC members, were acting in that capacity on the day in question, the TMBC Code has no application in this matter.

3.4 In conducting my investigation I have therefore assessed the complaint against those paragraphs of the Code cited at Paragraph 3.2 above.

4. PROCESS TO DATE

4.1 Following an initial contact from Mr. Stanfield on 27 April 2016 and a preliminary exchange of emails, I was appointed to conduct this investigation and provided with hard and electronic copies of a number of documents including the following:

- Complaint Form
- Initial Responses of the Subject Members
- Various Correspondence and copy emails
- The NALC Code of Conduct
- Community Use Agreement
- Email confirming TMBC's view as to the alleged breach of the CUA
- Press articles
- Contact Details

4.2 Following my receipt and perusal of this material I contacted the complainant Mrs Smith (and through her, the Head Teacher Mr. Wright) and all three councillors by email on 1 May with a view to arranging to meet and interview them.

4.3 I made arrangements to meet and interview Mrs Smith, Mr. Wright, the Deputy Head Teacher Michael Cater, Mr. Wright's PA Mrs Rachel Martin and School Receptionist Mrs Sue Reeve all on the same day, Tuesday 10 May, at Wrotham School.

4.4 I was not able to interview the three councillors quite so quickly as they declined to meet me individually, expressing a strong wish to be interviewed together and the first date upon which it proved possible to get together was not until Wednesday 6th July.

4.5 It should be noted that the following paragraphs set out the versions of events and opinions of the respective interviewees. Their inclusion here does not carry any endorsement on my part as to their veracity or otherwise.

5. MR. MATTHEW WRIGHT

- 5.1 In accordance with my normal practice and with Mr. Wright's consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I subsequently submitted to him by email for comment. He approved my draft with minor amendments and the following paragraphs are drawn from that note as amended.
- 5.2 Matthew Wright (MW) has been Head Teacher of Wrotham School since January 2012. He described the school, which has approximately 100 staff, as a smaller than average secondary school, catering for some 750 children aged 11 to 18.
- 5.3 Whilst he is obviously aware of the existence of the Community Use Agreement (CUA), it predates Mr. Wright's time at the school. The 3G pitch had been in use for about four months when he took up his post. He confirmed that Mr. David Day, who is the Wrotham School signatory to the agreement, was his predecessor as Head Teacher.
- 5.4 MW first became aware of the nature and content of the CUA when he became involved with the Steering Group, although this was at his own instigation, no one else having referred him to it. He does not believe that the CUA was regularly used by the Steering Group, and does not believe members of the steering group have ever reviewed it. He considers that the CUA very clearly indicates that the use of surplus funds for the purchase of a new boiler for the changing facilities was perfectly legitimate and said that his view on this important point had subsequently been vindicated by confirmation to that effect from the TMBC legal team.
- 5.5 MW attends meetings of the Steering Group, although he has not been to every single one. He is the sole representative of the school at the meetings.
- 5.6 He explained the background to the issue of the boiler in brief, as follows. The changing rooms across the car park from the main school premises are part of the 3G facility and are used by some of the Wrotham School students, including sixth form members of the Football Academy who train there and represent the school in an Academies League. Sometimes other students use the facilities, but hirers from the community also use it, and this is where the income (and hence surplus) originates.
- 5.7 The income from hirings goes into a separate bank account called 'Wrotham 3G' which is linked to and managed by the school. The 3G facilities are managed by a Mr. Phil Garland who is a community volunteer for Borough Green Juniors Football Club. He represents them on the Steering Group and has managed the 3G pitch since about September 2015. His appointment reflected the need to ensure not only that the pitch was maintained to an acceptable standard, but also that bookings were properly organised and paid for. Mr. Garland is self-employed and invoices the school in respect of his work. He has established good relationships with the users and is thus in a good position to generate more income.
- 5.8 It was Mr. Garland who identified the need for a new boiler. He mentioned that a number of users had expressed dissatisfaction that the existing one was not functioning properly and that users could not be guaranteed hot showers or washing facilities. Some users had made representations about refunds and / or cancellation of bookings, so the matter was considered urgent. Three quotes were accordingly secured and an order was placed.
- 5.9 The decision as to the source of funding to meet the cost of the replacement was made by MW and his Finance Director.
- 5.10 MW confirmed that he knew all three councillors against whom the complaint has been made. Cllr Rayner had at one time been a Governor of the School but once it achieved

Academy status, he was, so MW understood, debarred from office by virtue of having on one or more occasions been declared bankrupt.

- 5.11 As to Cllr Taylor, MW really only knew him from the Steering Group, although he had met him on one or two previous occasions in his role as a local Parish Councillor.
- 5.12 MW had only known Cllr Betts for a few months, in his capacity as a member of the Steering Group.
- 5.13 All three have attended meetings of the Steering Group held in MW's office.
- 5.14 The context of the events of 4 March can be summarised thus. On Tuesday 1 March, Mr Garland came into the school for one of his regular weekly finance monitoring meetings with the School's Resource Manager and noted a transfer of some £11,295 from the 3G Account into another School account in respect of the boiler invoice. He subsequently contacted Beverley Emmerson, TMBC's Sports Development Officer and Chair of the 3G Steering Group (BE), and told her that the school had transferred the funds.
- 5.15 I asked MW why he thought Mr. Garland had not raised this matter with him given that he (MW) presumably knew what the transfer was for. I asked whether he considered that Mr. Garland might perhaps have thought that the money should have come from somewhere else. MW told me that he thinks that Mr. Garland may have jumped to a conclusion regarding the amount, either because he thought it was more than the cost of the boiler, or perhaps because he felt that the school should have been using other funds to pay for it.
- 5.16 Beverley Emmerson (BE) then sent MW a '*curt and aggressive*' email expressing concern at the fact that this payment had been made without any authorisation from the Steering Group. MW responded the same day suggesting that the roles and responsibilities of the various parties to the CUA be clarified.
- 5.17 He also attached a copy of the CUA, highlighting the various paragraphs that in his view made it clear that application of funds to the cost of the new boiler was entirely appropriate. He also pointed out that the CUA does not require the school to secure authorisation from the Steering Group for any expenditure and that the financing and management of the facility are the preserve of the school.
- 5.18 Further email exchanges followed in which BE inter alia questioned the fitness for purpose of the CUA but in due course TMBC confirmed that the school had not in fact contravened the terms of the agreement.
- 5.19 As it had been raised in some of the correspondence with which I had been provided at the outset of the investigation, I asked MW to clarify the relevance (if any) of the dismissal of the School's former Business Manager, Mrs Jean Pankhurst, to the matter of Mr Garland's querying of the transfer and the complaint against the three councillors. His response was as follows:

'My position is that I have always been open with the steering group about the financial arrangements as demonstrated by the fact that I brought my concerns to that group when we had had to suspend the Business Manager back in December 2014. However, it is my belief that certain members of the group including Cllrs Rayner and Taylor, believe that during the period of poor financial management by the ex-Business Manager, funds generated by income from the 3G pitch were being used to fund expenditure in other areas of the school. There is no evidence of this, but there is evidence that the income figures reported to them by our ex-Business Manager were inflated, and that is where I believe their perception of there being more money came from.'

- 5.20 Turning now to the events of Friday 4 March, MW received an email from BE at 11.30am that day 'insisting' on a full reimbursement of the £11,295 and requiring an emergency meeting at 4.30pm that afternoon. MW replied that he could not meet that day but suggested a full examination of the issues at a scheduled meeting due to be held some 11 days later. A copy of that exchange of emails is at **Appendix 3**.
- 5.21 Later that day, at around lunchtime, Cllr Rayner arrived at Reception and asked to see MW. He wanted to talk to him about the expenditure and to see if he could help avoid the situation getting out of hand. Sue Reeve, the School Receptionist, spoke to MW's PA, Mrs Rachel Martin (RM) who in turn tracked down MW who was on duty in the playground. MW told her to tell Cllr Rayner that he could not see him that day as he was on duty at that time and fully committed for the remainder of the day. RM did so, and also told Cllr Rayner that MW had received and replied to BE's email of that morning and that he would forward a copy of that email to him (he subsequently did so). Cllr Rayner then left, having been on the premises for perhaps ten minutes.
- 5.22 Later that afternoon, MW was in a meeting with some parents and shortly after they had left, while he was reviewing the week with the Deputy Head, Michael Cater, RM hurried into his office and told him that Cllrs Rayner, Betts and Taylor were in Reception demanding to see him. He decided to go and see them. He collected his bags and coat, went out to Reception and expressed surprise that they were there given that Cllr Rayner had already been told that he could not see him that day. He told them that on Fridays he had to leave by a certain time to collect his son from a schoolfriend's house and take him home.
- 5.23 The councillors said that they did not need long but MW said to me that the fact that they had arrived unannounced made him less inclined to accede to their request, even for a short meeting. He told them that he had been in touch with BE and had suggested to her the date of a scheduled meeting at which the issues could be sorted out.
- 5.24 MW then told the Councillors that he was leaving and either Cllr Rayner or Cllr Taylor said "*Well, good luck with that mate*" in a '*cocky*' way. MW did not appreciate what was meant by that remark until he stepped outside and saw that Cllr Taylor's van had been parked in such a way that his (MW's) car was completely boxed in, parked nose to the fence and flanked by cars belonging to other members of staff. Cllr Taylor's van was parked behind and in line with MW's car, a matter of one or two feet away from it.
- 5.25 When MW came back into Reception he saw all three councillors '*nudging and winking at each other as if the whole thing was a huge, hilarious joke*'. MW told them that their behaviour was ridiculous and that he had to leave immediately to pick up his son. They simply repeated that they needed to speak to him and would not listen to what he had to say. MW told them that they were behaving like bullies and that they should be ashamed of themselves. They refused to move the van and MW said that he would have to call the police. The response was again "*Good luck with that – we'd love to talk to the Police*".
- 5.26 MW told me that he had had to focus on 'remaining the adult' and not rising to their behaviour. He felt as though they were trying to goad him into reacting.
- 5.27 Cllrs Rayner and Taylor were standing next to each other, grinning at each other, and Cllr Rayner appeared to be saying "*Well done*" to Cllr Taylor, as if they were sharing a private joke. Cllr Betts' demeanour was slightly less provocative although MW said that he (Cllr Betts) could have chosen to leave at any time had he thought that the situation was getting out of hand. Given that he did not do so, MW feels that they were all as bad as one another.

- 5.28 MW is convinced that Cllr Taylor could easily have parked somewhere else in the car park without blocking him in and that that Cllr Taylor knew very well which was his car and that blocking him in was a quite deliberate act.
- 5.29 MW then called the Police (on 101) from his office explaining the situation. He told them that he did not consider that he was in any danger. In the event, the police were unable to send anyone to the school until after all concerned had dispersed, but they did subsequently take statements.
- 5.30 Shortly afterwards, Cllrs Rayner and Betts and left and reappeared by the school gates with Cllr Taylor who left his van blocking MW's car in and walked to the gates to join the other two. The three of them stood by the gates, apparently taking 'selfies' of themselves with MW's car and MT's van in the background – MW watched this from his office window and photographed them doing so.
- 5.31 MW & Deputy Head Michael Cater (MC) were 'stunned and disbelieving' of what had happened. Eventually the three councillors disappeared. MW and MC looked at the car situation and because the cars flanking MW's had now gone, MW was able to extract his car from in front of Cllr Taylor's van. He then parked it next to the van and took a photograph of the two vehicles. He, MC and RM then locked up the school and made to leave but as they did so, the three councillors appeared from behind the 3G changing rooms and were taking photos of them. MW wanted to get away and he and the others drove off.
- 5.32 When he reported the events of the day to Chair of Governors Sheila Smith, she wrote to the three councillors banning them from the school premises. The Police came to the school and took statements on Monday 7 March.
- 5.33 A photograph which later appeared as part of a report on the incident in the Sevenoaks Chronicle (see **Appendix 4**) was taken after MW had managed to manoeuvre his car out after the cars either side had gone - see further below. MW said that the school did not respond to the article in the Sevenoaks Chronicle, feeling it was better to maintain a dignified silence.
- 5.34 The first subsequent contact was an email of 9 March from Cllr Rayner, copied to Darren Lanes (BE's Line Manager), to BE and others (See **Appendix 5**). Others to whom the email was copied included Pat Darby who is a BG Parish Councillor and Pete Donovan, a local man who volunteers for one of the football clubs.
- 5.35 MW takes particular exception to the references to a 'slush fund' and his 'golden handshake'. MW has no plans to leave the school and does not know how this suggestion originated. He said that Cllr Rayner claims to have got the notion from one of the Governors but added that the Governors all denied speaking to him about this.
- 5.36 MW also confirmed that although she had lodged an Employment Tribunal claim, Mrs Pankhurst was not taking action against him personally.
- [NB, I was subsequently advised that Mrs Pankhurst's claim was withdrawn after the case had opened and she was ordered to make a contribution to the School's costs].*
- 5.37 MW spoke to his trade union about Cllr Rayner's email. They felt very strongly that the Governors should address the issue. The Governors agreed and instructed a solicitor to write a 'cease and desist' letter to Cllr Rayner.
- 5.38 MW confirmed that the complaint against the three councillors encompasses the email of 9 March from Cllr Rayner as well as the events of 4 March.

- 5.39 MW told me that Cllr Betts' children subsequently wrote to the Chair of Governors protesting that because of her ban, their father would not be able to watch them play football at the school – Mrs Smith wrote back saying that he would be welcome to do so if he wrote a letter of apology. He has not done so. MW described the children's letter as a 'cheap shot'.
- 5.40 MW summarised the behaviour of the three councillors as aggressive and intimidating in front of staff and one of the students at the school (See Mrs Reeve's statement below).
- 5.41 Michael Cater finally got rid of the three Councillors by citing the safeguarding regime and instructing them to leave.
- 5.42 MW concluded by saying that he had worked in education for twenty years in some of the most difficult areas of Kent (Wrotham not being one of them), and had dealt with difficult communities and difficult parents but had never experienced anything like this incident in which he was prevented from leaving his place of work.
- 5.43 He considers that all three councillors breached both cited paragraphs of the Code of Conduct, relating to respect, bullying and intimidation. He considers himself to be strong and resilient but admits that he was very shaken by the events of 4 March.

6. MR. MICHAEL CATER

- 6.1 In accordance with my normal practice and with Mr. Cater's consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I subsequently submitted to him for comment. He approved my draft with minor amendments and the following paragraphs are drawn from that note as amended.
- 6.2 Mr Michael Cater (MC) has been Deputy Head Teacher at Wrotham School for four years and has a wide range of duties including Teaching & Learning, staff appraisal, budgeting and generally assisting in the running of the school.
- 6.3 We spoke about the events of 4 March. MC was aware that Cllr Rayner had been to the school at lunchtime because MW had told him about the matter later in the day.
- 6.4 MC and MW generally have a weekly 'wash-up' meeting on Friday afternoon in MW's office, which overlooks the approach to the school's main entrance and during their meeting on the afternoon of 4 March, MW spotted the three councillors walking up the path towards the door.
- 6.5 MW asked MC to accompany him to Reception. Cllr Rayner 'declared' that they had 'come for the meeting' but MW explained that there would be no meeting as he was already committed for the remainder of the day and that he would have expected any such meeting to be properly booked in advance rather than demanded on the spot. He added that the proper forum for discussing the matter at issue was the 3G Steering Group, which holds regular meetings.
- 6.6 At that point, the three councillors refused to leave. Cllr Rayner appeared to be speaking for the group. He said that the matter was important and urgent. MC did not at that stage know the ins and outs of the financial arrangements in relation to the replacement of the boiler.
- 6.7 MW decided at that point to collect his belongings and leave so he and MC went back to his office. As MW walked out of the front door, he noticed that Cllr Taylor's van was blocking his car in, as it was flanked by cars on either side.

- 6.8 MC took some photographs, illustrating the position of the cars. MW then returned to the school building and said to Cllr Taylor (because it was clearly his van): *“Have you really blocked me in?”* Cllr Taylor just shrugged. MW commented that this was not an appropriate way of dealing with the matter. Cllr Rayner repeated his comment about the importance of the matter while the other two said nothing. He mentioned misappropriation of public money and said that he would not leave until he had had a meeting.
- 6.9 MW & MC returned to MW’s office and then MC went back out to see the three councillors and told them that their behaviour was ridiculous and that they would have to leave.
- 6.10 MW phoned to make alternative arrangements to pick up his son from his friend’s house and MC agreed that he would stay with MW until the situation (which MC described to me as ‘quite intimidating’) had been resolved. They then returned to Reception and MW told the councillors that if they did not leave, he would call the Police. He subsequently did so.
- 6.11 MC asked the councillors if they had signed in.
- [MC told me at interview that he thought that they had not signed in but Mr. Wright has since confirmed that they did all sign in, at 3.30pm and that Cllr Rayner had also signed in, at 1.30pm, on the occasion of his earlier visit.]*
- 6.12 MC declined to provide the councillors with visitors’ badges and asked them to leave the site. They complied but as he walked past MW, Cllr Taylor said *“Good luck with moving that”* – a clear reference to his car. MC is quite clear that it was Cllr Taylor who said this. The three of them then went and stood outside the school gate where Cllr Taylor lit a cigarette and Cllr Betts started taking ‘selfies’ of them.
- 6.13 MC then went outside and took some pictures of Cllr Taylor’s van and of the councillors at the gates.
- 6.14 After about 30 minutes they appeared to move away from the gates. By this time, the cars either side of MW’s car had gone and MW was able, with guidance from MC, to manoeuvre his car out. They then locked up the school, MW having called the Police again and told them that the immediate problem had been resolved and that there was now no need for their attendance.
- 6.15 MC got into his car and Cllr Betts walked across the car park and took the (misleading) picture of MW’s car and MT’s van that later appeared in the Sevenoaks Chronicle. MC got out of his car and asked them again to leave. Cllr Rayner said: *“You can’t do that - this is Council business”*. MC replied that this was a safeguarding issue and that he was within his rights to ask them to leave. Cllr Betts appeared to be filming or photographing using his mobile phone throughout. At this point, everyone left the site.
- 6.16 MC said that he had never come across such a bizarre situation in his 16-year career in schools. He added that professional etiquette demands a sensible and polite approach to the organisation of meetings and only in extreme emergency, perhaps involving the safety of a child, would a meeting be arranged at the drop of a hat. He said that the situation was so odd that he and MW had to remind themselves of what was happening and to ensure that they reacted appropriately and in a calm and sensible way.
- 6.17 MC said that Cllr Rayner did almost all the talking. Cllr Betts said almost nothing but the three of them were quite clearly acting as one. At times, there was eye communication and wry smiles exchanged between them.

- 6.18 MC is not sure what any meeting would have achieved and felt that the whole episode was more about posturing and gesturing. There was clear collusion – at any point, one of the councillors could have broken away on the basis that this impasse was not what they had come to the school for, but none of them did so.
- 6.19 MC estimates that from the time they arrived to the time they finally left, the councillors were on or around the school premises for about two hours.
- 6.20 He is sure that Cllr Taylor knew which was MW's car and that he had quite deliberately blocked it in.
- 6.21 MC had come across Cllr Taylor in relation to school events but had never spoken to him but he had had no previous contact with Cllrs Rayner or Betts, although he knew that they were members of the 3G Steering Group.
- 6.22 MC recalled that there was a girl in Reception whom Sue Reeve was looking after pending the arrival of her mother and that she removed her when the 'standoff' developed. Other children were aware that 'something was going on' out in the car park.
- 6.23 MC also commented: "*The kids were talking about the incident the following week*". They asked whether Mr. Wright had been taken hostage, whether he was back at school and whether he was OK. MC is unaware of any parents complaining or raising any issues about the report in the paper and said that the staff dealt with any queries in a very low-key manner. He said that the report effectively dropped out of the news very quickly, despite Cllr Taylor trying to link it out through his Facebook page.
- 6.24 MC considers that the publicity given to the incident had the potential to undermine the authority and reputation of the school and its staff and although he is not aware that the school has suffered any reputational damage, it is conceivable that potential parents might be concerned about very public allegations of financial irregularities made untruthfully by people in positions of authority locally.
- 6.25 He concluded by commenting that Cllr Betts knew very well that the photo he took of Cllr Taylor's van and MW's car after MW had moved his car was going to be misleading and intended to deceive. The school did try to get the misleading photos taken down from the paper's website, but to no avail.

7. RACHEL MARTIN

- 7.1 I next interviewed Mrs Rachel Martin (RM). In accordance with my normal practice and with her consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I subsequently submitted to her for comment. She approved my draft with minor amendments and the following paragraphs are drawn from that note as amended.
- 7.2 RM is PA to MW and Clerk to the School Governors. She has been at the school for over 15 years and very much enjoys her job.
- 7.3 She told me that at about 1.30pm, on Friday 4 March, Cllr Harry Rayner arrived at the school and asked to see MW. RM went to find him and then relayed the message that he could not see him that day. She offered to help in any other way but Cllr Rayner declined and left the premises.
- 7.4 He came back at about 3.45pm with Cllrs Taylor & Betts. RM explained that MW was in a meeting with some parents and could not confirm whether he would be available after that meeting had finished. She offered to make alternative arrangements but this offer was

declined by the councillors who were insistent that they would not leave until they had seen MW.

- 7.5 MW's meeting with the parents finished and MW then came out of his office and attempted to leave but was unable to do so because Cllr Taylor had blocked his car in. RM was able to see this from her office window. Her office is between MW's office and the Reception area so she was aware of what was going on outside although she could not hear all that was being said or by whom.
- 7.6 RM was the last to leave (having locked up the school with MC) at about 5pm. She is not sure whether Cllr Taylor's van was still there at the time.
- 7.7 RM knew Cllr Rayner as a previous governor of the school and knew Cllr Taylor because he had been to previous 3G meetings. She had not come cross Cllr Betts before.
- 7.8 RM's involvement was in essence confined to '*relaying messages and shuttling*' between Cllr Rayner and MW and, later, between MW and the three councillors, explaining that whilst MW was not immediately available, she was happy to make alternative arrangements for them to meet him.
- 7.9 RM said that the councillors were not rude to her but that they made her feel very uncomfortable because they refused to leave and would not accept her offer to make alternative arrangements. She regarded Cllr Taylor's conduct in blocking MW in as '*extremely unprofessional*'.

8. SUE REEVE

- 8.1 The final member of school staff whom I interviewed was Mrs Sue Reeve (SR). In accordance with my normal practice and with her consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I subsequently submitted to her for comment. She approved my draft with minor amendments and the following paragraphs are drawn from that note as amended.
- 8.2 SR has been 'part of the school' for 31 years, firstly as a teacher and, for the last two years, as Receptionist.
- 8.3 She was on Reception on Friday 4 March when Cllr Harry Rayner arrived at lunchtime. SR and her husband (who is a Governor of the School) have known him for many years. He asked if he could see MW. SR went to find RM who then came out to see him. He left shortly after RM had told him that MW would not be available that day.
- 8.4 Just after school had finished, Cllr Rayner returned, with Cllrs Taylor and Betts (both of whom SR knows). They asked to see MW. SR did not know whether they had an appointment. She is aware that MW normally leaves slightly early on Fridays and told me that she would have been surprised if he had arranged an appointment at that time. She fetched RM, who told the three councillors that MW was unavailable but they refused to leave until they had had five minutes of his time. She said that Cllr Rayner was doing most of the talking.
- 8.5 SR was at that time looking after an eleven-year-old pupil who had missed her bus and was awaiting the arrival of her mother who was coming to collect her. SR took her away from the area because she felt it was not appropriate for her to be in the same room where a conflict appeared to be in the offing. She did not believe that there were any particular raised voices:

'...just what amounted to harassment of the Head Teacher by the three councillors (mainly Rayner and Taylor). The reason I removed (the girl) was because I felt very uncomfortable that she was witnessing three adults verbally bullying her Head Teacher, something that we constantly tell our pupils is wrong and is not allowed. I had already made the decision to remove her from the situation before any mention of police involvement'.

- 8.6 The girl's mother subsequently arrived to collect her.
- 8.7 MW then came out of his office and told the three councillors that he had to leave but they kept 'badgering' him. However, he could not leave because Cllr Taylor had parked his van behind his car and blocked him in – *'a very silly thing to do when there was plenty of space'*.
- 8.8 MW asked Cllr Taylor to move his van *'but they kept on about needing just five minutes'*.
- 8.9 Mr. Cater then asked the three councillors to leave and they eventually did so, although they were still at the gate when SR left the premises at about 4.15pm. SR had to be careful how she manoeuvred her car when she left because Cllr Taylor's van was behind her car, albeit not blocking it in.
- 8.10 When SR got home, she told her husband what had happened and he rang MW as he was concerned for him.
- 8.11 SR said that if children at the school had behaved in this manner, the staff would be concerned. She thinks that the three councillors *'let themselves down very badly'*. She added that the incident has made it difficult for her and that she now crosses the road to avoid any of them and she has also stopped patronising Cllr Betts' cheese business.
- 8.12 SR believes that all three councillors breached the cited paragraphs of the Code of Conduct – she thinks they were intimidating, by contrast with MW, who, she said, behaved impeccably throughout.
- 8.13 She said that Cllr Taylor *'has done some good things in the village'*, albeit he has always been *'a bit headstrong.'* Although she respects the fact that he fights for what he believes in, she considers it quite wrong to be rude and that his behaviour on 4 March was *'not becoming of a gentleman'*. She thinks that the three councillors should have left when asked to do so and arranged an appointment.
- 8.14 SR does not think that the newspaper report about the incident did the school any lasting harm and commented that a lot of local people know Cllr Taylor to be *'headstrong and outspoken'*.

9. MRS SHEILA SMITH

- 9.1 Having met and interviewed the school staff, I met Mrs Sheila Smith, Chair of the School Governors (SS). In accordance with my normal practice and with her consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I subsequently submitted to her for comment. She approved my draft with minor amendments and the following paragraphs are drawn from that note as amended.
- 9.2 Mrs Smith is the complainant in this matter. She has been in teaching for almost 50 years in various roles including a deputy headship and a headship. Since her retirement she has provided teacher training and now inspects British schools abroad.

- 9.3 She has been Chair of the Governors at Wrotham for three years. There are twelve governors altogether. None of the three councillors the subject of her complaint is a governor of the school, although Cllr Rayner was one for a short time after she joined.
- 9.4 She regards the school as a successful and happy establishment.
- 9.5 SS first became aware of the incident on 4 March when MW told her about the email from Beverly Emmerson (BE) in which she had demanded repayment of the disputed funds and insisting on an urgent meeting at 4.30 pm that afternoon. While SS was in the school, MW told BE that he could not meet that day as he was already fully committed.
- 9.6 MW subsequently telephoned SS in a quite agitated state and explained that the three councillors had arrived, demanded to see him, blocked his car in and refused to leave. SS volunteered to come into the school and speak to the three of them. She did go to the school, but by the time she had arrived from Crowborough, MW and the councillors had all left the school.
- 9.7 She spoke to MW later in the evening and he told her in some detail what had happened. She then sent an email to BE:

*From: morillon@live.co.uk
To: emmerson@tmbc.gov.uk
Subject: Wrotham School
Date: Fri, 4 Mar 2016 18:20:21 +0000*

*Dear Ms Emmerson,
What happened this afternoon at Wrotham school was disgraceful and indeed criminal. In our opinion three members of your committee were guilty of aggravated obstruction and holding Mr Wright hostage in the school, both serious criminal acts. We will now consider our actions from here and I will meet with Mr Wright on Monday to discuss what we do. You will appreciate that what happened today makes it impossible for the school to work with the existing committee and we will be seeking professional advice as to how we move forward with the 3G pitch.*

*Yours Sincerely
Sheila Smith
Chair of Governors*

- 9.8 SS sent this email to BE in the latter's capacity as Chair of the 3G steering committee of which the three councillors are members as Parish representatives.
- 9.9 MW did not tell SS about Cllr Rayner's earlier visit that day.
- 9.10 Although SS banned all three councillors from the school site (as described to me by MW), she is aware that Cllr Rayner has subsequently been on site, but she has '*not risen to that*'.
- 9.11 She regarded their conduct as aggravated obstruction and, in effect holding MW hostage because he could not get his car out.
- 9.12 The boiler expenditure issue was discussed under AOB at a scheduled meeting of the Governors on 10 March and this led on to a discussion of the events of 4 March. Mr. Nigel Newman, one of the Governors who had himself been a Parish Councillor, felt that a complaint should be lodged. Mr. Newman secured details of the complaints procedure and passed it to SS who in turn sent her letter to TMBC.

- 9.13 SS wrote to the Monitoring Officer at TMBC on 18 March. The fact that the email from Cllr Rayner dated 9 March was impugning the Governors encouraged SS, rather than MW to lodge the complaint. The Governors were shocked and outraged by Cllr Rayner's email and the conduct of the councillors.
- 9.14 SS's understanding of the Community Use Agreement is that the use of the surplus income to replace the boiler (the need for which had been identified to MW by Mr Garland) was quite legitimate and she said that the aggression that the incident had generated came as quite a surprise to her (and others).
- 9.15 SS understands that the Leisure Development staff sought legal advice that culminated in confirmation that there had been no breach of the Community Use Agreement.
- 9.16 SS has no direct involvement with the 3G budget, although she is aware that MW has been keeping the Governors informed.
- 9.17 SS told me that the problems with Mrs Pankhurst that MW had described to me have no direct bearing on 'the boiler issue'. It was not a matter of her being 'on the take' but more of the provision of inaccurate information – she was painting a rosier picture than was actually the case and SS believes that this may have given the councillors the impression that there was a background of concern. Mrs Pankhurst has now been replaced by a new very good bursar.
- 9.18 SS had had no dealings with the three councillors other than seeing Cllr Rayner at some Governors meetings shortly after she took up her post. She has never met Cllr Taylor or Cllr Betts.
- 9.19 In conclusion, SS said that she was shocked by their behaviour, '*...which is the sort of conduct one would expect from teenagers*'.

10. THE COUNCILLORS' RESPONSE

- 10.1 As noted above, the three councillors wished to be interviewed together and arrangements were made for me to see them at Potter's Mede on 6 July.
- 10.2 In accordance with my normal practice and with their consent I made a digital audio recording of our conversation and used it as the basis of a draft note that I submitted simultaneously by email the following day to all three councillors for comment.
- 10.3 Cllr Taylor approved my draft by return with minor amendments, but I did not hear from Cllrs Rayner or Betts until 2 August. They sent a joint response and made some amendments to and commented on the notes and sent their comments under cover of a lengthy email that raised a number of issues in relation to the events of 4 March. The following paragraphs are drawn from my notes as amended by the three councillors.
- 10.4 Following my introduction as to the purpose, format and terms of reference of the investigation, I asked why the three councillors had wanted to be interviewed together and had declined to be interviewed individually.
- 10.5 Cllr Taylor said that he had a 'fairly jaundiced' view of the whole Standards procedure and that his main concerns were that the investigation was not looking at the whole situation relating to what he saw as misapplication of funds by the school but only at what he described as the 'narrow issue' of the alleged behaviour of the three councillors which he believed had been taken out of context.

- 10.6 His instinct, upon learning that I was not going to investigate the alleged misappropriation of funds, was to decline to participate but in deference to his colleagues he wanted to support them and was therefore happy to participate.
- 10.7 Cllr Betts' perception is that as all three councillors are volunteer members of the 3G Committee, and attended the school on 4 March in that capacity, they should be interviewed as a committee.
- 10.8 Cllr Rayner said he had nothing further to add.
- 10.9 In response to a question from Cllr Betts, I clarified the exact nature of the brief I had been given by Mr. Stanfield and confirmed that I was concerned solely with the events of and their behaviour on the afternoon of 4 March and, in relation to Cllr Rayner only, with the contents of the email that he had sent to Darren Lanes at TMBC on 9 March.
- 10.10 I explained that my understanding was that the TMBC lawyers had concluded that there had not, as alleged, been a contravention of the Community Use Agreement.
- 10.11 Cllr Rayner said that at a subsequent meeting, TMBC Solicitor Kevin Toogood had apologised that that advice had been incorrect.
- [NB: I undertook to follow this point up and subsequently received confirmation from Mr. Toogood via Mr. Stanfield that no such apology had been given and that the advice that there had been no breach of the CUA stood]*
- 10.12 Cllr Taylor said that their alleged behaviour on 4 March came about as a direct result of the misappropriation of funds and that to view their conduct in isolation meant that I could not do my job properly. I pointed out that regardless of whether there had been any misappropriation of funds, there still remained in place standards of behaviour imposed by the Codes of Conduct by which as Parish Councillors, all three were bound.
- 10.13 Cllr Taylor said: *"All three of us did comply"*. I acknowledged that this was their view but explained that I had to decide whether I agreed with that assertion, the contrary view having been expressed by Mr. Wright and others.
- 10.14 Cllr Betts considers that the way in which they conducted themselves on 4 March (which he contends was entirely properly) had no bearing on the matter of the misappropriation of funds. He emphasised that a decision had been made by the 3G Committee that a meeting was necessary to address the allegation, that the Chair of the Committee, Beverley Emmerson had asked for a meeting and that this had led to the arrival of the three councillors at the school on 4 March.
- 10.15 I confirmed that I was well aware of why they went to the school but that it was the manner in which they conducted themselves while they were there that was the subject of the investigation.
- 10.16 I asked for clarification of the direct relevance of the Employment Tribunal case brought against the school by Mrs Jean Pankhurst, the school's former Business Manager, which matter had been mentioned in a lengthy email dated 24 May from Cllr Rayner to Cllrs Betts and Taylor and copied (I believe inadvertently) to me.
- 10.17 Cllr Rayner confirmed that Mrs Pankhurst had withdrawn her claim. He said that he had been prepared to provide a statement in support of Mrs Pankhurst and he considers that the Code

of Conduct complaint against him was motivated, at least in part, as a means of intimidating him and discouraging him from supporting Mrs Pankhurst in her claim against the school.

- 10.18 I then asked if one of the councillors could explain what it was that brought to their attention the allegedly inappropriate expenditure on the boiler.
- 10.19 Cllr Taylor said that some fifteen months previously the school had found itself in a very difficult position due to the loss of the services of Mrs Pankhurst. Arising from that, MW had asked for a meeting of the 3G Steering Committee and explained to that meeting that the school could no longer meet its obligations under the CUA. Flowing from that, a series of meetings was held at the beginning of 2015, culminating in the school asking the Committee to put someone forward from the Group to take over the day to day management of the 3G facility.
- 10.20 Phil Garland, an adult member of the football club, volunteered to take this on. It was agreed that funds that would be made available to pay him. For his part, Mr. Garland provided a much closer watch on the way in which funds were expended and the way in which income was collected and matched against the use of the 3G pitch. These matters had not received the attention they deserved when the arrangements had been under the management of the school. Mr. Garland is not paid wages as such - rather he is a contractor to the school.
- 10.21 Mr Garland drew the Committee's attention via an email to a statement he had seen which showed that some £11,400 had been removed from the 3G account.
- 10.22 Cllr Betts said that before this email came into the public domain, he had attended a 3G Committee meeting on 8 February 2016, a week before the expenditure referred to above had become apparent. Every aspect of the 3G pitch finances had been discussed in detail at that meeting, which was attended by MW.
- 10.23 An explanation for this action was sought but was not forthcoming. It subsequently transpired that the funds had not been paid out of the account in a way that might have been expected. There was no invoice / payment trail. Instead, it was block transferred to the school's account in such a way that the 3G Committee were unaware of what exactly was going on. Some £4000 of this money was not applied to the purchase and installation of the new boiler.
- 10.24 I asked Cllr Rayner what had prompted him to go to the school at lunchtime on 4 March. He explained that he had been at a meeting at the TMBC offices that morning and that BE had called him out of the meeting *'two if not three times'*, to keep him apprised of a potential meeting that he and other members of the 3G Committee had requested be arranged with MW.
- 10.25 Cllr Rayner explained that he was a former governor of Wrotham School. He had served two terms in this capacity, the most recent coming to an end in 2013. He was hoping that on 4 March, he would be able to have a quiet word with MW, with whom he had always previously been on good terms, to see if he could help diffuse the situation and head off a major problem. He wanted to suggest that MW speak to the 3G Committee whom, he felt, would be helpful to him, particularly if, for example, there was a cash flow problem.
- 10.26 Cllr Rayner said that in his view, the members of the 3G Committee were likely to be sympathetic to the management of Wrotham School if they were advised that the funds had been removed on a temporary basis for repayment at a later date once the School was in receipt of further funding.
- 10.27 I confirmed that I had seen copies of BE's email to MW at 11.32am on the morning of 4 March, 'insisting' on a meeting at 4.30pm that day and of MW's reply of 11.41am telling her

that he could not meet at that time but suggesting discussing the matter at a scheduled meeting some eleven days later. Cllr Rayner said he had not seen the email but imagined that it would have been along the lines that the Committee would want to seek a meeting.

*[As a point of information, the email (see **Appendix 3**) indicates that it was copied to a number of people including all three councillors, albeit they may not have picked it up as quickly as MW did and in fact Cllrs Rayner and Betts told me that neither of them had seen the email before they went to the school on the afternoon of 4 March.]*

- 10.28 Cllr Rayner said that he was aware 'that a meeting had been called (or called for?)'. He had not seen the email because he had been in meetings at TMBC and County Hall and he went directly to the school. He did not, at the time he set out for the school, know whether a meeting had definitely been arranged for 4.30pm that day, only that one had been requested.
- 10.29 On arrival at the school at lunchtime, Cllr Rayner saw RM who took him in to the Deputy Head's office and left him there while she went to see if MW might be available. Cllr Rayner explained that he just wanted a quiet word with MW to see if the situation could be defused. RM returned a few minutes later and told Cllr Rayner that MW could not see him then. Cllr Rayner accepted this and left.
- 10.30 I asked Cllr Rayner why he then went back to the school in the afternoon without confirmation that a meeting had been arranged and whether any of the three councillors had been advised that a meeting had been arranged.
- 10.31 He did not give a direct answer at our meeting but Cllr Betts said that he had texted Cllr Rayner to the effect that he (Cllr Betts) was already at the school. Cllr Rayner subsequently advised me that as Cllr Betts had sent him a text saying that he was at the school, he had no reason to doubt that a meeting had been agreed at the time he arrived there.
- 10.32 Cllr Rayner said that when he first arrived at the school, he sat in Cllr Betts' car while the latter had a 'speakerphone' conversation with Darren Lanes about how to approach the issue and he added that Darren Lanes had counselled caution about how they should conduct themselves in any meeting with MW, although he supported the meeting proceeding. This, Cllr Rayner said, meant that they were particularly careful to be polite.
- 10.33 I then asked Cllr Betts what had prompted *him* to go to the school that afternoon. He replied that it was with the intention of ascertaining whether a meeting was in fact going to go ahead and if not, to ensure that a meeting was scheduled as soon as possible, ideally within a week.
- 10.34 Cllr Taylor added that it had been agreed at an emergency 3G meeting held the previous day that whoever was available would go to the school on 4 March.
- 10.35 I asked again why the three councillors had arrived for a meeting when none of them had received confirmation that it had been arranged. Cllr Betts reiterated that they did so in order to ascertain whether the meeting was going to go ahead and if not, to try to make arrangements to meet on another day.
- 10.36 Cllr Taylor commented at this point as follows:

"It is also far more difficult to refuse a meeting if the people for that meeting are already there. It's easy to fend off a meeting in the future by email but if people are there for a meeting that's already been suggested, it's far more difficult. Matthew Wright is a member of our Committee and we are entitled to encompass him in a meeting. He was, now that the

Business Manager had left, the school's representative and we simply wanted to see him, not in his capacity as Head Teacher but as the school's representative".

- 10.37 I asked whether it was correct to say (as I had been told by Mrs Martin and others) that at some stage during the afternoon of 4 March, an offer had been made to arrange a meeting to be held at another time. Cllr Betts said that this did not happen.
- 10.38 Cllr Taylor said that when they first arrived at Reception, SR told them that MW was in a meeting with some parents and they said that they would wait, as they only wanted five minutes. They did not see the parents leave. Cllr Taylor said that MW did not offer another date or time.
- 10.39 Cllr Betts said that when his meeting had finished, MW came out into Reception and signed out. There is some dispute as to exactly what happened next. Cllr Betts said that he asked MW whether they could meet there and then but that as MW replied to the effect that he was *"not going to be press-ganged into this"*, there was no opportunity for Cllr Betts to ask whether it would be possible to meet at some other time. He said that he did not ask for another meeting because he did not get the chance to do so.
- 10.40 Cllr Betts said it was very clear that MW was not willing to meet them at that time and Cllr Taylor said that MW's exact words were *"I'm not going to be press-ganged into this"* and he (MW) also said that he had found BE's email (insisting on a meeting) very rude.
- 10.41 Cllr Taylor said to me that they were not trying to take MW away but just to secure five minutes with him to establish the situation.
- 10.42 Cllr Betts then said that MW had said something along the lines of *"I'm not meeting you until 15 March"* (when he was due to meet BE and the FA – this was not a 3G meeting). Cllr Taylor recalled that this meeting was subsequently held without committee members being invited, although in the past at least two committee members had attended.
- 10.43 Cllr Taylor said that MW then left the premises.
- 10.44 I asked how much time elapsed between MW's emergence from his office and his leaving the building. Cllr Rayner's initial estimate was *'about a minute and a half'* but he then revised this to *'less than a minute'*.
- 10.45 It was suggested at this point that I might view the CCTV footage for the period in question and although I agreed to follow this up, when I did so, with MW, it transpired that the footage is automatically overwritten every six days so it was no longer available.
- 10.46 In their response to my draft notes of our meeting, the Councillors said that they considered the School Reception area CCTV footage for the period in question to be critical. They said that they failed to see how the investigation could proceed with *'the complainant Mrs Smith withholding or at best failing to produce a CCTV recording that would clearly demonstrate that the allegations of behaviour likely to bring their Parish Councils into disrepute were false'*.
- 10.47 The discussion then turned to the blocking-in of MW's car. Cllr Taylor did not deny that his van was in a position *'that would have made it awkward'* for MW to get his car out, but he said that this was completely accidental, as the parking area was extremely busy. He added that he was late, having arranged to meet Cllrs Rayner & Betts earlier and he simply 'dumped' his van. He said that he did not know which was MW's car. Cllr Rayner added that he too did not know which was MW's car.

- 10.48 Cllr Taylor said that when they were told to leave the school (by MC), they left forthwith and that he left his van where he had parked it because, he said, he could not go back to get it.
- 10.49 I subsequently asked Cllr Taylor to clarify why he could not move his van, given that Cllrs Rayner and Betts had moved their cars. He replied as follows: *"I have no answer to that, save that (the other councillors') cars were in a direct line to the gate, my van was deeper onto school premises, we had been ejected with a threat of 'children's' safeguarding"; and as far as we were aware, the Police were speeding in to arrest us"*.
- 10.50 Cllr Betts said that as MW had told them that he was calling the Police at the same time as they had been told to leave, they were trying to oblige by doing what the school was asking them to do and at the same time, knowing that the Police had been called, they were not just going to leave the site completely. I subsequently asked Cllr Taylor why not, given that as I understood it, MW called the Police because he wanted the three Councillors and their vehicles off the premises.
- 10.51 Cllr Taylor replied as follows: *"For myself, I could not believe that Matthew Wright was so intransigent he would not give us the few minutes needed to explain his actions, I was still rather shocked by the way this seemingly mild man and his friend had gone so completely off the deep end"*.
- 10.52 Cllr Rayner refuted outright MW's estimate of fifteen minutes elapsing between their being asked to leave the building and them actually doing so. Cllr Taylor's recollection is that they left immediately they were asked to do so. Cllr Rayner said that he considers MW's allegation to be *'absolutely egregious and clearly intended malevolently and clearly disprovable by reference to CCTV'*.
- 10.53 He said that all three councillors were entirely polite, pleasant and respectful the whole time and that the complaint was a *'tissue of lies and exaggeration'*.
- 10.54 In relation to the allegation of Cllr Taylor's van blocking MW's car in, Cllr Betts commented that MW did leave and went home and that he could not therefore have been blocked in.
- 10.55 Cllr Rayner denied saying anything along the lines of *"Good luck with that mate"* when MW indicated he was going to leave and said that he did not hear Cllr Taylor say it. For his part, Cllr Taylor confirmed that he did not say it, nor did he hear Cllr Rayner say it. All three councillors contend that the allegation that this was said is a complete fabrication on the part of MW & MC and that the allegation was made *'to hype the whole thing up'* (Cllr Taylor).
- 10.56 Cllr Betts referred to MW's reference to the possible removal of fence panels (see the letter of complaint) in order to secure the release of his car and queried why he did not ask a member of staff to move their car. He believes that the reference to removal of a fence panel was a further attempt to dramatise the situation.
- 10.57 All three councillors denied that MW asked MT to move his van.
- 10.58 I asked Cllr Taylor when he first became aware that he had blocked MW's car in. He replied *"When he started shouting his mouth off"*. This was a second conversation, involving MC and separate from that in which MW had allegedly referred to being *'press-ganged'* and lasted, according to Cllr Rayner's estimate, about fifteen seconds. Cllr Rayner said that he had no recollection of any reference to a van blocking a car and that if it had been mentioned, he would not have been aware of its significance.

- 10.59 All three councillors confirmed that there did come a time when they were aware that Cllr Taylor's van was blocking MW's car in. I asked whether Cllr Taylor had offered to move it. He replied, *"I never really got the opportunity"*.
- 10.60 Cllr Rayner said that MW went off to call the Police and that MC *"made it abundantly clear that our immediate priority was to leave the school forthwith, and we did"*.
- 10.61 I asked Cllr Taylor whether MW had at any time asked him to move his van and / or whether he had felt it appropriate to do so. He replied *"No. He never asked us to move and once we were told to leave the premises, we walked straight to the gate."*
- 10.62 Cllr Betts said that the important point was that the Police had been called and that *'you shouldn't move the evidence around - that would not be a good move'*. Cllr Taylor said that this was why he made a conscious decision not to move his van and because they had been told to leave the premises.
- 10.63 I subsequently asked Cllr Taylor why he made that decision when it was apparent that it was the van that had prompted MW to call the Police.
- 10.64 He replied as follows: *"The point is that an allegation has been made to the Police that my van was blocking Matthew Wright's car, I was not going anywhere until we had exhausted the possibility of him talking to us, so the van is best left where it was so the Police can decide whether an 'offence' has been committed"*.
- 10.65 Cllr Rayner said that he was not at this stage aware of the nature of the problem. He said that MW left Reception, walked down the path, and then came back again shortly afterwards. He added that at no stage was he (Cllr Rayner) aware that Cllr Taylor's van was *'the problem.'* He said he thought that when MW returned from his walk down the path, he had changed his mind about meeting them.
- 10.66 He added that he and Cllr Betts drove their cars (which were parked next to each other) out of the school premises and that Cllr Taylor walked to the gate where the three of them remained for some 15 – 20 minutes, for the Police to arrive. They then walked round to the 3G Pitch and had a cup of tea. They then walked back through the school playground, Cllr Taylor picked up his van and they left.
- 10.67 In a subsequent exchange of emails, I asked Cllr Taylor why he had moved his van then and not earlier, bearing in mind that he presumably did not know at that stage that the Police were not going to arrive and whether the concern about moving evidence no longer applied. His response was as follows:
- 10.68 *"We had actually walked back into the school, saw MW's car had been moved, the Police had not arrived, MW was clearly leaving so I took my van and left"*.
- 10.69 I asked Cllr Betts about the reference in his letter of 9 March to Mrs Smith to his being *'made responsible for another person's actions'* and asked him which person(s) he was referring to.
- 10.70 He replied as follows: *"In general. The allegation is that I was preventing Matthew Wright from leaving the school. I don't condone aggressive or intimidatory behaviour and if his car was partially obstructed, that's not my van – I shouldn't be made accountable for the action of someone else's vehicle parked in a position that might have obstructed Mr. Wright's car."*
- 10.71 I put it to Cllr Betts that he appeared from the letter to be seeking to distance himself from the conduct of the other two councillors. His response was that he was distancing himself from blame for the position of the van. He said that the letter was aimed at explaining that he had

previously enjoyed a very positive relationship with MW and that he would never condone behaviour that would prevent him leaving the school premises. He would also not take responsibility for someone else's vehicle that was perceived to be blocking him in.

- 10.72 I then referred Cllr Betts to his letter of 12 April to Adrian Stanfield in which he made a reference to events continuing '*beyond my control*' and asked him who had been in control if not him. He said that it was MW and MC. As soon as he learned that the Police had been called, it was '*game over*' as far as he was concerned. He said at our interview that that they were told to wait for the Police but when I later sought clarification as to who had told them to do so, he simply said, "*We then waited for the Police*".
- 10.73 Cllr Taylor said that if the three of them had really been causing problems, MW, as Head Teacher, should not have decided, as he did, to sign out and go home at the outset.
- 10.74 Cllr Betts said that if RM had, as MW alleged, been 'running down the hall', MW would not (or should not) simply have walked out and signed out as if there were no problem – therefore there was no problem. "*We must have been acting correctly, within the Code of Conduct, because he signed out and went to leave. A Headmaster's responsibility is to his staff and pupils and if he had been concerned that there was any intimidatory behaviour, he would not have signed out straightaway and left his school*".
- 10.75 Cllr Rayner denied that he in any way intimidated RM, whom he has known for some thirty years.
- [I confirmed that RM had told me that whilst none of the three councillors was rude to her, they had made her feel very uncomfortable because they refused to leave and would not accept the offer of alternative arrangements for a meeting.]*
- 10.76 Cllr Betts said that RM did not ask them to leave and that they did not at any time refuse to do so and Cllr Rayner added that RM did not offer an alternative meeting time. I subsequently asked for absolute clarification on whether RM offered to make alternative arrangements for a meeting, with or without having first consulted MW, with or without suggesting a specific date or time.
- 10.77 Cllr Rayner said that no offer, firm or otherwise, was made regarding an alternative meeting with the 3G Pitch Committee. He said that he '*knew from long experience*' that RM would in any case not have made any offer of any future meeting without first speaking to MW, who was in a meeting with parents.
- 10.78 Cllr Rayner denied that it was clear that MW was not willing to meet them there and then because RM had merely told them that he was in a meeting with some parents and that the three of them said that they would wait until he had finished that meeting to see whether he would have time to talk to them.
- 10.79 He said that MW left the building, walked down the path towards the car park and then turned round and came back. He said that he thought that this was an indication that MW had changed his mind about meeting them but now believes (although he did not realise it at the time) that MW came back because his car was allegedly partially obstructed by Cllr Taylor's van.
- 10.80 I suggested that there came a time by which it was quite clear to the three councillors (however that clarity came about, whether by actions or words on the part of MW or otherwise) that MW was not willing to meet them there and then. All three agreed that that clarity did not come about until MW told them that he was calling the Police and MC spoke to them about their lack of passes and safeguarding issues and asked them to leave.

- 10.81 Cllr Taylor said this: *"We were actually signed in, we just had not drawn passes because we did not know whether we would be staying or leaving the reception and physically entering the school. This is a crucial point. We were entitled to be there"*.
- 10.82 Whilst Cllr Rayner said that he did not realise the alleged partial obstruction by Cllr Taylor's van until they were off the school premises, they did acknowledge with hindsight that MW's return to the building must have been brought about by his realisation that his car was blocked in although they said that he did not mention this to them when he re-entered the building.
- 10.83 I then asked about contact with the Sevenoaks Chronicle and how the paper had come to learn about the events that unfolded that afternoon. Cllr Rayner said that the paper had called him.
- 10.84 I asked how they had found out about the incident. Cllr Rayner said: *"Who knows? – it could have been a pupil or a teacher"*.
- 10.85 I asked all three councillors if it had been one of them. Cllr Rayner initially made no reply and Cllr Taylor said that he could not deny doing so but added *"It's the sort of thing I would have done"* but he said that he could not recall phoning the paper, although he definitely responded.
- 10.86 Cllrs Rayner & Betts then said that they did not ring the paper. Cllr Taylor reiterated that he could not remember but had the paper contacted him *"I would have given them everything I'd got"*.
- 10.87 I then asked Cllr Rayner about his email of 9 March to Darren Lanes, which had also been encompassed within the complaint. He simply said that he stood by everything he wrote in the message and that the matter was still in the hands of his solicitors.
- 10.88 I put it to the three councillors that they appeared to be saying that quite a lot of what RM & MW had told me was simply untrue. They agreed. Cllr Betts said for example that they did not refuse to leave, as alleged by RM, nor did she offer to make arrangements for them to meet MW at another time. *"She made that up, just as (MW) made it up that she (RM) went running down the hall – I didn't see anyone running anywhere"*.
- 10.89 Cllr Rayner said: *"This is an absolute tissue of fabrications and you have to bear in mind that these people are long-standing employees whose jobs are at stake here and I want to be very careful about accepting statements from those who are in subordinate positions and perhaps subject to undue influence"*.
- 10.90 Cllr Taylor commented as follows: *"What's really sad about this is that these are people we've had very good relationships with for many years and because of the way it's been escalated by the school we're never going to get back to the situation as it was before. It can never heal"*.
- 10.91 Cllr Rayner: *"I've been an active and long-term supporter of the school"*.
- 10.92 Cllr Betts: *"We're all volunteers and I've done a lot of work for the school, not just for the 3G pitch."* Cllr Betts had for example offered to reinstate the school's vandalised rugby goal posts with his farm's tractor.
- 10.93 Cllr Rayner also said that Mr Garland had asked whether Cllr Betts could bring his tractor to the field to flail the thistles round the edge but he was unable to do so because of the ban

that had been placed on him entering the school premises. He added: *"We really aren't a bunch of thugs who went in there threatening mayhem and looking to hold people to the bulkhead – it wasn't like that at all. This whole thing is a tissue of lies"*.

- 10.94 I asked why, given the previously good relationships, they thought MW might have set this ball rolling. Cllr Taylor replied: *"Because he's strapped for cash"*.
- 10.95 Cllr Betts said that he could not understand, how, following a lengthy meeting a week earlier (to which MW had contributed) when detailed consideration was being given to how the financial situation might be improved, some £11,000 suddenly went out of the 3G account without MW mentioning that he was proposing to spend £7000 on a new boiler. Had he done so, consideration could have been given to alternative sources for materials and equipment that might well have been cheaper.
- 10.96 I asked whether any of them felt that MW had been 'on the back foot' when they arrived hoping to meet him. None of them replied directly but Cllr Betts just said that they did not know whether MW could make the meeting.
- 10.97 Cllr Rayner considered that there were *'a couple of existential threats'* to the school, which was *'down about £100,000 as a result of either fraud or mismanagement on the part of Mrs Pankhurst'*. He contends that MW must have known at the earlier meeting what he was going to do to fund the replacement boiler.
- 10.98 Cllr Betts confirmed that MW came out of his office, signed out, said that he would not be press-ganged, that he had found Beverley Emmerson's email very rude and that he would be meeting the FA with her on 15 March. He then left the building and returned a few seconds later and said he was calling the police.
- 10.99 Cllr Betts added that as a former school governor and the father of two young children, he knew how to conduct himself on school premises. MT added that he had been a youth worker for ten years.
- 10.100 Cllr Rayner said he thinks that SR's removal of the child who she was looking after pending the arrival of her parent was probably prompted by MC raising his voice when asking them to leave. Cllr Betts said that MW saying that he was calling the Police might also have prompted it.
- 10.101 Cllr Betts considers that he and his family have been disproportionately and unfairly affected by the ban on him entering the school premises and he found the simultaneous request for an apology through his children and the lodging of a Code of Conduct complain incongruous. He provided me with copies of the correspondence exchanged with the school.

11. FOLLOW-UP TO THE INITIAL INTERVIEWS

- 11.1 As noted above, I did not receive a response from the councillors to my draft notes of our meeting until 2 August. Their response raised a number of queries and issues (including direct contradictions of what I had been told by the school staff) that needed exploring with the staff but by this date the school had broken up for the summer holidays and although I sent emails to the Head Teacher and others shortly after 2 August, it is not surprising that I did not receive replies to all these points for some weeks.
- 11.2 I make this point only by way of explanation as to why this stage of the investigation took rather longer than I had hoped or anticipated.

11.3 In addition to double-checking certain matters with the staff, I contacted both Beverley Emmerson and Darren Lanes. In the interests of clarity, I set out below my questions to and the responses from each of these follow-up exchanges in the order in which the people concerned appear above.

(1) MR. MATTHEW WRIGHT

11.4 I begin with Mr. Wright. My questions and his replies were as set out below.

11.5 I asked him to confirm whether it was correct to say that until the events of 4 March, he had enjoyed a cordial and constructive relationship with the councillors concerned. He said that he had, as far as Cllrs Rayner & Betts were concerned, and that although his relations with Cllr Taylor had been '*mixed*', they had been '*OK*' more recently.

11.6 The councillors having taken issue with his assertion that Rachel Martin had '*hurried*' into his office, I asked MW to confirm whether this was an accurate description. He said that it was.

11.7 He could not now specifically remember whether during the exchange in Reception he had offered to meet the councillors at some other time.

11.8 I asked for his reaction to the suggestion that was put to me that after his meeting with the visiting parents had finished, he simply signed out, said something along the lines of "*I'm not going to be press-ganged into this*" and left the building. He was adamant that this was not what happened.

11.9 He agreed that he may at some stage during his exchange with the councillors have said something along the lines that he considered Beverley Emmerson's email insisting on a meeting that day to be very rude.

11.10 I asked Mr. Wright to think carefully about timing, given the emphasis placed on the matter by the councillors. He said that their exchange of words did not last very long but he stands by his estimate of 15 minutes as being the length of time that elapsed between the councillors being asked to leave the building and them actually doing so.

11.11 I asked him what made him so sure that Cllr Taylor (and possibly the others) knew which was his car, given that they all denied knowing which was his car. He responded as follows: "*The comment made to me after I told them I was leaving, - 'Good luck with that' strongly suggests that they knew I could not leave; the fact that when the three of them did eventually leave the site, Rayner and Betts left in their cars and Taylor left by foot leaving his van blocking my car - why would he not leave in his van too if he did not know it was my car?*"

11.12 I asked him if he was convinced that one of the Councillors said something along the lines of "*Good luck with that mate*". He replied "*Absolutely*". He was also convinced that all three councillors were aware that Cllr Taylor's van was blocking his car in and that they found this very amusing.

11.13 I asked why he decided to call the Police and specifically whether it was solely because his car was blocked in or because he feared for his safety and security or that of the school. He said that he had made it clear to the councillors that he needed to leave the school in order to collect his son and that they were preventing him from doing so.

11.14 I told Mr Wright that It had been put to me that if there had really been a significant problem arising out of the presence of the three councillors, he would not (or should not) have signed out and made to leave the school. He said that his priority was to collect his son from school

and that it was him that they wanted to see, not someone else if he was not available. He said that by leaving he was not leaving a problem at school.

- 11.15 He described this as *“a bizarre point to make anyway, as it was they that turned up unannounced and were behaving in such an inappropriate manner. It is ridiculous that they would then suggest that I have done wrong by leaving them there to continue to behave in such a way to others”*.
- 11.16 I asked whether he or anyone else in his hearing told the councillors to wait for the arrival of the Police. He said that neither he nor anyone else had done so and that the councillors left the site and chose to stand by the school gates.
- 11.17 I asked whether he knew how the Sevenoaks Chronicle got hold of the story about the events of 4 March. He said that he did not, *“but given the first photo they printed which showed Taylor’s van next to my car and that the story was only a version that differed greatly from my own account, I would be confident in stating that it was one of the three that contacted the chronicle. The photo was shot from the angle that the three appeared from at the end of the whole incident when I had manoeuvred my car from being blocked in and was just leaving”*.
- 11.18 Finally, I asked Mr. Wright whether he had been *‘on the back foot’* about the school’s financial situation on 4 March. He denied this, adding that the school has been in a healthy financial position for the last two years and had had successful external audits.

(2) MR. MICHAEL CATER

- 11.19 Mr. Wright having initially gone to speak to the councillors by himself, I asked Mr. Cater how long it was before he joined them. He told me that it was about five to ten minutes.
- 11.20 Given the councillors’ denial that any of them said anything along the lines of *“Good luck with that mate”*, I asked Mr. Cater to think very carefully whether he did in fact hear one of them say it. He said that he was absolutely sure that Cllr Taylor said it and equally certain that Mr. Wright had asked Cllr Taylor to move his van.
- 11.21 I asked Mr. Cater for his recollection as to the stage at which Mr. Wright decided to call the Police and why. He told me that this was after trying to get into his car, returning to the school, not being able to move it and asking Cllr Taylor very clearly to move the van. He made it very clear that he needed to pick up his child and they did not move the van that was obstructing his car. He then called the police. The councillors were also initially refusing to move or leave the site until they had had the meeting they were demanding based on what (Mr. Wright and Mr. Cater) knew for a fact were false claims and slanderous allegations.
- 11.22 I asked Mr Cater whether he or anyone else in his hearing told the councillors to wait for the arrival of the Police. He said that he did not remember but added that the councillors were aware that the police were coming as (Cllr Rayner) made it clear they would like to also talk to the police about *‘their own false financial allegations’* they were making against the school.
- 11.23 Finally, I asked Mr. Cater about timing. His estimate is that the councillors were on site (either in Reception or by the school gates) for about two hours from approximately 3.30pm.

(3) MRS RACHEL MARTIN

- 11.24 Mrs Martin confirmed (*‘I am 100% positive’*) that when she told Cllr Rayner at the time of his lunchtime visit that Mr. Wright could not see him, she did offer to arrange another time for a meeting.

- 11.25 Mrs Martin had told me at interview that when they were at the school later that day the three councillors had made her feel very uncomfortable because they refused to leave and would not accept the offer of alternative arrangements for a meeting. I wanted to establish whether she stood by that assertion, particularly as it had been put to me that she did not offer an alternative meeting time.
- 11.26 I told her that I had subsequently asked the councillors for absolute clarification on whether she offered to make alternative arrangements for a meeting, with or without having first consulted Mr. Wright, with or without suggesting a specific date or time. I told her that Cllr Rayner had said that no offer, firm or otherwise, was made by her regarding an alternative meeting 'with the 3G Pitch Committee' and that he had said that he knew from long experience that she would in any case not have made any offer of any future meeting without first speaking to Mr. Wright, who was in a meeting with parents.
- 11.27 This was her response: *'I stand by this, as they were adamant they were not leaving the site until they had seen Mr Wright. Although they were not rude or aggressive towards me they made me feel uncomfortable by their persistence and unwillingness to leave the site.*

'I am adamant that I offered to make an appointment for the three gentlemen to meet with Mr Wright. I had a notebook and pen with me in Reception to make a note of the times etc. (Cllr Rayner's) words "from long experience that I would in any case not have made any offer etc" - are his own interpretation and opinion and not fact.

I manage Mr Wright's diary on a daily basis and regularly make appointments with people without having to consult with Mr Wright first. I would do the same for any parent or stakeholder who turned up demanding to see a member of staff. I am a professional PA to the Head Teacher and the most obvious thing would be to offer to arrange an alternative time for a meeting which is what I did'.

(4) MRS SHEILA SMITH

- 11.28 When I advised the councillors that the CCTV footage from the afternoon of 4 March had been overwritten, Cllr Rayner responded at some length and given what he had to say, I forwarded the text of his email as set out below to Mrs Smith for her comment. For the sake of completeness, The relevant part of his email of 2 August upon which I invited Mrs Smith's comment reads as follows:

"I have undertaken my own inquiries in connection with the alleged loss of CCTV images of the events of the afternoon in question. As you know I am still in touch with Members of Wrotham School Governing Body. I am advised that before Mrs Smith made her complaint to the T&MBC Monitoring Officer, she was in touch with some and perhaps all of the Governing Body/Directors of Wrotham School Limited. At this time her attention was drawn, by at least one of those with whom she was in contact, to the fact that the School Reception was covered by CCTV.

Another says that Mrs Smith made reference to CCTV herself. At least some Governors knew (as I did myself) that the School Reception was covered by CCTV. My understanding is that at the direct request of Mrs Smith, the relevant CCTV footage was 'lifted' from Wrotham School's CCTV system and copied onto 'recordable media' such as a 'memory stick', a CD, or a portable hard drive which remains available to Wrotham School Management. I am sure that Mr Wright is wholly correct in that the original images held on the School CCTV system, have long since been overwritten. Your email make no reference as to why this was not preserved.

Could it be that the Wrotham School CCTV images have not been brought forward as evidence because the evidence does not support either Mrs Smith's letters to the three Councillors dated 7th March or the complaints made by her and Wrotham School staff against the three Councillors to the T&MBC Monitoring Officer?

My understanding is that in the meantime, the Wrotham School 'corporate line' is that 'everyone' forgot that the School Reception area (where the alleged inappropriate behaviour took place) was covered by CCTV and so no attempt was made to preserve crucial CCTV images, in time for them to be saved as evidence.

Have you interviewed Mrs Smith please? She is after all the Complainant. Can she confirm that she was in touch with Governors/Directors following the events of 4th March 2016?

If she confirms she was, can she also confirm that her attention was drawn by any of them to the School CCTV in Reception. If so what steps did she take to preserve such valuable evidence?

If she denies being in touch with fellow Governors/Directors, under what authority did she act, in writing to the 3 Councillors on 7th March and subsequently to the T&MBC Monitoring Officer, without taking steps to protect such precious evidence from destruction? The request to question Mrs Smith (and her fellow Governors/Directors) is not requested lightly. You are interviewing Mr Wright who appears to be answering apparently truthfully, but not wholly so, whilst Mrs Smith holds an 'umbrella' over him by apparently concealing evidence that if produced would show that this whole episode is a fraudulent charade.

Mrs Smith is a 'Non-Executive Director' that is to say that she is not 'employed full time' by Wrotham School. Has any evidence such as Board/Governor Minutes or similar, authorising her to undertake the actions that she undertook, been presented? In other words on whose authority was she acting?

Wrotham School Management described (wholly untruthfully) the three Councillors behaviour as '.....aggressive and intimidating in front of staff and students...'. In four years as Head Teacher and 11 years as School Leader have never experienced such appalling behaviour...'. Yet, such alleged behaviour was not apparently such as to save the CCTV images of same?

The current offer from Wrotham School that you and the Monitoring Officer, are apparently being asked to accept, is that The Chairman and Vice Chairman of Governors, The Head Teacher and Deputy Head Teacher, their Personal Assistant (RM) and the Receptionist, all failed to realise that the alleged misbehaviour was recorded on Wrotham School CCTV and all apparently failed, not only to protect the evidence, but actually did nothing effective to prevent its loss. The Chairman of Governors was however sufficiently alert to write to the three councillors taking steps to prevent their returning to the School whilst lodging a complaint with the Monitoring Officer based wholly on fabricated testimony and all the while failing to protect valuable CCTV evidence.

Wrotham School Management described (wholly untruthfully) the three Councillors behaviour as '.....aggressive and intimidating in front of staff and students...'. In four years as Head Teacher and 11 years as School Leader have never experienced such appalling behaviour...'. Yet, such alleged behaviour was not apparently sufficient (according to Mr Wright) for him to arrange to preserve the CCTV footage.

Or as the accused Councillors will contend, it was examined, copied behalf of the Chairman of Governors and found not to match the untrue allegations and therefore discarded for the purposes of evidence on behalf of the School. The three councillors accept that it has now been overwritten – how convenient for our accusers."

- 11.29 Mrs Smith's response was short and to the point. She said that she was '*shocked and angered by the content of Mr Rayner's email all of which is sheer fantasy*'.
- 11.30 She said that no one was aware that Cllr Rayner and Cllr Taylor had offered themselves as witnesses for Mrs Pankhurst until June 10, just before the beginning of the Tribunal hearing on June 13 and that this could therefore not have had any influence on the Governors' decision to make the complaint about their behaviour.
- 11.31 Mrs Smith sent me a copy of the minutes of the full governors' meeting held on March 10th less than a week after the event, from which it can be seen that the issue was fully discussed and the governing body agreed unanimously that a complaint should be made. A copy of the minutes is at **Appendix 6**.
- 11.32 Mrs Smith confirmed that as Chair of Governors she made the immediate decision to ban the councillors from the site to safeguard all members of the school. She was also clear that at no time was the issue of CCTV discussed; at no time has she seen any CCTV pictures, nor had she requested that they be copied and 'lost'.
- 11.33 I asked Mrs Smith if she had any idea where Cllr Rayner might have gleaned his information. She said that she was not aware of who would have provided this 'information' and added that to her knowledge there were now only two governors still serving who were governors at the same time as Cllr Rayner. She said that Cllr Rayner had claimed contact with governors before and that when she made enquiries at a full meeting, they all denied having spoken to him.
- 11.34 She closed her message as follows:
- 'I hope this helps counter the allegations made by Cllr Rayner that I am lying about CCTV images. I have worked successfully in education for 52 years, have never made a complaint about a councillor before, indeed I have never experienced such outrageous behaviour from anyone in all that time'*.
- 11.35 As mentioned above, I also contacted Beverley Emmerson and Darren Lanes. My questions to them and their responses are set out below.

(5) BEVERLEY EMMERSON

- 11.36 I began by asking BE whether, when Mr Wright told her in his email of 11.41am on 4 March that he was unavailable that afternoon, she accepted that situation, albeit possibly with some reluctance. She said that she did accept the fact that he was not available for a meeting that day but had hoped that he would suggest an alternative date and time the following week.
- 11.37 I noted from the copy emails that Mr Wright's reply to BE's email was sent to her only, unlike hers to him which was copied to the three councillors and to others. I asked BE whether, on receipt of Mr Wright's email of 11.41am, she advised any of the people to whom her own email had been sent that he would not be able to make a meeting that afternoon and if so, who she had notified. She said that she informed all the Steering Group Members (except Mr Wright) by email at 11.53am of Mr Wright's response.
- 11.38 I asked whether, after receipt of Mr Wright's reply, she had any subsequent contact with any of the three Councillors that may have resulted in their attendance at Wrotham School in the hope of having a meeting with Mr Wright.

- 11.39 BE replied that at his request, she spoke face to face with Cllr Rayner about Mr Wright's response as he was attending a meeting at the Council offices that morning. Cllr Rayner then tried to contact one of the Governors of the school (Mr Reeve) but could only leave a message. It was at this point that Cllr Rayner said he would go to the school on his own to speak to Mr Wright about arranging a meeting the following week.
- 11.40 At 13.01, BE emailed the remaining members of the group to tell them of Mr Rayner's unsuccessful attempt to speak Mr Reeve (who had attended several Steering Group meetings) and that Cllr Rayner was on his way to the school to speak to Mr Wright with a view to arranging a meeting for the following week.
- 11.41 I asked BE whether she had asked or encouraged anyone to attempt to meet Mr Wright that afternoon. She said that at no time did she encourage any members of the Steering Group to approach the school or Mr Wright that afternoon.
- 11.42 Asked whether she was aware of their intention to do so, BE said that far as she was aware there was no intention for anyone else to go to the school that afternoon. Her hope was to attend a meeting with Mr Wright at 4.30pm but only if he was available, which he had already confirmed he was not.
- 11.43 Mr Wright sent BE a further email at 16.14 that day, advising that Cllrs Rayner and Taylor and 'one other' had arrived at the school and blocked his car in and that he had called the Police. I put two points to BE - firstly, whether she knew, before she received Mr Wright's email, that the three Councillors were in fact going / had gone to the school and secondly, whether she replied to that email.
- 11.44 She said that it was at about 3pm that afternoon, following a phone call from Cllr Betts, that she realised that the three councillors were at the school. She immediately notified her senior manager, Darren Lanes who then spoke to Cllr Betts on the phone. She did not respond to Mr Wright's email of 16.14 because by that time she had already left the office.
- 11.45 BE confirmed that she had no further contact with Mr. Wright on 4 March after the exchange of emails in the morning.
- 11.46 Finally, BE confirmed my understanding that the TMBC lawyers had advised that the use of the funds for the purchase of a new boiler did not constitute a breach of the Community Use Agreement.

(6) DARREN LANES

- 11.47 I explained to Mr. Lanes (DL) that I was having some difficulty in establishing why the three councillors apparently turned up at the school without a definite arrangement to meet Mr Wright. I told him that Cllr Rayner had told me that when he first arrived at the school, he sat in Cllr Betts' car while the latter had a 'speakerphone' conversation with DL about how to approach the issue and he added that he (DL) had 'counselled caution' about how they should conduct themselves in any meeting with Mr Wright, although he (DL) supported the meeting proceeding. I asked whether that was an accurate description of what happened, so far as he was able to recall.
- 11.48 DL said that he did advise Cllr Betts to proceed with caution as it was apparent from the phone call that the three councillors were determined to try to speak with Mr. Wright that afternoon. He said that at no point did he 'support' the meeting taking place. He was unaware that he was on speakerphone and his recollection is that Cllr Betts terminated the call when the other councillors arrived at the school.

- 11.49 I asked DL whether he was aware (perhaps having been told by Beverley Emmerson) that Mr Wright had said that he was unavailable that afternoon and if so, whether he had accepted that situation, albeit possibly with some reluctance.
- 11.50 He replied that he was aware that Mr Wright had said that he was unavailable to meet on the Friday and this was referenced in an email sent to him (and others) by Beverley Emmerson on the day in question. He added that he completely accepted that Mr Wright was unavailable.
- 11.51 I asked DL whether he had any contact (prior to his telephone conversation with Cllr Betts) with any of the three Councillors that afternoon which may have resulted in their attendance at Wrotham School in the hope of having a meeting with Mr Wright; whether he asked or encouraged any of them to attempt to meet Mr Wright that afternoon and whether he was aware of their intention to do so.
- 11.52 He replied that he had no other contact with either of the other councillors - only his phone conversation with Cllr Betts. He did try to call Cllr Rayner to discuss the issue and a potential meeting, although his phone rang off and there was no option to leave a message. He said that an email was also sent to them by BE, discouraging them from any action and advising that they contact DL. If he had contacted them, he would have tried to discourage them from attending the school although when contact was made, Cllr Betts was already on site. At no point did DL suggest or support a meeting that afternoon.
- 11.53 Finally, DL confirmed my understanding that the TMBC lawyers had advised that the use of the funds for the purchase of a new boiler did not constitute a breach of the Community Use Agreement.

12. WAS THE CODE OF CONDUCT ENGAGED?

- 12.1 Both Wrotham Parish Council and Borough Green Parish Council adopted the NALC Code of Conduct prior to the date upon which the events the subject of Mrs Smith's complaint took place.
- 12.2 As members of Wrotham Parish Council and Borough Green Parish Council, Cllrs Rayner and Betts (WPC) and Taylor (BGPC) are (and at the material time were) bound by that Code.
- 12.3 I am satisfied that all three councillors were at all material times acting in their capacity as Parish Councillors and, these criteria having been met, I am satisfied that the Code of Conduct was engaged and that all three councillors were bound by it.

13. SCOPE OF THE INVESTIGATION

- 13.1 At the risk of repetition but in the interests of clarity, I re-emphasise at this point that this investigation has been concerned solely with the alleged conduct of the three Councillors on the afternoon of Friday 4 March 2016 and, in relation to Cllr Rayner only, with the contents of the email sent by him at 12.59 on 9 March to Darren Lanes, Beverley Emmerson, Matthew Wright, Cllr Betts, Cllr Taylor, and Messrs Garland, Darby and Donovan.
- 13.2 The brief and terms of reference of this investigation do not cover any alleged breach of the Community Use Agreement arising out of the means by which the purchase of a new boiler for the changing rooms at Wrotham School was funded. I do however note for the record that all relevant officers of TMBC agree that there has been no breach as alleged.

14. CONSIDERATIONS AND FINDINGS – THE EVENTS OF 4 MARCH

- 14.1 In assessing whether there has been a breach of the Code, I have examined, on the basis of the best evidence available, how Cllrs Rayner, Betts and Taylor conducted themselves on the afternoon of Friday 4 March 2016 and I have tried to form a balanced view as to the probable sequence of events. This has not been particularly straightforward, given the conflicting accounts of what took place.
- 14.2 I have also looked at Cllr Rayner's email of 9 March and set out my conclusions in Section 15 below.
- 14.3 This is not of course a criminal investigation, to which the burden of proof of 'beyond all reasonable doubt' would apply. Rather, I have approached the matter on the basis of the civil burden of proof – i.e. the balance of probabilities – and I have given very careful consideration to the credibility, and demeanour and of all involved.
- 14.4 This the first investigation in my experience in which three councillors have had the same complaint made against them. I had anticipated interviewing each of them separately in order to give them an unfettered opportunity to respond to the allegations made against them but as recorded above, they, through the spokespersonship of Cllr Rayner, elected to be interviewed together.
- 14.5 Whilst I took no particular exception to this 'team' approach and do not consider that it proved a significant obstacle to the investigation, it did give rise to some inconsistencies of recollection and it meant that I was unable to probe individual versions of the events of 4 March. I felt that I was hearing a 'party line' rather than individual recollections and explanations that could be tested and compared one against another.
- 14.6 I turn now to the sequence of events of 4 March and describe how I believe, on the balance of probabilities, they unfolded. In coming to my conclusions, I have attached such weight and credence as I feel appropriate to all that I was told.
- 14.7 In his capacity as a member of the 3G Steering Group, Cllr Rayner arrived unannounced at Wrotham School at around lunchtime on Friday 4 March 2016, to see if he could speak to Mr Wright about what he (and others) saw as a potential misapplication of funds. He spoke initially to Sue Reeve the Receptionist who in turn called Rachel Martin who went off to find Mr. Wright who was on playground duty at the time. Mrs Martin returned with the message that Mr. Wright was unavailable then and that he would not be available that day.
- 14.8 I am quite satisfied that Mrs Martin *did* offer at that time to make alternative arrangements for Cllr Rayner to meet Mr. Wright. Cllr Rayner then left the school premises. So far, so good, and no indication of any untoward behaviour much less any breach of the Code of Conduct.
- 14.9 By this time of course, Mr. Wright had had his exchange of emails with Beverley Emmerson and was aware that a meeting to discuss the boiler issue had been requested. He had however told her that he would not be available that day and she passed this information on to all members of the Steering Group, albeit it is entirely possible that not all those to whom the email was sent read it either immediately or indeed within an hour or two afterwards.
- 14.10 Cllrs Rayner and Betts told me that they had not read this email before they went to the school later that afternoon. My notes do not disclose whether Cllr Taylor said whether he had read it, and I am happy for him to clarify this point should he wish to do so.

- 14.11 The most puzzling aspect of this case is why, given the complete lack of any indication that a meeting had been arranged, all three councillors took it upon themselves to arrive at the school unannounced that afternoon.
- 14.12 Given the close relationship that appears to exist between them, I find it surprising that Cllr Rayner did not (so it seems) advise Cllrs Betts and Taylor that he had been advised at lunchtime that Mr. Wright would not be available that day.
- 14.13 Their conduct is even more surprising given that according to Beverley Emmerson, Cllr Rayner had told her that morning that he would go to the school on his own to speak to Mr Wright about arranging a meeting the following week. He did of course go to the school on his own but apparently did not take up Mrs Martin's offer to arrange a meeting at a future date.
- 14.14 It appears that Cllr Betts was the first to arrive at the school that afternoon. He told me that his intention was to ascertain whether a meeting was in fact going to go ahead and if not, to ensure that a meeting was scheduled as soon as possible. Cllr Betts said that he texted Cllr Rayner to the effect that he (Cllr Betts) was already at the school.
- 14.15 For his part, Cllr Rayner, who, as recorded above, did not give a direct answer at our meeting as to why he went along that afternoon given what had happened at lunchtime, subsequently advised me that as Cllr Betts had sent him a text saying that he was at the school, he had no reason to doubt that a meeting had been agreed at the time he arrived there.
- 14.16 Whatever prompted the three councillors to turn up unannounced, the fact of the matter is that by their own admission, none of them had received confirmation that a meeting had been arranged. Moreover, Cllr Rayner knew full well that Mr. Wright would not be available for the remainder of the day and it appears that he either forgot or chose not to pass this information on to his colleagues.
- 14.17 Cllr Betts' explanation that they went to the school in order to ascertain whether the meeting was going to go ahead and if not, to try to make arrangements to meet on another day lacks all credibility and logic.
- 14.18 Keen though they might all quite legitimately have been to have a meeting, acting as they did flies in the face of conventional business courtesies and practice. There is no reason why confirmation as to whether a meeting had been or could be arranged could not have been secured by a simple telephone call to Mrs Martin.
- 14.19 I found it very significant that Cllr Taylor commented as follows:
- "It is also far more difficult to refuse a meeting if the people for that meeting are already there. It's easy to fend off a meeting in the future by email but if people are there for a meeting that's already been suggested, it's far more difficult. Matthew Wright is a member of our Committee and we are entitled to encompass him in a meeting. He was, now that the Business Manager had left, the school's representative and we simply wanted to see him, not in his capacity as Head Teacher but as the school's representative".*
- 14.20 The three councillors clearly did want to see Mr. Wright and they were quite within their rights to do so, but not on the terms and in the light of the attitude displayed by this comment that is, to my mind, clearly indicative of intimidation and bullying.

- 14.21 I turn now to what happened once the three councillors had entered the building. Here there are some discrepancies as to timings, the exact sequence of events and the words spoken but I am satisfied, on balance, that the essence of what happened is as follows.
- 14.22 Despite having been told earlier in the day by Mrs Martin that Mr. Wright would not be available, Cllr Rayner returned to the school with his two colleagues and asked again to see him. Once again, he was told by Mrs Martin that Mr. Wright was not available and I am satisfied that she *did* offer to make arrangements for them to meet him, not at a specific time but in principle and on a different day. Given her earlier conversation with Cllr Rayner and the nature of her job, it would be very odd if she had not made such an offer.
- 14.23 Whilst I am satisfied that the councillors were not rude or aggressive towards Mrs Martin, I am equally satisfied that they declined, refused or were unwilling to leave until they had seen Mr. Wright.
- 14.24 Having been advised by Mrs Martin (who may or may not have hurried into his office – it does not matter) that the councillors would not leave until they had seen him, Mr. Wright came out of his office, had a brief verbal exchange (it would, I think, be inaccurate to call it a conversation) during which he said, inter alia, that he had found Beverley Emmerson's email rude and that he was now leaving.
- 14.25 I am satisfied that one of the councillors (almost certainly Cllr Taylor) did say something along the lines of "Good luck with that" when Mr. Wright said that he was leaving.
- 14.26 Mr. Wright then made to walk to his car only to discover that it was blocked in by Cllr Taylor's van and, the import of Cllr Taylor's remark having registered, he walked back into the school.
- 14.27 Whilst I have been unable to draw a firm conclusion as to whether Cllr Taylor or either of the other councillors knew that it was Mr. Wright's car that had been blocked in, I am quite satisfied that when he went back into the building, he made it clear that Cllr Taylor's van was so positioned that he could not leave and that he asked him to move it.
- 14.28 Whilst Cllr Rayner may well not have initially been aware that there was a problem with Mr. Wright's car and may have thought that when he returned to the building, Mr. Wright had had a change of heart about meeting them, I am satisfied that there came a time very shortly afterwards when all three councillors were in no doubt about the reality of the situation and yet failed to do anything about it.
- 14.29 As noted above, Mr. Wright then decided to call the Police and Mr. Cater asked the three councillors to leave. I found Cllr Taylor's explanation as to why he did not move his van at this stage completely fallacious, particularly as Cllrs Rayner and Betts both moved their cars.
- 14.30 All three councillors were (or should have been) in no doubt by this stage that Mr. Wright was not able or willing to meet them there and then and that he had called the Police because they were preventing him leaving the premises.
- 14.31 A reasonable person would at that point have complied with his and Mr. Cater's requests, moved the offending vehicle, left the premises and allowed matters to proceed in a polite and dignified manner towards the arrangement of a meeting through the normal business channels and not by arriving unannounced, refusing to leave and preventing the person to whom they wanted to speak to go about his family business.
- 14.32 Cllr Taylor's comment at interview, set out in full at Paragraph 10.64 included what I regard as a particularly telling sentence: "*I was not going anywhere until we had exhausted the possibility of him talking to us...*"

- 14.33 Lest it be thought that I have simply accepted everything that the School personnel have said and disregarded all that the councillors have told me, I must emphasise that this is not the case. The sequence of events that unfolded that afternoon was described consistently and separately by four different individuals, none of whom could in my view have any possible motive for concocting the *'tissue of lies and fabrication'* that Cllr Rayner considers it to be.
- 14.34 I do not believe that Mrs Martin would have done other than offer to make alternative arrangements for a meeting nor that Mr. Wright would have resorted to such a drastic measure as calling the Police had he not considered that he had no alternative nor that he or any of the school staff sought to dramatise the situation.
- 14.35 I was unable to secure direct answers to some of my direct questions when interviewing the councillors and I noted that Cllr Betts seemed by both his responses to me and in his letter to Mrs Smith of 9 March – see Paragraph 10.71 - to be distancing himself from the attitude (or tactics if I may call it that) displayed by his two colleagues, both of whom appear to me to have been particularly and inappropriately determined. That said, Cllr Betts could, if he had felt matters were getting out of hand (as indeed they were) have backed off and encouraged them to do the same.
- 14.36 I believe that any reasonable person would find the councillors' conduct in arriving at the school unannounced, in the knowledge that no meeting arrangements had been confirmed and that Cllr Rayner had previously been told that Mr. Wright was unavailable for the remainder of the day, illogical and their approach once on the premises completely unacceptable. Mr. Wright, Mr. Cater and Mrs Reeve all commented to me that they found it hard to believe that the councillors were behaving more like children than adults.

15. FINDING – CLLR RAYNER'S EMAIL of 9 MARCH

- 15.1 Having commented that I failed to secure direct answers to some of my questions when I interviewed the three councillors, Cllr Rayner was by contrast extremely direct when I asked him if he wished to comment on the element of Mrs Smith's complaint that related to his email of 9 March in which he criticised the Wrotham School Governors and Mr. Wright and accused them of collusion in the misappropriation of funds and Mr. Wright of having a slush fund. Cllr Rayner simply said that he stood by everything he wrote in the message and that the matter was still in the hands of his solicitors.
- 15.2 I note that, as recorded in Paragraph 10.17, Cllr Rayner told me that he had expressed a willingness to speak in support of Mrs Pankhurst at her Employment Tribunal hearing and yet in his email of 9 March (q.v.) he alleged that she had provided the 3G Pitch Committee with fraudulent accounts.
- 15.3 I can be as concise as Cllr Rayner. I consider that his accusations in an email that was distributed to a number of people to be a clear breach of the paragraph of the Code of Conduct that requires members to *'behave in such a way that a reasonable person would regard as respectful'*.

16. OTHER MATTERS – THE POLICE INVOLVEMENT AND THE NEWS STORY

- 16.1 In the event, the Police did not go to the school in response to Mr. Wright's call and indeed he later stood them down. They did go to the school the following week and took statements but I did not think it necessary to secure copies, not least because they were taken for a different purpose and I wanted to ensure that in reaching my conclusions I placed reliance on what I had personally been told by those involved.

- 16.2 The Sevenoaks Chronicle story was headlined “Councillors are accused of holding head hostage”. The report gave the impression that the Police had been called to a ‘stand-off’ between the three councillors and Mr. Wright and went into some detail about the councillors’ concerns. The report also carried photographs that apparently sought to demonstrate that Mr. Wright’s allegation that his car had been blocked in was groundless.
- 16.3 I do not believe that the story was passed to the paper by anyone at the School but as its publication did not form any part of Mrs Smith’s complaint, I have not pursued it as part of my investigation.

17. COMMENTS ON THE DRAFT REPORT

17.1 I submitted my draft report to Mrs Sheila Smith and to the three councillors by email on 6 September and asked for any comments within two weeks.

17.2 The only comment I received from Mrs Smith was a correction about the timing of the Police’s visit to the school following the incident on 4 March and I incorporated that amendment in the report.

17.3 Cllr Taylor replied by return as follows:

‘I didn’t bother to read your report, just its conclusion, which came as no surprise whatsoever, despite the longwinded process, your conclusion could have been written months ago.

Were it not that I might receive yet another standards complaint I might suggest you are as independent as the Borough Solicitor, but then he is paying you.

As for respect, it is earned, not forced by edict, I have no respect for these people because of their behaviour, and even less respect now, and as you have failed to even pay lip service to a proper investigation, I have no respect for you either.

See you at the hearing.’

17.4 Cllr Rayner replied on 15 September to the effect that he had been on holiday and, following consultation with Mr. Stanfield, I accordingly agreed to allow him until 14 October to respond.

17.5 Cllr Betts replied on 29 September to the effect that his father had had a serious accident and that he would not be able to respond within that time and on 12 October he sent me a further message to the effect that he hoped to be able to respond by the beginning of the following week – i.e. by Monday 17 October.

17.6 As at today’s date (Monday 17 October) I have received no further communication from Cllrs Rayner or Betts. Even allowing for holidays and family illnesses, I consider that both have had ample opportunity to respond and I have, with Mr. Stanfield’s agreement, decided to issue this version as my final report.

18. CONCLUSION

18.1 I have concluded that there have been breaches of the Wrotham and Borough Green Parish Councils’ Codes of Conduct on the part of Cllrs Harry Rayner (WPC), Robin Betts (WPC) and Mike Taylor (BGPC) consisting of a failure by each of them to observe the Member Obligations (1) to behave in such a way that a reasonable person would regard as respectful and (2) not to act in a way which a reasonable person would regard as bullying or

intimidatory arising out of the manner in which each of them conducted themselves while on Wrotham School premises on the afternoon of Friday 4 March 2016.

- 18.2 I have further concluded that there has been a breach of the Wrotham Parish Council Code of Conduct on the part of Cllr Harry Rayner consisting of a failure by him to observe the Member Obligation to behave in such a way that a reasonable person would regard as respectful arising out of his circulation of the email dated 9 March referred to above.

19. COMMENT RE CCTV SYSTEM

- 19.1 I do not believe that the CCTV footage for the relevant period was deliberately lost overwritten or withheld and whilst I am not convinced that it would have been of any assistance in establishing who said what and to whom, it would have shown movements in and out of the Reception area and, possibly, body language and facial expressions. It would also have helped to clarify the timing of the events as they unfolded and it is unfortunate that overwrite is set to happen after such a short period of time.
- 19.2 I do not know whether the School has ever had to resort to viewing footage from the system, perhaps because of an altercation between pupils or for some other reason, but given that the incident on 4 March was obviously of some significance, I am rather surprised that the footage for that afternoon was not downloaded and retained.
- 19.3 I would recommend that the School review the operation and retention periods for the CCTV system

Richard Lingard
17 October 2016

APPENDICES

1. Letter of Complaint
2. NALC Code of Conduct
3. Beverley Emmerson's exchange of emails with Mr. Wright on 4 March 2016
4. Article in the Sevenoaks Chronicle 10 March 2016
5. Cllr Rayner's email of 9 March 2016
6. Minutes of the Governors Meeting on 10 March 2016



www.tmbc.gov.uk

Code of Conduct- Complaint Form

Your Details

1. Please provide us with your name and contact details.

Title:	Mrs
First name:	Sheila
Last name:	Smith
Address:	Wrotham School
Daytime telephone:	[REDACTED]
Evening telephone:	[REDACTED]
Mobile telephone:	
Email address:	[REDACTED]

2. Please tell us which complainant type best describes you:

- Member of the public
 An elected or co-opted member of an authority
 Member of Parliament
 Local authority Monitoring Officer
 Other council officer or authority employee
 Other (please give details) Chair of Governors Wrotham School

3. Please provide us with the name of the councillor(s) you believe has breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name
Mr		Rayner	Wrotham PC a
Mr		Taylor	Borough Green PC and TMBC
Mr		Betts	Wrotham PC and TMBC

4. Please explain in this section what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when he (acting in consultation with the Independent Person(s) and Chairman/ Vice-Chairman of the Joint Standards Committee) decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor has conducted himself in a manner which could reasonably be regarded as bringing his office or the Authority into disrepute you, you should state what it was they said or did.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Please see letter dated March 18th

5. **Only complete this next section if you are requesting that your identity is kept confidential. Please see the notes in the accompanying leaflet "How to make a complaint".**

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

6. Complaints must be submitted in writing. This includes fax and electronic submissions. If you need any support in completing this form, please let us know as soon as possible.

This council is under a duty to protect the public funds it administers and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. See www.tmbc.gov.uk/DPNotice for further information.

Signed: S. Smith

Date: 23/03/2016

Return Address: monitoring.officer@tmbc.gov.uk

Or by post: The Monitoring Officer
Tonbridge and Malling Borough Council
Gibson Building, Gibson Drive
Kings Hill
West Malling
Kent ME19 4LZ



WROTHAM SCHOOL
HIGH EXPECTATIONS, CHALLENGE & OPPORTUNITY
Headteacher - Matthew Wright MA

TM-5-29
APPENDIX 1

Wrotham School, Borough Green Road
Wrotham, Sevenoaks, Kent TN15 7RD
Email: office@wrotham.kent.sch.uk
Web: www.wrothamschool.com
Tel:01732 884207

Monitoring Officer
Tonbridge and Malling Borough Council
Gibson Building
2 Gibson Drive
Kings Hill
West Malling
ME19 4LZ

18th March 2016

Dear Sir/Madam

On behalf of the Governors of Wrotham School I wish to make a formal complain about the behaviour of councillors Mr Taylor and Mr Betts and Parish Councillor – Mr Harry Rayner on Friday March 4th at Wrotham School. I enclose a statement of what occurred made by Mr Wright, Headteacher. There were other witnesses and they have also made statements which have been handed to the Police. I have banned Mr Taylor, Mr Betts and Mr Rayner from the Wrotham School site.

I also wish to complain that, despite an email from Mr Lanes requesting that all communication be through him, Mr Taylor and Mr Rayner were in contact with the Sevenoaks Chronicle making allegations and statements which were extremely serious and possibly libellous. Furthermore, such allegations and statements were also emailed to members of the Steering Group by Harry Rayner. We have our lawyer looking into letters and emails that were sent. I enclose copies of these for your information.

I feel that the behaviour of these three councillors, and in particular Mr Taylor and Mr Rayner, has been totally unacceptable and that they are guilty of bringing the council into disrepute.

The allegations made by both are totally untrue as your legal advisor has confirmed. They are damaging to the reputation of the school and the education of students who attend. This is a high performing school and one that Tonbridge and Malling councillors should be proud of, not seeking to damage.

Given the behaviour and the ongoing accusations and abuse I do not feel that Mr Wright or other Wrotham School representatives should attend a steering committee meeting whilst these three people are serving on it.

If you wish to discuss the situation with me please contact me via Rachel Martin, Clerk to Governors at Wrotham School

Yours sincerely

Mrs S Smith
Chair of Governors

Cc: Ms Beilby, CEO

Account of the incidents of the 4th of March 2016 – Mr Matthew Wright

I am the Headmaster of Wrotham School which is a co-educational secondary school serving pupils from the local area.

At 13.30 hours on Friday 04 March 2016 I was on duty on the playground when my personal assistant, Rachel Martin, informed me that a man I know to be Harry Rayner, was waiting in reception and wanted to be seen. Rachel told me that he was quite insistent, and that she had tried to explain to him that I was busy for the rest of the day. I know Mr Rayner as a member of the steering group for the 3G pitch sports facility located on the school site. I asked Rachel to tell him again that I could not meet with him as I had appointments for the rest of the afternoon, and also to tell him that I had replied to the email from Beverley Emerson, chair of the steering group, and that I would forward this to the rest of the steering group. I did this once my duty had finished meaning that all members then had a copy of this correspondence.

At 1530 hours the same day I was leaving my office having just met with a parent. Rachel came running down the corridor to tell me that there were three men in reception demanding to see me. She told me who they were and that they were very insistent, despite her telling them that I was not available. I was surprised that one of these men was Harry Rayner as he had been told earlier that I was unavailable and had been provided with the email. The other two men were Mike Taylor and Robin Betts, both also members of the 3G steering group. I gathered my bag and coat and Michael Cater, my deputy head, and I went to reception to sign out. I explained to the men that I would not meet with them now and that I had offered the Chair Ms Emerson a suitable time to meet, and that I had to leave to collect my son who is of primary school age. One of the men, either Harry Rayner or Mike Taylor said, "Good luck with that mate". I don't think that at the time I really knew what this referred to but subsequently found out that they had blocked my car in to the parking bay in a way that meant I was unable to get out.

I stated that their behaviour was ridiculous and that I had to leave to collect my son. The three men kept arguing back with my refusal to discuss the issue at that time, repeating the request to speak with me and insisting that they would only take a small amount of my time. They would not listen to what I was saying. I found their behaviour to be threatening and intimidating. The fact that the three of them had turned up after Harry Rayner had been told that I was not available that afternoon and were now not leaving the reception area when asked was an intimidating act in itself. Their attitude was that this was a private joke and Harry Rayner kept winking and nudging the others. Furthermore there was a pupil in reception being assisted by the receptionist Sue Reeve, who should not have had to experience or witness such an incident. In fact I know Sue Reeve felt that she had to remove the pupil to another area of the school.

As by now I was aware that my car had been blocked in, I asked them to move the van again but this request was refused. I said that I was going to phone the police and the response was again, "Good luck with that mate". Michael Cater also asked them to leave and explained that as they did not have visitor badges, there was a safeguarding issue for the students, but they still refused.

I left reception to phone the police realising that by staying I was giving them an audience and they were trying to provoke a reaction from me. After about 15 minutes and from my office, I saw the three men walk down the path from reception towards the parking area. I saw Harry Rayner and Robin Betts drive their cars off the premises and then appear by the school gates on foot. Mike Taylor left his van blocking my car and joined them by the school gates. I could see them taking 'selfies' with my blocked car in the background.

I could see that my car was blocked into the parking bay and Mike Taylor's white van was parked immediately behind mine, not parked at a right angle as if pulled along behind. It was not in a parking space, and was facing the same direction as my car parked with less than 30 centimetres between the bumpers. As my front bumper was against the railings and there were cars parked on both sides of mine, this completely prevented me manoeuvring out in any way. This was a deliberate obstruction of my vehicle. There are other places to park in the car park and his refusal to move on request confirms my opinion that this was an intentional act of intimidation and harassment.

Having phoned the police from my office, they said they would attend. About 1700 hours, a lot later than I had wanted to leave the school, I saw that the men appeared to have moved away from the school gates. The van remained parked behind my car. Mr Cater and I went to see if we could remove the fence panel to free my car. Fortunately the staff cars parked adjacent to mine had now left, I had a small amount of space to manoeuvre. After a complicated series of movements backwards and forwards, I was able to free my car. Michael Cater, Rachel Martin and I locked the school and got into our cars to leave. At this point the three men reappeared on the school site and spoke to Mr Carter. Due to behaviour they had already shown, I was concerned that they still would not allow me to leave and would step out in front of me but fortunately this did not happen.

In over four years as a head teacher and eleven years as a school leader I have never experienced such appalling behaviour. I consider these men wilfully attempted to hold me hostage in my school and prevented me from leaving to collect my young son or move freely with my vehicle. In fact I was only able to leave once all other cars in the car park had gone. They were aggressive and intimidating towards me in front of staff and students. Furthermore, they appeared to be enjoying the whole situation.

M Wright.

From: Harry Rayner <harry@harryrayner.net>
Date: 9 March 2016 at 12:59:59 GMT
To: <Darren.Lanes@tmbc.gov.uk>, <Beverley.Emmerson@tmbc.gov.uk>, <MWright@wrotham.kent.sch.uk>, <Robin.Betts@tmbc.gov.uk>, <bettscheese@gmail.com>, <mike.truck@btconnect.com>, <p.garland@tiscali.co.uk>, <padarby@btinternet.com>, <petedonovan@sky.com>
Subject: Misappropriation of Wrotham 3G Pitch Sinking Fund

Dear Mr Lane

Further to your email below, I do hope that this is not the precursor to the whole matter being 'kicked into the long grass' or filed away in the 'too difficult file'.

As agreed with the Management Committee I have undertaken some further investigation. Firstly, Wrotham School is now a private company, registered in England and limited by guarantee, allocated Company Registration Number 07662701. It is an Academy Trust reporting to a section of the Department of Education -- Dominic Herrington, Regional Schools Commissioner for the South East and South London 1 Bedford Park, Croydon CR0 2AQ email: rsc.sesl@education.gsi.gov.uk.

For the purposes of this email I am not making reference to Wrotham School Governors as I believe that they are colluding with Mr Wright in the misappropriation of funds from the 3G Pitch account using funds from this account to pay for new school assets and according to Mr Wright there appears to be some £4300.00 missing being the difference between £7000, which he writes went on a new gas boiler and the actual funds paid out of the account.

The schools report and accounts for the years 2013-2015 make interesting reading. Importantly cash in hand has fallen dramatically by almost two thirds over this period. From reading the accounts, it is apparent, that especially at this time of year, Wrotham School appears to be very short of cash. This may well be the reason that the misappropriation has occurred.

Turning to the so called 'Agreement' this was agreed by Mr Wright in person because he admitted that Wrotham School was no longer in a position to continue to manage and administer the 3G Pitch operation. It was subsequently agreed between the School and the Management Committee that Phil Garland undertake the day to day management of the facility, in return for agreed concessions, all paid for from the 3G Account. Under the agreement this cost should have been paid by Wrotham School. Mr Wright's reference to the original agreement is simply dissembling on his part, he well knows that he cannot rely on an old agreement, since superseded, under which Wrotham School are apparently unable to carry out 'their part of the bargain'. Mr Wright clearly seeks to use the 3G Pitch account as his 'slush fund' to be used to cover for his inability to manage his school cash flow. This is not an acceptable way to manage public funds and the Committee ignore what has happened at its peril.

Wrotham School auditors are Wells Giles Limited, 12 Conqueror Court, Sillingbourne, Kent ME10 5BH the Academies Audit Manager is Gemma Chan. The appropriate Directors are Alyson Howard and Alex Ffrench. Gemma Chan's email is: gemma.chan@williamsgiles.co.uk the same email formula can be used for the 2 Directors. At the very least the 3G Management Committee should write to Wells Giles and ask them to review urgently the circumstances of the withdrawal of the funds.

The writer is a former Governor of Wrotham School until April 2013 (sometime Vice Chairman). One of my former colleagues who remains a Governor has recently advised me that Mr Wright is leaving Wrotham School, having given notice in December 2015. The 'hit' on the 3G Pitch funds were carried out with the knowledge and agreement of some governors but only after Mr Wright resigned as a Director of Wrotham School Limited on 16 January 2016 and after his notice of cessation of employment. This has all the hallmarks of a calculated 'hit' by those managing Wrotham School Limited on the local community. It is to be hoped that whatever scrutiny is being carried out by

T&MBC - it is undertaken promptly, otherwise the Management Committee will be faced with the usual "Mr Wright has now left our employment and no one knows anything about what happened to the amount withdrawn from the 3G Pitch Account" perhaps the missing balance will be put towards his 'Golden Handshake'.

There is also the matter, still unaddressed, of Ms Jean Pankhurst the former Business Manager of Wrotham School Limited who provided the 3G Pitch Committee with fraudulent accounts, calculated to have the Committee believe that the 3G Pitch cash in hands were some £35,000 more than it subsequently appeared that they were. The Management Committee has not taken steps to seek to recover from Wrotham School the consequences of that fraud, in light of the most recent misappropriation, that matter should also be placed on the agenda of the next meeting. I understand from the same former colleague School Governor that Ms Pankhurst is now pursuing legal action through the Employment Tribunal against both Wrotham School and Mr Wright personally.

Please can we today set a date for the next 3G Pitch Management Committee meeting? Otherwise, I fear that it will not meet again before the Parishes decide that the Wrotham 3G Pitch is a lost cause, with any available funds constantly being 'creamed off' by the next person who considers that they 'have a right to it'.

Regards

Harry Rayner

From: Andrew Jameson
Sent: 15 March 2016 11:46
To: 'MWright' <MWright@wrotham.kent.sch.uk>
Subject: 3G pitch finances

Dear Mr Wright,

I also put to you the arguments made by members of the 3G management committee about the purchase of the boiler – to which I hope you can respond:

“1) It is common ground between both sides that the Steering (Management from 2014) Committee ascertained (by reference to the supplier of the 3G Pitch) the 10 years replacement value was agreed at £150K

2) It is common Ground between both sides that the current pitch has an anticipated lifetime of 10 years and commenced use in 2011.

3) Under the terms of the Community Use Agreement (copied by you yesterday) Clause 11.4 ‘where it is clear that the School Facility is generating an operational surplus from the income it receives in respect of Community Use, after all Operating Costs have been paid, such surplus such surplus will be used to create the sinking fund’ . No steps were taken to provide the required clarity.

4) On the calculation above the ‘Sinking fund should be around £72K after nearly five years. The 3G Pitch Bank statement of which you have a copy) shows on £48K at the time that it was used to pay for ‘School Facilities’ in clear breach of the Agreement

5) Mr Wright has also breached the terms of the agreement because he has ignored the ‘where it is clear the School Facility (the 3 G Pitch) is generating an operational surplus’. It is not clear because:-

6) A) No Accounts have been produced by the school and presented to the Management Committee. At clause 10.2.11 To maintain a sinking fund for the repair, renewal and maintenance of the School Facility (3G Pitch) not the School Amenities (covering Changing Rooms and boiler) which the 3G Pitch users are in the minority. The majority users of the School Amenities are the school.”

Mr Rayner and Mr Taylor have called for your resignation over this matter "because his behaviour falls short of what is expected". I have this on the record -- do you have a response?

I also have records the school accounts, which show the school has lost in the region of £100,000 in each of the previous two years. Why is the school losing this sort of money and can you turn these accounts around?

The school suspended Jean Pankhurst from her role as business manager, with an investigation into the school's finances beginning last March? What was the resolution of this investigation and how has the financial management of the school changed?

What shape are the school's finances in currently and can they be turned around? As headteacher of the school, if there were problems arising from the business manager's actions, why was more not done to monitor her?

Again, I do plan to write a story on these matters. I look forward to receiving a response. I have documentation of all of the evidence presented above.

Regards,

Andrew Jameson | Chief reporter | Tel: 01732 562921

Sent: 08 March 2016 10:39:55

To: [REDACTED]

Dear Mrs Smith,

I have been passed an email you sent on Friday in the wake of a visit by members of the 3G steering committee to Wrotham School. In it are some serious accusations including aggravated obstruction and holding Mr Wright hostage.

Do you wish to comment further on these allegations? I am planning to write a story on the incident – as well as the reasons for the committee's visit re. the row over the boiler.

Please don't hesitate to contact me if you would like any further information as I want to make this as balanced as possible.

My deadline is later today and I have also contacted Matthew Wright.

Regards,

Andrew Jameson | Chief reporter | Tel: 01732 562921

@finbarjameson



TONBRIDGE & MALLING
BOROUGH COUNCIL

Cllr Mike Taylor
Member for Borough Green & Longmill

mike.taylor@tmbc.gov.uk
mike.truck@btconnect.com

BOROUGH GREEN
PARISH COUNCIL

41 Maidstone Road
Borough Green
Sevenoaks
Kent TN15 8BQ
Tel: 01732 882880

Chair of Governors
Wrotham School

8 March 2016

Dear Mrs Smith

I note your letter of the 7th March 2016. Whilst our legal advice from TMBC is to leave the matter in their hands, I will not take personal threats against me, and your personal letter to me is quite clearly that, your communication should have been addressed to the Committee I serve.

Firstly, I did not "turn up and demand to see the headmaster". The 3G committee held an emergency meeting the previous evening about the disappearance of funds from the 3G Pitch Account without the authority of the Committee. I note the 3G Constitution says "The Management Committee have a responsibility for ensuring that income and expenditure is kept in accordance with good accounting procedures and that the Business Plan and Football Development Plan are monitored and evaluated"

So we have a clear mandate for our action, and the emergency meeting agreed unanimously to advise Mr Wright by email that we wished to see him at the earliest opportunity for an explanation. I duly arrived as advised at approximately 1540 to meet Cllrs Betts and Rayner from Wrotham PC, and we all signed in, in preparation for seeing MI Wright at 1630. We were told he was with a parent, but we elected to wait.

Mr Wright appeared, refused to meet us, and was quite rude.

Mr Wright subsequently threatened to call the Police, and asked us to leave the school premises, which we immediately did.

When I arrived the carpark was extremely crowded, and I could possibly have blocked in a car - I did not know what car Mr Wright owns. Having been ejected from the school premises I decided it would sensible to await the arrival of the Police before re-entering the premises to remove my van. By 1730 it was apparent that Mr Wright had not called the Police, so I went to collect my van, with Cllrs Betts and Rayner as witnesses. My van was on its own in the centre of the carpark, Mr Wright's car having been moved. If it had been moved it cannot have been blocked in. Further to that neither I nor Cllrs Betts and Rayner made any move or word that could be construed in any way as preventing Mr Wright from leaving the school at anytime during our visit.

I note that whilst you can bar me from the school premises, I do not believe your authority extends to the 3G facility and Whitegate Field - only the 3G Committee has that authority.

I am not willing to be party to covering up financial irregularities, and your threats are clearly designed to assist in covering up a serious breach of financial propriety. Even Mr Wright's explanation only accounts for £7000 of the £11000 taken, and I would suggest your time would be better spent investigating the irregularity rather than lashing out at those attempting to justifiably seek explanations. It could even be construed that you are also involved.

Yours Sincerely
Mike Taylor



NALC code of conduct for parish councils

as amended and adopted by Borough Green Parish Council 04 March 2013

Introduction

Pursuant to section 27 of the Localism Act 2011, Borough Green Parish Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

6. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.
7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.

8. A member shall register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
9. A member need only declare the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests at meetings

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
10. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting.
12. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.

13. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate (other than an interest in Appendix A), the member shall disclose the nature of the interest and not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

14. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

Standards regime

15. Members agree to the Tonbridge & Malling Standards Regime

Appendix A

Interests defined by regulations made under section 30(3) of the Localism Act 2011 and described in the table below.

<i>Subject</i>	<i>Description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 above for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the member or between his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a body in which such a person is a partner in a firm, a director of an incorporated body or holds the beneficial interest in securities*) and the Council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge)— (a) the landlord is the Council; and (b) the tenant is a body in which the member, or his/her spouse or civil partner/ the person with whom the member is living as if they were spouses/civil partners has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the member's knowledge) has a place of business or land in the area of the Council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'Securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Appendix B

An interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;

- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;

- (iii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.

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MWright

From: MWright
Sent: 04 March 2016 16:14
To: Beverley.Emmerson@tmbc.gov.uk

Dear Beverley

I am hoping that you do not know that Harry Raynor Mike Taylor and one other have turned up and have parked a van behind my car and are refusing to move it! This is such childish behaviour. The Police are on their way.
Matthew Wright

Sent from my iPhone

MWright

From: MWright
Sent: 04 March 2016 11:41
To: Beverley Emmerson
Subject: Re: Wrotham 3G Pitch - Finance

Dear Beverley

I am not available to meet with you today. I suggest we discuss roles and responsibilities with the Football Foundation at our meeting with them on the 15th. As this is just you, me, Phil and the representative from the Football Foundation I imagine it will be a more focused and informed way forward than a full steering group meeting. For your information the boiler cost was circa £7000 not £11000.

See you on the 15th.

Best wishes

Matthew

Sent from my iPhone

On 4 Mar 2016, at 11:36, Beverley Emmerson <Beverley.Emmerson@tmbc.gov.uk> wrote:

Matthew

Further to my earlier e-mails and following discussions with members of the 3G Management Committee, we insist on the following ;

- a) reimbursement to the 3G account of the £11,295.84 that was paid for the boiler
- b) an emergency meeting at the school at 4.30pm today

In the event that you do not reply, the Committee will take alternative steps to protect the public interest.

Regards

Beverley

Beverley Emmerson
 Sports Development Officer
 Tonbridge & Malling Borough Council
 Leisure Services
 Gibson Building
 Kings Hill
 West Malling
 Kent
 ME19 4LZ

beverley.emmerson@tmbc.gov.uk

<mime-attachment.bmp>

Take part in events

MWright

From: Beverley Emmerson <Beverley.Emmerson@tmbc.gov.uk>
Sent: 04 March 2016 11:32
To: MWright
Cc: Mark Reeve; Mike Taylor; Pat Darby; Pete Donovan; Phil Garland; Robin Betts; harry@harryrayner.net
Subject: Wrotham 3G Pitch - Finance
Attachments: Beverley Emmerson.vcf

Matthew

Further to my earlier e-mails and following discussions with members of the 3G Management Committee, we insist on the following ;

- a) reimbursement to the 3G account of the £11,295.84 that was paid for the boiler
- b) an emergency meeting at the school at 4.30pm today

In the event that you do not reply, the Committee will take alternative steps to protect the public interest.

Regards

Beverley

Beverley Emmerson
 Sports Development Officer
 Tonbridge & Malling Borough Council
 Leisure Services
 Gibson Building
 Kings Hill
 West Malling
 Kent
 ME19 4LZ

beverley.emmerson@tmbc.gov.uk



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Have you tried contacting us at www.tmbc.gov.uk/do-it-online ?

MWright

From: Beverley Emmerson <Beverley.Emmerson@tmbc.gov.uk>
Sent: 02 March 2016 14:15
To: MWright
Subject: RE: FW: Boiler Replacement in the Changing Rooms
Attachments: Beverley Emmerson.vcf

Matthew

I think it is fair to say that the steering group has been more than accommodating over the issue of the poor management of the 3G Pitch which as you rightly point out was the responsibility of the school. Furthermore your reference to specific clauses in the CUA does not reflect the current management arrangements or the situation played out over the last 12 to 18 months. It is clear this agreement is no longer 'fit for purpose'.

We were hoping that the new arrangements with Phil Garland would get the day to day management of the site and the bookings back on an even keel, which given the look of the finances presented at the last 3G Steering Group meeting certainly seems to be the case.

Despite the fact that the 3G pitch finances are paying Phil's management fee, the school still continues to have access to the pitch every day during term time at no cost, even though this arrangement was originally put in place to offset the costs and resources involved in the school managing the pitch.

Given the sensitivity around the 'sinking fund' figure and the sometimes painful and fractious meetings and discussions over the whole business involving Jean, we find it hard to understand why you thought the steering group would not question the school over an £11,000 bill for a boiler on school premises that the school must use for at least 50% of the time if not more. Furthermore any repairs/maintenance issues requiring expenditure have always been discussed with one or more members of the steering group, either by email or in meetings so your comment about not seeking authorisation from the group is quite baffling.

When the new booking/banking arrangements were being drawn up by the school last year, the auditors demanded complete transparency which the steering group were in full agreement with. I can only express my extreme disappointment that the steering group have not been afforded the same courtesy.

Lastly, you mention in your email that the roles and responsibilities of both the school and the steering group need to be made clearer which we wholeheartedly agree with and given your stance over the boiler payment needs to be done as a matter of urgency.

Regards

Beverley

Beverley Emmerson
Sports Development Officer
Tonbridge & Malling Borough Council
Leisure Services
Gibson Building
Kings Hill
West Malling

Kent
ME19 4LZ

beverley.emmerson@tmbc.gov.uk



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>>> MWright <MWright@wrotham.kent.sch.uk> 02/03/2016 08:33 >>>

Dear Beverley

Can you let me know what elements you find so unacceptable?

Best wishes

Matthew

From: Beverley Emmerson [mailto:Beverley.Emmerson@tmbc.gov.uk]
Sent: 02 March 2016 08:30
To: MWright
Subject: Re: FW: Boiler Replacement in the Changing Rooms

Matthew

Thank you for your email clarifying your stance on this matter, which I find completely unacceptable.

I will come back to you in due course with a more detailed response once I have discussed things with the rest of the steering group.

Regards

Beverley

Beverley Emmerson
Sports Development Officer
Tonbridge & Malling Borough Council
Leisure Services
Gibson Building
Kings Hill
West Malling

Kent
ME19 4LZ

beverley.emmerson@tmbc.gov.uk



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>>> MWright <MWright@wrotham.kent.sch.uk> 01/03/2016 15:40 >>>

Dear Beverley

I have really appreciated your support over the difficult times of last year, and am really keen for us to continue to work effectively in the best interests of the facility, but the roles and responsibilities of the School and the Steering group do need to be clear. I do hope this email does not cause offence, as this is not intended, but to ensure the effective management of finances at the school the roles and responsibilities regarding this facility need to be clear to all. If you would like to discuss this please do give me a call at the school – 01732 884207.

I have attached the 3G Community Use Agreement and highlighted the definition of 'School Amenities' (Section 6 p4) which includes changing facilities, along with (11.4 p 8) which defines what the school may use an operational surplus for. These clearly show that the replacement of the boiler in the changing room is appropriate use of this money. The rest of the agreement is also clear that the financial management of the facility is the responsibility of the school. Furthermore, nowhere does it state that the school must seek authorisation for any expenditure from the 3G Steering group. If you have an agreement that states this is the case can you please forward to me as I have not seen such an agreement. In fact the Community Use Agreement makes the responsibility of the Steering Group clear (Section 5.5 and 5.6 p3), which does not include decision making regarding expenditure, and is very much focussed on the development of the community use of the facility. Finances and management are clearly the preserve of the school, but I am keen that the Steering Group is kept informed and is part of decision making where appropriate.

I have been very open with the steering group over the past 18 months as we dealt with the finance issues, and have involved the committee in plans put in place to recover the situation and ensure effective management of the school's finances, including 3G income and expenditure. This effective management is now in place and I will continue to report 3G finance to the steering group.

Best wishes

Matthew

M Wright MA
Headteacher
Wrotham School

From: Beverley Emmerson [<mailto:Beverley.Emmerson@tmbc.gov.uk>]

Sent: 01 March 2016 11:21

To: MWright

Subject: Boiler Replacement in the Changing Rooms

Matthew

Phil has brought to my attention that a £11,295.84 payment has been made from the 3G Pitch account for a new boiler in the changing rooms.

I do have a few concerns about this as it is my understanding that the changing rooms are the property and responsibility of the school but more importantly how has such a large payment been authorised without any liaison with the steering group?

I hope this has been an administrative error but would appreciate some clarification on this please.

Regards

Beverley

Beverley Emmerson
Sports Development Officer
Tonbridge & Malling Borough Council
Leisure Services
Gibson Building
Kings Hill
West Malling
Kent
ME19 4LZ

beverley.emmerson@tmbc.gov.uk



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Councillors are accused of holding head hostage

Police called after head teacher's car allegedly 'blocked' in row

By Andrew Jameson
reporters@sevenoakschronicle.co.uk

THREE councillors have been accused of holding the head teacher of Wrotham School "hostage" in a row over a boiler and a 3G pitch.

Police were called to a stand-off between head teacher Matthew Wright and councillors Mike Taylor, Robin Betts and Harry Rayner on Friday afternoon.

It ended with chair of governors Sheila Smith writing a missive to Tonbridge and Malling Borough Council claiming the councillors were "guilty of aggravated obstruction and holding Mr Wright hostage in the school" after they had allegedly blocked his vehicle in the car park.

The councillors, who are members of a management committee for the 2011-built 3G pitch in Whitegate Field, had turned up to discuss concerns over its use of community funds in the purchase of a new boiler.

Dipped

It is alleged that the school dipped into a community sinking fund for the maintenance of the 3G pitch - owned by the borough council - of which the school is the main user.

The borough council has accused the school of taking £11,295 from the emergency funds to pay for a new boiler in its own changing rooms. The authority requested an emergency meeting at 4.30pm on Friday but Mr Wright said he was unavailable.

The councillors claim Mr Wright also refused to speak to them when they turned up, before he asked them to leave.

But Borough Green Parish Council chairman Mike Taylor had parked his work van in the car park - in a position that Mr Wright claimed blocked him from leaving.

A police spokesman said they were called at 3.43pm to a report a member of staff's car had been



'OBSTRUCTION': Main picture, head teacher Matthew Wright accused Mike Taylor of blocking his way out of the car park. Left, Matthew Wright, and right Mike Taylor, Robin Betts and Harry Rayner. Inset, before and after Mr Wright was able to manoeuvre out of the space

blocked in but said the man "was able to manoeuvre his vehicle and leave the premises without police assistance".

Mr Taylor said: "I had been asked to leave the premises so I couldn't go back in to get my van - I didn't do it on purpose and he was able to leave in the end anyway."

Mr Wright left the school in his car some time later, after the three councillors had gone for a cup of tea near the 3G pitch at Wrotham School.

Despite this, just hours after the incident, Mrs Smith emailed the borough's sports development director Beverley Emmerson, say-

ing: "What happened this afternoon at Wrotham School was disgraceful and indeed criminal."

"In our opinion three members of your committee were guilty of aggravated obstruction and holding Mr Wright hostage in the school, both serious criminal acts."

The school has since sent Mr Rayner, Wrotham Parish Council vice-chairman, another letter banning him from the school grounds.

Mr Rayner said the councillors were well within their rights to investigate claims of financial impropriety.

Mr Rayner said the manage-

ment committee would be contacting the school's auditors.

On the school's accusation of "aggravated obstruction", he added: "It's a bit like asking me if I have stopped beating my wife. I have never beaten my wife, so it's completely pointless."

Responding to the claims about the boiler, Mr Wright, who denies it cost £11,295, said: "A boiler which serves the changing rooms for the school and community outdoor sports facilities at Wrotham school broke down and needed to be replaced."

"As the Community Use Agreement clearly states that the school can use any operational surplus

money to maintain the amenities, we went ahead and bought a new boiler at a cost of £7,500 plus £1,500 VAT, which is recoverable."

"This was an appropriate use of this money for essential maintenance which means the changing rooms can continue to be used by the school and the local community outside of school hours."

Adrian Stanfield, the borough council's director of central services, said: "The council is reviewing all related documentation in regard to this matter and following this review will be proposing that a meeting of the 3G committee takes place to discuss this further."



Sailor's out of Rio 2016 with cancer

SEVENOAKS sailor Elliot Willis has had to abandon dreams of winning gold at this year's Rio Olympics to undergo treatment for bowel cancer.

The 32-year-old had been set to compete alongside Luke Patience in the 470 Men's pairing but discovered he had cancer following tests in December.

Due to his ongoing treatment, as a two person crew, they are unable to follow the combined training programme required to maximise their chances of success in Rio.

Stephen Park, Royal Yachting Association Olympic manager and Team GB sailing team leader, said: "The circumstances surrounding the deselection of Luke and Elliot are obviously disappointing for everyone."

"However, as a team we knew we would be set a number of challenges in this journey to Rio 2016 and this is just one we have to deal with along the road. Hopefully this doesn't mark the end of Elliot's Olympic journey and we look forward to seeing him back in the boat soon."

Mr Willis, a former Sackville School pupil, and Patience are the world number two-ranked pair and were among the first athletes to be selected to Team GB for the Games in September.

At the time of his diagnosis, Mr Willis, a star alumnus of Chipstead Sailing Club, said his main focus was to get better.

"Clearly it's pretty shocking news to receive," he said.

"It's still my dream to win Olympic gold but right now my focus and energy needs to be on getting better."

"My health is my number one concern and I will take advice and recommendations of the medical professionals as they establish the right course of treatment for me."

'Women's vote could decide Brexit'

A LEADING councillor has called on Sevenoaks MP Michael Fallon to explain why he will be voting for the country to stay in the EU.

Anna Firth, district councillor for Brasted, Chevening and Sundridge, launched her Vote Leave campaign, called Women for Britain, at a coffee morning in the Pond View Café, Otford, last week.

She said: "At the coffee morning security was said to be an important factor. I would like to understand why Michael Fallon has come to his view. But I do respect him as a senior and experienced MP and he is entitled to his own opinion."

She said the women's vote is "absolutely critical" in deciding the outcome of the EU referendum, to be held on June 23, after exit polling in Scotland showed the women's vote decided the fate of the independence referendum.

Mrs Firth added: "Polling



WOMEN FOR BRITAIN: The Vote Leave group meet for the first time

shows double the number of women have not made their mind up than men. When women make up their minds it will decide the referendum.

"We are providing a forum where we can get together to discuss the EU and how it will affect us, our families and our children in an open way."

"If we leave the EU, we will be able to scrap VAT for sanitary products, and contraception costs will be lower."

"The Equal Pay Act, the Abortion Act, and the Divorce Reform Act were all enforced before we joined the EU, and the contraceptive pill was made free on the NHS."

"And Margaret Thatcher became the first female Prime Minister without any EU assistance."

Claire Pearsall, district councillor for Ash and New Ash Green, explained her views on defence. "I understand concerns about what is happening in the Middle East and about Russia but I think ultimately we would be better placed looking after ourselves," she said.

"We still have one of the best trained and equipped armies in the world and this doesn't rely on EU membership."

The Sevenoaks Women for Britain campaign will have a street stall outside Tesco in the High Street on Saturday between 10.30am and 12.30pm, talking about Vote Leave.

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From: Harry Rayner <harry@harryrayner.net>
Date: 9 March 2016 at 12:59:59 GMT
To: <Darren.Lanes@tmbc.gov.uk>, <Beverley.Emmerson@tmbc.gov.uk>, <MWright@wrotham.kent.sch.uk>, <Robin.Betts@tmbc.gov.uk>, <bettscheese@gmail.com>, <mike.truck@btconnect.com>, <p.garland@tiscali.co.uk>, <padarby@btinternet.com>, <petedonovan@sky.com>
Subject: Misappropriation of Wrotham 3G Pitch Sinking Fund

Dear Mr Lane

Further to your email below, I do hope that this is not the precursor to the whole matter being 'kicked into the long grass' or filed away in the 'too difficult file'.

As agreed with the Management Committee I have undertaken some further investigation. Firstly, Wrotham School is now a private company, registered in England and limited by guarantee, allocated Company Registration Number 07662701. It is an Academy Trust reporting to a section of the Department of Education -- Dominic Herrington, Regional Schools Commissioner for the South East and South London 1 Bedford Park, Croydon CR0 2AQ email: rsc.sesl@education.gsi.gov.uk.

For the purposes of this email I am not making reference to Wrotham School Governors as I believe that they are colluding with Mr Wright in the misappropriation of funds from the 3G Pitch account using funds from this account to pay for new school assets and according to Mr Wright there appears to be some £4300.00 missing being the difference between £7000, which he writes went on a new gas boiler and the actual funds paid out of the account.

The schools report and accounts for the years 2013-2015 make interesting reading. Importantly cash in hand has fallen dramatically by almost two thirds over this period. From reading the accounts, it is apparent, that especially at this time of year, Wrotham School appears to be very short of cash. This may well be the reason that the misappropriation has occurred.

Turning to the so called 'Agreement' this was agreed by Mr Wright in person because he admitted that Wrotham School was no longer in a position to continue to manage and administer the 3G Pitch operation. It was subsequently agreed between the School and the Management Committee that Phil Garland undertake the day to day management of the facility, in return for agreed concessions, all paid for from the 3G Account. Under the agreement this cost should have been paid by Wrotham School. Mr Wright's reference to the original agreement is simply dissembling on his part, he well knows that he cannot rely on an old agreement, since superseded, under which Wrotham School are apparently unable to carry out 'their part of the bargain'. Mr Wright clearly seeks to use the 3G Pitch account as his 'slush fund' to be used to cover for his inability to manage his school cash flow. This is not an acceptable way to manage public funds and the Committee ignore what has happened at its peril.

Wrotham School auditors are Wells Giles Limited, 12 Conqueror Court, Sillingbourne, Kent ME10 5BH the Academies Audit Manager is Gemma Chan. The appropriate Directors are Alyson Howard and Alex Ffronch. Gemma Chan's email is: gemma.chan@williamsgiles.co.uk the same email formula can be used for the 2 Directors. At the very least the 3G Management Committee should write to Wells Giles and ask them to review urgently the circumstances of the withdrawal of the funds.

The writer is a former Governor of Wrotham School until April 2013 (sometime Vice Chairman). One of my former colleagues who remains a Governor has recently advised me that Mr Wright is leaving Wrotham School, having given notice in December 2015. The 'hit' on the 3G Pitch funds were carried out with the knowledge and agreement of some governors but only after Mr Wright resigned as a Director of Wrotham School Limited on 16 January 2016 and after his notice of cessation of employment. This has all the hallmarks of a calculated 'hit' by those managing Wrotham School Limited on the local community. It is to be hoped that whatever scrutiny is being carried out by

T&MBC - it is undertaken promptly, otherwise the Management Committee will be faced with the usual "Mr Wright has now left our employment and no one knows anything about what happened to the amount withdrawn from the 3G Pitch Account" perhaps the missing balance will be put towards his 'Golden Handshake'.

There is also the matter, still unaddressed, of Ms Jean Pankhurst the former Business Manager of Wrotham School Limited who provided the 3G Pitch Committee with fraudulent accounts, calculated to have the Committee believe that the 3G Pitch cash in hands were some £35,000 more than it subsequently appeared that they were. The Management Committee has not taken steps to seek to recover from Wrotham School the consequences of that fraud, in light of the most recent misappropriation, that matter should also be placed on the agenda of the next meeting. I understand from the same former colleague School Governor that Ms Pankhurst is now pursuing legal action through the Employment Tribunal against both Wrotham School and Mr Wright personally.

Please can we today set a date for the next 3G Pitch Management Committee meeting? Otherwise, I fear that it will not meet again before the Parish decides that the Wrotham 3G Pitch is a lost cause, with any available funds constantly being 'creamed off' by the next person who considers that they 'have a right to it'.

Regards

Harry Rayner

Wrotham School Governors
Full Governing Body meeting
Thursday 10th March 2016

Present: Mrs Sheila Smith (Chair) Mr R Mingo, Finance Director, Kim Skinner, Janet Finney, Phil Broszek, Matthew Wright, Roger Mather, Eric Moe, Derek Lewis, Keir Williams

Clerk Mrs R Martin

Item 1	Apologies for Absence
	All governors were present. Mr S Toher has given his resignation as a Governor with immediate effect. The Headteacher and the Chair are meeting a potential new Governor on Friday 11 th March.
Item 2	Register of Business Interest
	There were no Business interests declared.
Item 3	Minutes of the Previous meeting
	Minutes of the previous meeting held on 26 th November 2015 were signed as a true record and there were no matters arising.
Item 4	Financial reports
	<p>Mr Mingo presented the accounts up to the end of 31st January 2016. Accounts up to the end of February 2016 were also available. The results to Jan 2016 show a surplus of £40,501 for the period and a surplus of £24,839 for the month. This is against a budgeted surplus of £3,870 for the period and £16,842 for the month.</p> <p>Income - Total income was over budget for the period by £67,627. GAG income was over budget by £27,224 for the period and other Government grants was £10,478 over budget. Pupil Premium was £5,009 under budget. Total restricted income was £30,256 over budgets. Total Restricted Income was £30,256 over budget. Other Government grants includes a Grant of £10,000 for the alternations to the cycle/pedestrian access to the school, which is off-set by an increase in maintenance of grounds.</p> <p>Unrestricted income was £37.391 over budget with £24,240 as a result of field trip income especially on the Iceland and Paris trips. 3G income and catering were over budget by £8,571 and £6,389 respectively.</p> <p>Professional fees for the Finance Director will be moved into the Salaries from February 2016 to give a direct comparison to actual.</p> <p>Admin expenses will be low – salaries more in line with the budget. There is a savings of £34,161 on actual Salaries Teaching salaries are close to budget as opposed to the £24.000 budgeted for.</p> <p>Premises cost of £8,201 over budget. This is because we have paid for the cycle pedestrian access into the school. This was off-set by the grant received from KCC. Supplies and services are over budget by £56,976 mainly due to professional fees and IT expenses.</p> <p>The 3G income is very good show a surplus £19,928 compared to a budget of £14,987. This is a result of increased income of £8,571 As a result of the surplus there has been a transfer to the 3G sinking fund of £19,928 It is estimated that income will drop off towards the end of the season.</p> <p>The budget for the academic year Sept 2016 to August 2017 has recently been received from the EFA. This is £93,000 lower than last year due to lower number of students in the Sixth Form. The Headteacher believes we have been under funded due to the number of hours students study in the Sixth form. The projected number</p>

	<p>of students is looking positive for the next 3 years. Mr Mingo is starting to work on the budget with salaries and hopes to be able to report towards the end of April.</p> <p>Responsible Officer/Internal Audit – Nigel Newman was appointed as the Responsible Officer but it was agreed that it would be better to appoint William Giles to come and in and do the Audit so that they can give a comparison to last year. Mr Newman will attend the audit on the second day. This is due to take place on 13/14th April. The Auditors will report to Nigel Newman and then he will report to the Governors.</p>
Item 5	3G Steering Committee update
	<p>The Headteacher updated the Governors on the recent events with the 3G Steering group.</p> <p>Mr Garland is self-employed and manages the day to day running of the 3G pitch and finances. He comes into school to check on the invoices on a regular basis. He contacted the Chair of the Committee - Beverley Emerson from Tonbridge and Malling Borough Council to say that the school had transferred £11.000 out of the 3G bank account.</p> <p>Three members of the Steering Committee turned up at school on Friday 4th March and would not leave the site until they had met with the Headteacher.</p> <p>The three members were: Mike Taylor, Councillor Borough Green, Mr Harry Rayner, Councillor at Wrotham Parish Council and Robin Betts, Councillor Borough Green.</p> <p>Mr Taylor parked his van across the back of the Headteacher's car so he could not get his car out.</p> <p>The 3G bank account is part of the Wrotham School account although totally separate. The school are responsible for managing the bank account. The boiler had broken down and did not have a service contract; three estimates were obtained for its repair. Mr Garland raised the point that bookings would fall off or be cancelled because they could not have showers.</p> <p>There was no communication with the committee to say the boiler needed replacing. The 3G/Football Foundation agreement clearly states that the school can use the finances as appropriate and refers to the 3G pitch as the school's facilities.</p> <p>The Steering group must monitor the football plan, to ensure the promotion of football in the area – one target is to ensure there is a girls' team. Nowhere does it refer to them as a Management group. It also states they only have to meet twice a year. The school must provide a financial report once a year.</p> <p>The Headteacher has spoken to the Football Foundation who were stunned that the steering group met more than twice a year.</p> <p>The 3G finances were poorly managed by the previous Business Manager. It was the 3G Steering committee who requested the school get a third part to look into the 3G finances. No evidence of fraud or theft was found just poor management and a booking system that did not meet expectations.</p> <p>Governors asked if the income was VAT exempt.</p> <p>The Headteacher confirmed the School claim back the VAT. The £11K is for a new boiler costing £7, 000, £1,500 for VAT and £2,295 which is payment to Phil Garland for his management fee.</p> <p>There have been some emails circulated by Mr Rayner, Parish Council of Wrotham, Mr Mike Taylor, Borough Councillor for Borough Green and Tonbridge and Malling</p>

	<p>and Roger Betts, Parish Councillor at Wrotham. Beverley Emerson has been copied in all of them but Mr Reeve has not been copied in.</p> <p>Darren Lane is Head of Leisure Services for Tonbridge and Malling Borough Council and is looking into the terms and functions of the Steering Committee. He is meeting with Beverley Emerson on Monday to discuss the role of the steering group.</p> <p>There is no constitution or terms of reference for the Steering Committee and The 3G steering group is a committee with no power.</p> <p>The two issues are:</p> <ol style="list-style-type: none"> 1. The replacement of the boiler and the steering committee's role and 2. The behaviour of the three Steering group members. <p>The issue has been referred to the police. Mrs Smith has written to the three members of the Steering group banning them from the site.</p> <p>The wording in Mr Rayner's emails are both libel and slanderous. It was agreed that a formal complaint would be made to Tonbridge & Malling Borough Council regarding their behaviour and the content of their correspondence. Standard legislation for Parish and Borough Councillors is for all correspondence to go through the clerk of the Parish/Borough Councils. The email correspondence was sent from their official email address.</p> <p>The Headteacher and Chair of Governors are meeting the Football Foundation on Tuesday.</p> <p>It was agreed the behaviour of the three members will be dealt with by the Police. It was agreed that Nigel Newman and Eric Moe will go through the agreement in details to report the Governing Body perception of the agreement.</p> <p>Governors gave their support and agreed the actions above.</p>
Item 6	Headteacher's Report
	<p>Highlights of the report:</p> <ul style="list-style-type: none"> • Formal Complaints - Mrs Skinner asked what constitutes a formal complaint. Mr Wright confirmed any complaint received in writing. • Staffing - Mrs Finney was concerned that some experienced staff were leaving. Mr Wright explained that Science was a concern but we had made two new appointments recently, one being a teacher on a training course who would be able to transfer her training to Wrotham school. • Student Progress - Progress 8 is currently looking strong based on Term 3 data with a predicted score of 0.48. A score of +0.5 is outstanding. 0.48 is a very high progress grade. We have four students in Year 11 who are educated at another school but still on dual roll and their results have a significant impact on our results. Without these four students are Progress 8 score would be 0.63. Pupil Premium - The gap between PP and non PP students is predicted to narrow significantly. • The Sixth Form have made significant progress in A Levels compared to the recent Ofsted report.

	<p>The impact of low numbers of students on the courses is very high so the plan is not to run courses with less than 5 students for next academic year.</p> <ul style="list-style-type: none"> • Internal Baccalaureate Careers Pathway – we have indicated we would like to be involved in this qualification. A total of 27 schools have signed up. The Headteacher will have to attend three days training in May. • Attendance is still a concern – We have put lots of strategies in place to try to improve attendance rates but are still struggling to get the PP and vulnerable students to attend. The Headteacher recently shadowed an Ofsted Inspector at a school in the top 10% of schools with high attendance. They send out a mini bus to pick up any students. If students are not in school they cannot make progress. Attendance is 94.4% at Wrotham compared to 94.9% nationally.
Item 7	Regional Commissioner
	<p>The South East Regional Commissioner's Representative visited the Headteacher and Chair of Governors last week.</p> <p>The Government want all schools to be part of an academy chain. When we transferred to an Academy in 2013 we were granted Multi Academy Status so we are therefore tasked with supporting another school or finding a sponsor. Every school will be an academy in a multi academy trust. They want Wrotham to be a sponsor and at the meeting asked how many schools we would like to take over.</p> <p>Governors expressed their concern for our own school. The Headteacher felt it will be better to sponsor another school rather than be forced to join someone else. Working with another school can bring opportunities. Most failing schools are only not failing in every element. The Headteacher is currently supporting the Headteacher in Aylesford School.</p> <p>Governance will also change – there would be a board of Governors then a level of trustees and then each school would have a local body of Governors.</p> <p>There is a general required for more schools in Kent to meet the rising number of students. We could work with a primary school or even open a free school. The Education Bill extends the power to enforce a school to become an academy.</p>
Item 8	Review of Governing Body
	<p>Mr R Mather is going to be reviewing the function of the Governing Body. He will set up a working group to review how we as a Governing Body perform against certain criteria. It is hoped this will be completed by the next meeting.</p> <p>Mrs Finney and Mr Lewis volunteered to be part of this working group. The review will be based on NGA, Governor mark or ISCA.</p> <p>Action: Mr Mather to set up a sub committee to review the function of the Governing Body and report back at the next meeting</p>
Item 9	Subcommittee reports.
	<p>Teaching and Learning – The committee had not met this term but Mr Cater had produced the attached report. This includes details on the Teaching and Learning continuing to improve and the impact of the "Up for the Challenge" initiative.</p> <p>Middle leadership is now is very good and the right leaders are in the correct roles.</p>

	<p>The last two Fridays have held training sessions where talked about he strengths and designed the process of reviewing each other departments</p> <p>Health and Safety Committee – The committee have focused on the Fire Inspection report and the work required to bring the main building up to standards. A Fire Risk Assessment will be completed before the Inspection on 12th April.</p> <p>Leadership and Management – The Finance report has been covered in tonight’s meeting. Cleaning is still a problem and some items have gone missing. The Finance and Headteacher will be looking at the contract and an exit strategy. The results of the building bid should be known by the end of March.</p> <p>Business Manager’s Employment Tribunal – The insurance company have now agreed to pay the bill and Lock Law will represent the school.</p> <p>Behaviour and Safeguarding – Mrs James, Assistant Headteacher gave a presentation on CIAG.</p> <p>Exclusions - The Disciplinary committee have recently excluded three students. Mrs Finney proposed the Governors Discipline committee final warning meetings were called Governors Intervention Panel with more staff involved. This would show the parents everything possible is being done in school to support their child. The same Governor should not be on the permanent exclusion panel.</p> <p>Feedback from the students the Governors met prior to the last meeting included they wanted activities week and more charity days. Mr Wright was able to report there were lots of activities next week for sport relieve including a non-uniform day on Friday.</p> <p>Mrs Finney plans to visit the school to observe the Safeguarding procedures at the end of the day for students getting the buses procedures for trips and visits.</p> <p>There was no other business. The meeting ended.</p>
Item 10	Any Other Business
	There were no items raised under Any Other Business.
Item 11	Confidential Items
	Staff Names and Business Manager’s case to remain confidential.
Item 12	Dates of next meeting
	<p>Health and Safety – 12th May 2016</p> <p>Leadership and Management - 12th May 2016</p> <p>Behaviour and Safeguarding – Thursday 26th May 2016</p> <p>Teaching, Learning and Progress – 19th May 2016</p> <p>Governor Day & Full Governing Body meeting – Thursday 9th June 2016.</p>

Minutes signed as a true record

Signed Chair

Printed Name

Date

Actions

Item number	Action	By Whom	Completed
Item 7	Review of Governing Body To set up a sub-committee and report back at next meeting.	R Mather	

Dear Mr Lingard

To clarify points raised:

A number of references have been made as to why I attended Wrotham School and your terminology used was “lacks all credibility and logic”. In order to address this criticism I will explain fully, why indeed it was the correct procedure to follow, taking into consideration the lack of clarity presented to the 3G Committee as of the 4th March 2016.

For over a week the 3G Committee were trying to establish exactly where over half the funds of the 3G account had gone. Indeed it is a duty of care for the committee to oversee “good accounting practices” as expressly identified in the Football Foundation Report as follows: **“The Management Committee will also be responsible for ensuring that income and expenditure is kept in accordance with good accounting procedures and that the Business Plan and Football Development Plan are monitored and evaluated.”** Therefore this may well explain that as the committee were still lacking clarity over the large expenditure and Mr Wright was unwilling to allow us to carry out our responsibilities then it was clear that a week of requests was more than adequate and that establishing the need for a meeting was now of paramount importance, as emails were having no effect and the only and final option was to speak with Mr Wright personally to impress upon him that we were unable to carry out our responsibilities and resulting duty of care and that we needed to organise an urgent meeting, within a few days, at the very most. I also made this clear in my response letter to the school of 9th March 2016: **“I attended Wrotham School on the sole basis of trying to organise a meeting with the Management Committee so that positive and cohesive dialogue could ensue and also to fulfill our responsibilities, as a Committee to the community.”**

I believe the above fully addresses the criticism of “lacking credibility and logic”.

It would appear that the main thrust of this complaint is due to the parked position of Mr Taylor’s vehicle of which I had no involvement. I believe that in reality I have to in some way prove that I was NOT involved in anyway with the positioning of this vehicle and that if deemed this was an act of intimidation I would not support such confrontation. This is now the position I am in, is there enough evidence to suggest I was supporting intimidating actions as stated in your report or is there enough evidence on my part to prove otherwise? I hope the following will support my view that I cannot be held responsible for any possible breach of conduct on the 4th March 2016 due to the parked vehicle.

Firstly, the school's letter of 17th March 2016 to my children, only identifies a single complaint for which an apology was sought as follows: "I have considered your request and have decided to allow your father access to the 3G site provided he apologises to Mr Wright, as his behavior, with that of his two colleagues, meant Mr Wright was unable to pick up his son on that Friday evening."

So in essence the above only identifies one area of behavior for which I was requested to apologise for, which would suggest that my behavior otherwise, was of good conduct, which did NOT necessitate an apology.

It is clear that I can categorically prove I do not own the vehicle in question, which was quoted as "prevented Mr Wright from collecting his son that Friday evening". So I therefore can only try to prove that I am not a person of character, which would support such an action.

It was stated that I should have persuaded Mr Taylor to move his vehicle, but the problem is that the sequence of events did not allow any possibility of interference on my behalf because as soon as Mr Wright returned back into reception he made it clear he was calling the police, I did not have a problem with waiting for the police to arrive as I was happy to give a full statement of my actions and thought it important to wait to do so, (as I knew without doubt I had not conducted myself inappropriately at any time) which I duly did outside of the school, as we were asked to leave the school premises.

There are many aspects of what I do which will support me as person with good character:

I represent both Parish Council and Borough Council, I own a well respected award winning business. I am a father of two young children whom both attended the local primary school. I have a good working relationship with the Headmaster of their school and also I believe I had a good working relationship with Mr Wright. This can be proven by me volunteering to help with a number of issues affecting Wrotham School in my own time and without cost (as identified in previous letters). I am, by definition in average terms, a fairly young and relatively new Borough Councillor which helps to support my character as one who has the desire to help and support our local community. I am from a farming family which has a long history within our local area going back as far as the 1500s.

I took the opportunity to reply to the school (letter dated 9th March 2016) which fully addressed my position and that I do NOT "condone irresponsible or confrontational behavior, to which to date I have NOT received a response.

I believe by the very fact the school have considered a simple apology route for myself, certainly suggests I am NOT guilty in regards of the complaint made against me.

I sought the initiative to contact Darren Lanes to seek advice whilst attending the school and it is important to note that at no time was there any advice not to attend, only that of “tread carefully”.

In regards to the CCTV recording by Wrotham School, it is with great disappointment that the very evidence which would have supported my innocence and given the true facts of the case, was deleted by the complainant themselves, which I find most disconcerting, especially bearing in mind that the School have described this incident as one of the most serious in the history of the School.

I therefore believe that in reality without conclusive evidence to suggest that I was in anyway condoning any confrontational behavior, one should move to the next stage and consider my previous history and conduct, the set of events leading up to and after the event and with that, cast an opinion that actually this outweighs the possibility of myself having had a character on the day in question which may have supported any inappropriate behavior.

Yours sincerely

Mr Robin Betts

Note - additional comment made via email on 18/10/2016

Mr Wright's comment that our children's letter to the school was a "cheap shot" was most disappointing, especially from a person who has a career in working with children. The result is that as the offer of an apology route followed by the issue of a Code of Conduct Complaint the very day after, somewhat "tied my hands", in terms of no communication allowed and the possibility that I would be forced into apologising for something I had no control over.

The end result is that it became to onerous on us as a family in being able to safely drop off and collect our children from the 3G pitch and therefore we had no alternative than to remove our 11yr old son from Borough Green Junior Football Club, which then had the knock on effect of the team folding, as they had lost their goal keeper. Perhaps Mr Wright may now wish to reconsider his wording "cheap shot".

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St George's

Church of England Primary School

Old London Road, Wrotham, Sevenoaks, Kent TN15 7DL

Headteacher: Mr David Jones BEd(Hons)DipEd

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Bringing **faith** and **education** together

12 June 2017

To whom it may concern

Re: Mr Robin Betts

I have known Mr Robin Betts for five years as parent of two children who have attended St. George's (VC) CEP School in Wrotham.

As a local business man and a respective member of the Parish Council he has been fully involved in the school and the wider community. I know that he gives his time willingly to numerous causes, most recently, participating in the London Marathon and raising significant funds for charity. This is to be much admired.

In this respect Robin gives his time support several school causes, often the 'unseen' ones which need to be completed, for events to take place. For example he and his wife support the annual 'Wrotham Festival of Light', held in October, by giving their time to run stalls and often their own resources to provide hot food and drink to this very much school event.

Similar to any voluntarily group to work as a part of a Parents Association many delicate skills are needed, including perseverance and resilience amongst many others. Robin has demonstrated that he certainly had these quantities in abundance in addition to strong values which in fact underpin our school and village community!

From my knowledge of him he possesses countless 'people skills' including being enthusiastic, trustworthy, willing candidate and be very capable of becoming a member of any team or organisation. As part of a village community and specifically part of the Festival of Light team he showed good administrative, organisational and secretarial skills showing a good level of literacy and numeracy

Finally his constant 'cheerfulness' and positive attitude towards life made me feel that he is and contuse to be a valuable addition to both our village and school community.

Please do not hesitate to contact me if I can be of any further help or information.

Warm regards

David Jones

Headteacher



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TONBRIDGE & MALLING BOROUGH COUNCIL

CODE OF CONDUCT (STANDARDS) HEARING PANEL

12/13 JUNE 2017

STATEMENT OF Cllr HENRY (HARRY) RAYNER

I, Councillor Henry (Harry) Rayner, of Above Bridges, Borough Green Road, Wrotham, Sevenoaks, Kent TN15 7RA, will say as follows:-

1. I make this statement in advance of a Code of Conduct (Standards) Hearing Panel by Tonbridge & Malling Borough Council, which is scheduled to take place on 12 and 13 June 2017. I understand that the Hearing Panel is due to be convened in order to consider and determine the outcome of a complaint by Mrs Sheila Smith ("the Complaint"), which alleges that I, Cllr Mike Taylor and Cllr Robin Betts have breached the Kent Code of Conduct for Members.
2. I have read and considered the report of Mr Richard Lingard dated 17 October 2016, following his investigation into the Complaint. Where I refer to paragraph numbers in square brackets in this statement [X], these are references to paragraphs of Mr Lingard's Final Investigation Report ("the Report"). I deal separately in this statement with the two elements of the Complaint insofar as it relates to me, namely:
 - a. the events of 4 March 2016 at Wrotham School ("the School"); and
 - b. my email to Darren Lanes and others of 9 March 2016

The events of 4 March 2016

3. I attended the School on 4 March 2016 because I had serious concerns regarding the School's use of money deriving from the 3G Pitch. I note that at [2.9], Mr Lingard states that the scope of his investigation and therefore his Report do not extend to an examination of this issue. Nevertheless, there are certain assertions that the Report contains in this respect which I believe are incorrect, and wish briefly to address. First, I do not accept the

statement at **[2.3]** that the Community Use Agreement (“the Agreement”) of 15 December 2010 remains the only formal agreement between the School and the 3G Pitch Management Committee (“the Committee”, which was previously called the 3G Pitch Steering Group). In fact, at the School’s behest its former Business Manager Jean Pankhurst previously concluded, in 2013, that the Agreement and the arrangements associated with it were no longer fit for purpose, and insisted that a new document be drawn reflecting the role that the wider community were taking in the operation of the 3G Pitch. Mr Wright, the School’s Head Teacher, was fully aware of this as a result of the re-drawing of the Agreement and in fact one of the main reasons that the School were dissatisfied with original 2010 Agreement is that the School wanted a separation of 3G Funds from the School’s other funds. As a result and at Mrs Pankhurst’s request, the Committee agreed to open a separate bank account with NatWest Bank in Borough Green. Cllr Taylor and I then attended the School at Mrs Pankhurst’s request and completed Bank Mandates to become joint community signatories on the new account. Subsequently, it transpired that under NatWest Bank’s internal arrangements it was impossible to separate the 3G Pitch bank account from the School’s other accounts. In short, Cllr Taylor and I would have become signatories to all the School accounts. At the next Committee meeting, Mr Wright met us and described the forgoing, explaining that the separate bank account with NatWest Bank could not proceed as proposed. He knew in full about the new Management Contract as a result of the forgoing.

4. Secondly, a section of the Agreement is quoted at **[2.6]** which specifies that a sinking fund may be created to be applied to the School Facility and School Amenities – as defined in the Agreement – “Where it is clear that the School Facility is generating an operational surplus”. However, I understood it to have been accepted by all parties, as at the time when a new boiler was purchased for the School without reference to the Committee, that the 3G Pitch was not generating an “operational surplus” or anything like it [accounts for January 2016 are exhibited at “HR1”]. As such, I believe it was impermissible for the School’s Management to have applied the 3G Pitch fund for that expense. I add that I do not accept that the “WSCA” is “one and the same thing” as the 3G Pitch, as is stated in this paragraph. Indeed Mr Wright had agreed with the 3G Pitch Committee that he would not expend significant funds without the prior agreement of the Committee.
5. For the purpose of this statement, I do not propose to address the underlying issue concerning the boiler purchase in further detail, as it is not directly relevant to the Complaint. However, I note that it is said, at **[2.8]**, that the “clear view” of TMBC is that the purchase of the new boiler did not contravene the provisions of the Agreement. I also note that Mr Wright, at **[5.15]**, is recorded as having said that after the Manager of the 3G Pitch facilities, Mr Garland attended the School for a regular financial monitoring meeting on 1 March 2016,

and noticed a transfer of funds from the 3G Account form the boiler purchase, he "subsequently contacted Beverley Emmerson" of TMBC to tell her of that transfer. However, this does not accord with what Ms Emmerson stated at the Committee meeting on 3 March 2016, as she reported to the Committee that she had no prior knowledge of the expenditure of such funds. Nor was it my understanding, at the meeting and when I attended the School on 4 March 2016, that Ms Emmerson's or TMBC's view was that the Agreement had not been breached.

6. On the contrary, it was my clear understanding that Ms Emmerson, as an Officer of TMBC and Chair of the Committee, was as satisfied as I and other Parish Council representatives were, that the School's Management had apparently breached the Agreement. Ms Emmerson had stated this very clearly at the Committee's meeting the previous evening (3 March 2016), when the issue was raised. Given Ms Emmerson's close involvement in 3G Pitch management issues – she was the only TMBC officer to have consistently attended Committee Meetings since 2011 – I understood that her view in this respect also reflected the view of TMBC.
7. In passing I note that at [5.7] the report notes Mr Wright saying that "The changing rooms across the car park from the main school premises are part of the 3G facility and are used by some of the School students, including sixth form members of the Football Academy who train there and represent the school in an Academies League." That is incorrect. The changing rooms are specifically not part of the 3G Pitch facility. The Agreement spells that out. Occasionally hirers use the changing facilities, but the vast majority do not. The School uses the changing facilities almost exclusively. Only the hirers pay for the 3G Pitch – the School pay nothing. The income comes solely from the community hirers. The reality is that very few hirers use these facilities – more often than not they were locked and the most significant beneficiary by far was the School.
8. In view of the Committee's serious concerns that there had been a misappropriation of funds in relation to the boiler purchase, a resolution was made by the Committee at its meeting on 3 March 2016, with Ms Emmerson in attendance, that it was necessary to seek an urgent meeting with Mr Wright, in order to raise the Committee's concerns and try to resolve them with him. Ms Emmerson agreed, and I understood, that she would be responsible for seeking to arrange such a meeting, in her dual role as both an Officer of TMBC and Chair of the Committee.
9. The position is that I then attended a meeting of the TMBC Local Strategic Partnership at TMBC on the following morning, 4 March 2016. While at the Council offices, I spoke with Ms Emmerson about formally arranging a meeting at the School, and as is correctly

recorded at [10.24], I was called out of my meeting by Ms Emmerson two times, to keep me informed of her efforts to arrange a meeting, and we spoke again at the end of the meeting. I believe that on these occasions, Ms Emmerson was suggesting various times between 2 and 4.30pm. I cannot remember the specific times, but at that stage I understood that a meeting had not yet been fixed.

10. I am a former Governor of the School, having served two separate terms as Governor between 1988 and 1995, and again between 2011 and 2013. I believed that I had remained on relatively good terms with the School and with Mr Wright. As I regarded the issue which had arisen regarding the School's boiler as serious, and given my associations with the School, I hoped that it might be possible to have a discreet conversation with Mr Wright to see whether the situation could be resolved. In particular, I believed that the 3G Pitch Committee would be sympathetic and cooperative with Mr Wright and the School's Management, if it was the case that the School was having cash flow difficulties. In short, I believed that if I had an initial, informal meeting with Mr Wright, it might be possible to smooth things over.
11. I therefore attended the School on my own, without consulting Cllrs Betts or Taylor, on 4 March 2016, with the hope that I might have a brief conversation with Mr Wright. I informed Ms Emmerson that I would go to the School on my own, to see whether I could speak with Mr Wright and I tried, unsuccessfully, to contact one of the School's Governors, Mr Reeve, to see whether he could assist in arranging the meeting. I have seen, at [11.39], that Ms Emmerson has apparently stated that I told her I intended to visit the School on my own, to see whether a meeting could be arranged *for the following week*. This is simply not true; I was going to the School to see whether I could have an informal chat with Mr Wright there and then. I did not mention anything to Ms Emmerson about a meeting the following week and at no stage was there any discussion of a meeting the following week. The intention was always that Ms Emmerson would seek a meeting with Mr Wright on 4 March 2016, and I attended with the aim of having an informal discussion with Mr Wright early that afternoon shortly after 1.15pm and I was gone by 1.30pm, as I had to get to a meeting at County Hall at 2pm.
12. When I arrived at the School, I was greeted by the Receptionist Sue Reeve and then the Secretary, Rachel Martin, and was asked by her to wait in the Deputy Head's Office, while she checked whether Mr Wright was available. I stated that I just wished to have a quiet word with Mr Wright. As I felt that I had a good rapport with Mr Wright, I believed that he would readily see me and that it might help to defuse the situation, although I would have been equally happy to speak with Ms Martin about the relevant issues if she had been delegated to discuss them. However, Ms Martin returned after several minutes of waiting

and informed me that Mr Wright was unable to see me, at which point I left the School at just before 1.30pm. I have seen that at [14.16] and elsewhere, it is said I "knew full well" that Mr Wright would not be available for the rest of that day, as I had been told this by Ms Martin. I do not recall Ms Martin saying this, and contrary to what is suggested at [14.7], it was not made clear to me by her or by anyone else that Mr Wright would be unavailable for the rest of the day. Ms Martin was clear only that Mr Wright was not available to speak there and then, because he was with School pupils. As is recorded at [10.77], Ms Martin did not make any proposal for an alternative meeting between Mr Wright and the Committee, and there was certainly nothing mentioned about a meeting the following week.

13. In fact, I remember receiving a text message from Ms Emmerson on the afternoon of 4 March 2016, asking whether I was meeting Mr Wright at 4.30pm that day. I did not keep a copy of that message, but Cllr Betts has shown me a message that he received from Ms Emmerson at 15.50, which I exhibit to this statement as "HR2", and is in identical terms to the message that I remember receiving.
14. Later in the day I was travelling from Maidstone with the Clerk to Wrotham Parish Council, Leslie Cox. Whilst we were in the car, at around 2.50pm, I received a text message from Cllr Betts informing me that he was "at the school now". In view of Cllr Betts' message, and given that I knew that Ms Emmerson had been seeking to arrange an urgent meeting for that day, I understood that a meeting had in fact been arranged and had either commenced, or was about to commence. I have seen that the allegation is recorded at [1.2], and elsewhere in the Report, that I attended Wrotham School during the afternoon of 4 March 2016 "without an appointment". When I attended the School, I fully believed that an appointment had been made and that my attendance had been agreed by the School. At that time, I had not seen, and I was unaware of, an email that I understand Mr Wright had sent to Ms Emmerson at 11.41am, or Ms Emmerson's subsequent email of 11.53am.
15. I note that at [14.15], it is said that I "did not give a direct answer" as to why I went along to then School that afternoon. I do not agree with this, as I was very clear that I had understood, from the message I had received from Cllr Betts, that a meeting at the School had been arranged that afternoon by Ms Emmerson. As I have said, when I attended the School earlier that day, it was not made clear to me that Mr Wright would be unavailable for the rest of the day.
16. On receiving Cllr Betts' text message, I dropped Leslie Cox off and proceeded to make my way to the School. On my arrival at the School, I saw Cllr Betts sitting in his parked car, and I joined him as he spoke with Mr Lanes by telephone, using the car's loudspeaker. I note

that at [11.48], it is said that Mr Lanes recalls Cllr Betts having terminated this call when I and Cllr Taylor arrived. This is incorrect, and I do not know how Mr Lanes could have understood this as Cllr Taylor was not present.

17. Their conversation seemed to be fine and amicable. Mr Lanes did not, at any stage during the conversation, indicate that TMBC held the view set out at [2.8]. In fact, it very much appeared from that conversation that Mr Lanes was encouraging Cllr Betts to proceed with a meeting at the School and this corresponded with my understanding that a meeting had in fact been agreed.
18. At this stage, I should say that there seemed to be 50 or so vehicles in the School car park. I had no idea which car belonged to Mr Wright, and I was not aware of any problems in relation to the parking of Mr Wright's car.
19. After Cllr Betts had concluded his call with Mr Lanes, he locked up his car and we went into the School together, waited for Cllr Taylor for around 4 or 5 minutes in the Reception area, and then signed in when we were asked to do so by the Receptionist, Sue Reeve (which reinforced my understanding that a meeting had been arranged). I did not see Cllr Taylor arrive and I was not aware where he had parked.
20. When we first arrived, we were told by Sue Reeve, the School's Receptionist, that Mr Wright was in a meeting with some parents and would be unable to meet with us. We indicated that we would be happy to wait, as we only wished to speak with Mr Wright briefly. I have seen that at [5.23], it is said that we were "demanding to see" Mr Wright. I do not accept this. We asked whether we could have a short meeting with Mr Wright, but at no time did we "demand" or insist on seeing him.
21. I note that it is suggested, at [8.5], that a School pupil was removed from the Reception area as Ms Reeve "felt very uncomfortable that she was witnessing three adults verbally bullying her Head Teacher". I do not clearly recall the pupil being removed, but I strongly reject the allegations that I was "verbally abusing" Mr Wright. I did not raise my voice when speaking with Mr Wright (and I note that Ms Reeve does "not believe that there were any particular voices raised"); nor did I say anything to Mr Wright that could fairly be described as "bullying" or intimidating. As is noted at [10.100], I believe that the removal of the pupil was more likely to have been prompted by the Deputy Head, Michael Cater, raising his voice when he asked us to leave, which I discuss further below.
22. A short while later, around 5 minutes after Cllr Taylor's arrival, Mr Wright appeared at the Reception area from his office. Cllr Betts asked him whether he would speak with us for five minutes but Mr Wright indicated that he did not want to do so. As the Councillor with the

strongest ties to the School, I did most of the talking. At this point Mr Wright and I spoke very briefly. I said that we were there to discuss the funds that had been expended from the 3G Pitch bank account. As far as I was concerned, Ms Emmerson had set up a formal meeting of the Committee with Mr Wright or another representative of the School, and this was the central issue that we wished to raise. At the very least, we just wanted clarification of where things stood. I recall saying to Mr Wright that I thought a meeting would only take a few minutes. However, he responded by saying something like: "I'm not holding a meeting and I will not be press-ganged", before leaving the building without speaking with us further, only around a minute or less after he had emerged from his office.

23. At [5.25], it is said that as Mr Wright indicated that he was leaving, either I or Cllr Taylor said "Well, good luck with that mate" in a "cocky" way. I totally refute the suggestion that I said this, or that my manner towards Mr Wright was in any way "cocky". Nor do I recall Cllr Taylor (or, for that matter, Cllr Betts) saying this or anything similar to it and I do not believe that he did.
24. Mr Wright returned into the building within around 20 to 30 seconds after leaving. At first, I thought that he had returned because he had changed his mind about speaking with us. However, Mr Wright appeared to be agitated and upset, saying again that he would not be "press-ganged" into a meeting. At [5.26], it is said that at this time I, and the other councillors, were "nudging and winking at each other as if the whole thing was a huge, hilarious joke". This is untrue. At all times, I and Cllr Taylor and Cllr Betts in an entirely business like and serious manner. Furthermore, as I have said, I had no knowledge of which car was Mr Wright's and at that time. I remember Mr Wright making some comment that he needed to collect his family and was unable to remove his car. However I do not recall Mr Wright asking Cllr Taylor to move his van or making any mention of being blocked in by Cllr Taylor. I did not appreciate that Mr Wright saw the parking of Cllr Taylor's van as a problem.
25. Mr Cater then asked me, Cllr Betts and Cllr Taylor to leave, in a raised and somewhat hostile tone. At the same time, Mr Wright told us that he was calling the Police and walked away from us down the corridor. It is untrue that I said in response: "Good luck with that – we'd love to talk to the Police", as is alleged at [5.26], or any similar statement to this effect, and I did not hear either of the other Councillors say this. The entirety of our conversation with Mr Wright on his return into the building lasted only around 15 seconds.
26. On being told to leave by Mr Cater, we did so promptly and without demur. At no point did any of us refuse to leave as alleged at [6.8]. At [5.42] it is said that Mr Cater "got rid" of us

“by citing the safeguarding regime”. That is untrue. I understand that Mr Wright has estimated that we remained in the School building for another 15 minutes. As is recorded at [10.52], I totally deny this and I regret to say I believe it is a fabrication by Mr Wright; we remained in the building for less than half a minute before leaving and he cannot have mistaken this for 15 minutes. Cllr Betts and I returned to our cars in the school car park and immediately drove off, parking our cars around 300 meters away in the car park at Potters Mead. Cllr Taylor walked off the premises.

27. I also strongly reject the suggestion, at [5.27], that I and the other Councillors were “trying to goad” Mr Wright into reacting during this incident. Again, I believe that we were polite and respectful throughout and did not do anything to provoke or “goad” him.
28. It is similarly untrue, as is alleged at [5.31], that on leaving the School building, I and the other Councillors stood by the School gates taking “selfies” of ourselves with Mr Wright’s and Councillor Taylor’s van in the background. Once Cllr Betts and I had left the School building in our cars and parked in the car park at Potters Mead, we walked back to the School gates, and in anticipation of the imminent arrival of the Police, we waited quietly outside the gates for around 15-20 minutes, expecting the Police either to want to take statements, or make appointments for us to do so at a later date. No “selfies” were taken, and I did not take any kind of photographs myself. I understand from Cllr Taylor and Cllr Betts that they took photographs using their mobile telephones, as a means of making a demonstrable record of the time and our location as at that time, but I do not recall them doing this.
29. At [5.32], it is said that some time later, Mr Wright was “able to extract his car”, following which he parked it next to next to Cllr Taylor’s van and took a photograph of the two vehicles. It is then alleged that I, Cllr Taylor and Cllr Betts, “appeared from behind the 3G changing rooms” as Mr Wright and Mr Cater were leaving. In fact, the position is that while Cllrs Taylor and Betts and I were waiting outside the School for the Police to arrive, Mr Garland (the contractor who manages the 3G Pitch), came to the School gates and invited the three Committee members to attend his coffee stall located on the 3G Pitch premises, inviting us for a cup of tea. We did so, as we were then in a position from there to observe the Police’s arrival at the School. Neither I nor Cllr Taylor took any photographs at this time – I did not take any photographs that day – but on walking back across the 3G Pitch parking area, I saw Cllr Betts take a photograph of Cllr Taylor’s van which was in an isolated position. I assumed that he did so to have evidence of where the van had been parked.
30. As regards what is said at [5.34], I wish to record that I did not take the photograph that was used in the Sevenoaks Chronicle report, I did not discuss the matter with the Sevenoaks

Chronicle (or any other press outlet), nor was I consulted by anyone else about discussing the matter with the press.

31. I have seen, at [9.7], a transcript of Mrs Smith's email to Ms Emmerson on the evening of 4 March 2016. In this, Mrs Smith described what took place as "disgraceful and indeed criminal", alleging that in her opinion, myself and the Cllrs Taylor and Betts "were guilty of aggravated obstruction and holding Mr Wright hostage in the school, both serious criminal acts". I strongly dispute this. I believe that it is a gross misrepresentation by Mrs Smith of what took place, and I note that Mrs Smith did not witness the events about which she made these comments. At no stage did I obstruct Mr Wright in any way, let alone hold him "hostage".
32. I wish to state that all I, and the other Councillors who attended the School on 4 March 2016 were at all times well behaved, and not in any way aggressive or intimidating. Nor did I seek to aggravate what was already a tense situation. We simply requested a meeting with the School's chosen delegate to the 3G Pitch Committee, Mr Wright, to ask him politely questions pertaining to the School's agreement not to spend substantial sums without the Committee's approval.
33. There are a few further, specific issues that I wish to address in relation to this aspect of the Complaint.
34. At [9.10], it is said that I attended the School after having been banned from the site. In fact, the School is hired around 3 times a year to the NHS Blood Transfusion Service, and I wish to clarify that since being banned from the site, I have only visited the School upon a written request to me, by that Service, to attend one of their sessions in order to give blood. I regularly give blood, and hold an NHS gold badge given to those who have donated more than 50 times.
35. At [10.1], it is recorded that I, Cllr Betts and Cllr Taylor wished to be interviewed together. My reason for wanting this was that I felt we attended the School on 4 March 2016 collectively as representatives of the Committee, because we saw ourselves as having the delegated responsibility to protect the public purse. I thought that it was only appropriate that we were therefore interviewed together as members of the Committee.
36. I note that it is correct, as stated at [10.8], that I told Mr Lingard I had "nothing further to add". I wish to record, however, that Mr Lingard did not put the accounts of opposing witnesses to me before or during the interview, and I do not recall him asking me to comment on any specific statements that they had made during interview.

37. Paragraphs [10.10] and [10.11] record me having told Mr Lingard that a TMBC Solicitor, Kevin Toogood, apologised for the TMBC lawyers' earlier advice that there had not been a contravention of the Agreement. The Report states that Mr Toogood subsequently confirmed to Mr Lingard "that no such apology had been given". In fact, there was a meeting of the 3G Pitch Committee on 26 May 2016 at 4pm, which was attended by both Mr Toogood and Mr Lanes, at which the advice I was given was that there had been a variation of the Agreement via the 3G Pitch Committee's minutes. I distinctly remember Mr Toogood saying "If indeed the memorandum of understanding has been changed by the minutes, then I apologise for the advice given", or something very similar to this. That is what I was trying to explain to Mr Lingard.

My Email of 9 March 2016

38. I am aware that at [15.3], Mr Lingard finds that the accusations contained in my Email of 9 March 2016 amounted to a breach of the paragraph of the Code of Conduct that requires members to "behave in such a way that a reasonable person would regard as respectful".

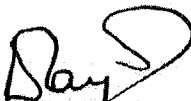
39. I note that Mr Lingard describes his conclusion as "concise", but he does not appear to provide any reasons at all for reaching his finding at [15.3]. It is therefore unclear to me whether he has reached this finding (a) because he does not accept that I had grounds to complain about the purchase of the boiler; (b) because even if there were such grounds to complain, my Email of 9 March 2016 was expressed too strongly; or (c) for some other reason.

40. I have seen that the Report does not address or reach any conclusions about the underlying issue concerning the purchase of the boiler. If it is the position that Mr Lingard regards my Email of 9 March 2016 as having been expressed too strongly (and has found a breach of the Code of Conduct on that basis), I do not understand how he can reach this view without having properly considered the underlying boiler issue, and therefore establishing whether I could reasonably have reached the negative view that my email expressed as to what had happened.

41. Consequently, I do not feel that I can address Mr Lingard's finding regarding the 9 March 2016 Email any further in this statement, except to state that I wrote the email in good faith, that I considered its contents to be accurate, and that I regarded its tone to be appropriate in the circumstances. As Mr Lingard's Report does not address the boiler issue, I will not address it further in this statement but I will be prepared to do so in oral evidence if required.

Allegation concerning bankruptcy

42 Lastly, I note that that [5.11], Mr Wright is recorded to have alleged that I have been declared bankrupt on one or more occasions, as a result of which I was debarred from my former position as a Governor of the School. This is a false and offensive allegation. I have never been made bankrupt. I have always remained solvent throughout my life and I remain a company director. Furthermore I was not "debarred" from my position as a School Governor; I resigned as I was taking on additional responsibilities as Vice Chairman of the Kent Association of Local Councils. I note that Mr Wright has not stated his grounds for making his false allegation, which I regard as a needless slur.

Signed: 

Henry (Harry) Rayner

Date: 2nd June 2017

TONBRIDGE & MALLING BOROUGH COUNCIL

CODE OF CONDUCT (STANDARDS) HEARING PANEL

12/13 JUNE 2017

**EXHIBIT "HR1"
TO THE
STATEMENT OF Cllr HENRY (HARRY) RAYNER**

WROTHAM SCHOOL

3G Pitch

INCOME AND EXPENDITURE SUMMARY STATEMENT FOR JANUARY 2016

	MONTH - JANUARY 2016			YEAR TO DATE 5 MONTHS			2015/16 BUDGET For The Year £
	Budget	Actual	Last Year	Budget	Actual	Last Year	
	For The Month £	For The Month £	For The Month £	For The Period £	For The Period £	For The Period £	
<u>INCOME</u>							
Letting of 3G Pitch	7,000	7,932	0	28,500	37,071	0	67,000
	7,000	7,932	0	28,500	37,071	0	67,000
<u>EXPENSES</u>							
Bank Charges	0	0	0	0	0	0	0
Accounting Services	150	150	0	450	750	0	0
Admin Charges	0	0	0	0	0	0	0
Cleaning	0	0	0	0	0	0	0
Copy Charges	0	0	0	0	0	0	0
Electricity	490	490	0	1,470	2,450	0	3,978
First aid	0	0	0	0	0	0	0
Health and Safety	350	339	0	700	339	0	1,400
Insurance	300	300	0	900	1,500	0	5,100
Maintenance Contracts	250	0	0	1,250	0	0	2,999
Maintenance Repairs	200	0	0	600	0	0	0
Management Fees	2,296	2,296	0	6,888	11,479	0	17,763
Postage	0	0	0	0	0	0	0
Printing	0	0	0	0	0	0	0
Publicity Costs	0	0	0	0	0	0	0
Security	353	0	0	880	0	0	2,122
Sports Equipment	0	0	0	0	0	0	0
Stationery	0	0	0	0	0	0	0
Subscriptions/Affiliations/Licences	0	0	0	0	0	0	0
Water	125	125	0	375	625	0	0
TOTAL EXPENSES	4,514	3,700	0	13,513	17,143	0	33,362
% to Turnover	64.49%	46.65%	#DIV/0!	47.41%	46.24%	#DIV/0!	49.79%
NET (COST)/SURPLUS	2,486	4,232	0	14,987	19,928	0	33,638

TONBRIDGE & MALLING BOROUGH COUNCIL

CODE OF CONDUCT (STANDARDS) HEARING PANEL

12/13 JUNE 2017

**EXHIBIT "HR2"
TO THE
STATEMENT OF Cllr HENRY (HARRY) RAYNER**




From: Robin Betts bettscheese@gmail.com

Date: 2 Jun 2017, 15:58:13

To: Robin Betts betts3812@gmail.com

●●●●● EE 

15:56

  95% 

New iMessage Cancel

To: TMBC Bev 3G

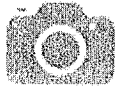
iMessage

4 Mar 2016, 15:50

Did you see
Matthew? Is the
4.30 meeting still
on? Beverley

Matthew has
emailed to say he

emailed to say he
has called the
police! Beverley



Winterdale Cheesemakers
World & British Cheese Awards Gold
KEiBA WINNER 2015 (Best Kent Business,
Environment)

ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011

1. Context

- 1.1 These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that the Borough Council has adopted for dealing with complaints that an elected or co-opted member or parish councillor has failed to comply with the Code of Conduct.

2. Interpretation

- 2.1 'Borough Council' means the Tonbridge and Malling Borough Council.
- 2.2 'Code of Conduct' means the Code of Conduct, which the Borough has adopted under section 27(2) of the Localism Act 2011 at Annex 1 to these Arrangements.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'Disclosable Pecuniary Interest' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Code of Conduct.
- 2.5 'Hearing Panel' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.
- 2.6 'Independent Person' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:
- (a) whose views must be sought and taken into account by the Borough Council before a decision is made on any complaint alleging a breach of the Code of Conduct by a Subject Member;
 - (b) who may be consulted by the Subject Member about the complaint.
- 2.7 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the Borough Council, an officer of another authority or an external investigator.
- 2.8 'Monitoring Officer' is a senior officer of the Borough Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other officer of the Borough Council nominated by the Monitoring Officer to act on their behalf.
- 2.9 'Parish Council' means the relevant parish/town council within the Borough of Tonbridge and Malling

- 2.10 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.
- 2.11 'Subject Member' means an elected member or co-opted member of the Borough or Parish Council against whom a complaint has been made alleging a breach the Code of Conduct.

3. Appointment of Independent Person

- 3.1 The Council shall appoint the Independent Person (s) upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.
- 3.2 The Independent Person (s) shall be treated as if they were a member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members.

4. Making a complaint

- 4.1 A complaint alleging a breach of the Code of Conduct by a Subject Member must be made in writing and addressed to the Monitoring Officer using the Complaint Form at Annex 2 to these Arrangements. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance.
- 4.2 The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 2 to these Arrangements).
- 4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 5 working days of receiving it. At the same time (and subject to para. 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 2 of Annex 2 to these Arrangements.

5. Criminal conduct

- 5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;
 - (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
 - (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;

- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

5.2 Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 2 to these Arrangements.

6. Anonymous complaints

6.1 Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer in consultation with the Independent Person, providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint.

7. Role of Independent Person

7.1 The Independent Person(s) must be consulted and have their views taken into account before the Authority makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

8. Preliminary tests

8.1 The Monitoring Officer will, in consultation with the Independent Person(s), Chairman and Vice-Chairmen of the Joint Standards Committee, put the complaint through a number of preliminary tests, in accordance with paragraph 1 of Annex 2 to these Arrangements.

8.2 In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph 1 of Annex 2 to these Arrangements may either be extended by the Monitoring Officer or the Monitoring Officer may act by consulting only with Chairman and Vice-Chairmen of the Joint Standards Committee in taking the decision or action.

9. Informal resolution

9.1 The Monitoring Officer, in consultation with the Independent Person(s), Chairman and Vice-Chairmen of the Joint Standards Committee, may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 2 to these Arrangements.

10. Investigation

10.1 If the Monitoring Officer, in consultation with the Independent Person, Chairman and Vice-Chairmen of the Joint Standards Committee, decides that the complaint merits formal investigation, they will, within 10 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

10.2 The Investigating Officer will investigate the complaint in accordance with Annex 3 to these Arrangements.

11. Hearing

- 11.1 If the Monitoring Officer, in consultation with the Independent Person, Chairman and Vice-Chairmen of the Joint Standards Committee, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 4 to these Arrangements.

12. Sanctions

- 12.1 Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 4 of Annex 4 to these Arrangements.

13. Appeal

- 13.1 There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

14. Revision of these Arrangements

- 14.1 The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

ANNEX 1

Kent Code of Conduct for Members

Preamble

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
 - (g) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a Member or Co-opted Member of the Authority;
 - (h) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of you becoming aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
 - (i) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (j) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
 - (k) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted
 - (l) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

THE CODE

1. Interpretation

In this Code:

“Associated Person” means (either in the singular or in the plural):

- (a) a family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management:
 - (i) exercising functions of a public nature; or
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

“Authority” means Tonbridge and Malling Borough Council

“Authority Function” means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) school meals or school transport and travelling expenses - where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which your child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members of the Authority;
- (e) any ceremonial honour given to members of the Authority;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not an elected member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

“Disclosable Pecuniary Interest” means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

“Interests” means Disclosable Pecuniary Interests and Other Significant Interests.

"Meeting" means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

"Member" means a person who is an elected member of the Authority and includes a Co-opted Member.

“Other Significant Interest” means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) which:

- (a) affects the financial position of yourself and/or an Associated Person; or
- (b) relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an Associated Person;

and which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

“Register of Members’ Interests” means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

"Sensitive Interest" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

General obligations

3. (1) You must, when using or authorising the use by others of the resources of the Authority:

- (a) act in accordance with the Authority's reasonable requirements; and
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes).

- (2) You must not:

- (a) bully any person;
- (b) 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, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
 - (d) 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 written consent of a person authorised to give it; or
 - (ii) you are required by law to do so; or
 - (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:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Authority;
 - (e) prevent another person from gaining access to information to which that person is entitled by law;
 - (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
 - (g) 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.

Registering Disclosable Pecuniary Interests

4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

Declaring Interests

5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest (and you are aware that you have such an interest) in any matter to be considered, or being considered, at the Meeting, you must:

- (a) disclose the Interest; and
 - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
 - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:
- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
 - (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
 - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the 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. Having made your representations, given evidence or answered questions you must:
- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

Sensitive Interests

6. (1) Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

Gifts and Hospitality

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and

hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.

- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

Dispensations

- 8.(1) The General Purposes Committee or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the General Purposes Committee or the Monitoring Officer (where authorised) considers that:
 - (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
 - (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
 - (c) granting the dispensation is in the interests of persons living in the Authority's area; or
 - (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
 - (e) it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

ANNEX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

SELFLESSNESS: You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

INTEGRITY: You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

ACCOUNTABILITY: You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

OPENNESS: You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

HONESTY: You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

LEADERSHIP: Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

ANNEX 2

Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

“**the Act**” means the Localism Act 2011

“**body in which the relevant person has a beneficial interest**” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“**director**” includes a member of the committee of management of an industrial and provident society

“**land**” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

“**M**” means a member of the relevant authority

“**member**” includes a co-opted member

“**relevant authority**” means the authority of which M is a member

“**relevant period**” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act

“**relevant person**” means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“**securities**” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour

	Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

ANNEX 2

PROCEDURE ON RECEIPT OF A COMPLAINT

1. Preliminary tests

1.1 The complaint will be assessed by the Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairmen of the Joint Standards Committee against the legal jurisdiction test in paragraph 1.2 and, if applicable, the local assessment criteria test in paragraph 1.4 below.

1.2 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the person complained of a member of the Borough or Parish Council at the time of the alleged conduct?
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
- (f) The complaint is about dissatisfaction with the Borough or Parish Council's decisions, policies and priorities, etc.

1.3 If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

1.4 Local assessment criteria test:

If the complaint satisfies the jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) The alleged misconduct happened more than 3 months ago*;
- (g) The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;

- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) The complaint is about a deceased person;
- (l) The complaint is about a person who is no longer a Borough or Parish Councillor or Co-opted Member.

* The Monitoring Officer may depart from this test where he/ she is satisfied that exceptional circumstances exist. In determining whether such exceptional circumstances exist the Monitoring Officer will have regard to the seriousness of the alleged breach, the time when the alleged breach first came to the attention of the Complainant and the consequences of the delay for a fair disposal of the complaint.

- 1.5 If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

2. Notification of complaint to Subject Member

- 2.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish Clerk].
- 2.2 The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish Clerk] to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below). Views received from the Subject Member [and/or Parish Clerk] after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the Monitoring Officer issues their written decision on how the complaint will be dealt with.

3. Asking for additional information

- 3.1 The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish Clerk] for additional information before deciding how to deal with the complaint.

4. What process to apply - informal resolution or investigation and/or no action?

- 4.1 The Monitoring Officer may at any stage (whether without the need for an investigation or before or after the commencement or conclusion of an investigation) seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the Borough/ Parish Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 4.2 The Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairmen of the Joint Standards Committee may refer the complaint for investigation when:

- (a) it is serious enough, if proven, to justify the range of sanctions available to the Joint Standards Committee (see paragraph 4 of Annex 4 to these Arrangements);
 - (b) the Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough or Parish Council and there is no other avenue left to deal with it short of investigation and, in considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.3 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.4 If the complaint identifies criminal conduct or breach of other regulations by the Subject Member or any other person, the Complainant will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. In such cases, the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and in consultation with the Independent Person will apply the local assessment criteria test in paragraph 1.4 above.
- 4.5 The Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairmen of the Joint Standards Committee, will take no action on the complaint when one or more of the following apply:
- (a) on-going criminal proceedings or a police investigation into the Subject Member's conduct or where the complaint is suspended in accordance with paragraph 4.4 above;
 - (b) investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
 - (c) the investigation might prejudice another investigation or court proceedings;
 - (d) on-going investigation by another prosecuting or regulatory authority;
 - (e) genuine long term (3 months or more) unavailability of a key party;
 - (f) serious illness of a key party.
- 4.6 Within 20 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member [and, if applicable, the Parish Clerk] of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 2):
- (a) not to refer the complaint for investigation; or
 - (b) to refer the complaint for investigation; or
 - (c) to apply the informal resolution process either before or after an investigation;
or

- (d) following investigation, to refer the complaint to the [Hearing Panel]; or
- (e) to take no action and close the matter; or
- (f) to refer the complaint to the relevant political group leader for action.

4.7 There is no right of appeal against the Monitoring Officer's decision. However, in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case it shall be treated as a fresh complaint.

5. Confidentiality

5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer in consultation with the Independent Person when they initially assess the complaint (see paragraph 1 above).

5.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity if they are satisfied that the Complainant has reasonable grounds for believing that they or any other person (e.g. a witness):

- (a) is either vulnerable or at risk of threat, harm or reprisal;
- (b) may suffer intimidation or be victimised or harassed;
- (c) works closely with the Subject Member and are afraid of the consequences, e.g. fear of losing their job;
- (d) suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
- (e) may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish Council.

OR where early disclosure of the complaint:

- (a) may lead to evidence being compromised or destroyed; or
- (b) may impede or prejudice the investigation; or
- (c) would not be in the public interest.

5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- (a) to facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;

- (b) to raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;
- (c) justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;
- (d) bringing out in the open serious concerns about the behaviour/conduct of an individual.

5.4 The Monitoring Officer, in consultation with the Independent Person(s) and Chairman and Vice-Chairmen of the Joint Standards Committee, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, within 15 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

6. Informal resolution

6.1 The Monitoring Officer may after consultation with the Independent Person(s) and Chairman and Vice-Chairmen of the Joint Standards Committee seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation or before or after an investigation has been commenced or concluded. The Monitoring Officer will consult with the Complainant and the Subject Member to agree what they consider to be a fair resolution which will help to ensure higher standards of conduct for the future.

6.2 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:

- (a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough/ Parish Council procedures; or
- (b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or
- (c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or
- (d) The conduct complained of appears common to a number of members of the Borough or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Borough/ Parish Council procedures, etc; or
- (e) The conduct complained of appears to the Monitoring Officer not to require a formal censure; or
- (f) The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough/ Parish Council; or
- (g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- (h) The complaint consists of allegations and retaliatory allegations between councillors; or
- (i) The complaint consists of allegations about how formal meetings are conducted; or

- (j) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other councillors including the whole Borough/ Parish Council where it may be useful to address systemic behaviour:

- (a) training;
- (b) conciliation/mediation;
- (c) mentoring;
- (d) apology;
- (e) instituting changes to the Borough or Parish Council's procedures;
- (f) conflict management;
- (g) development of the Borough or Parish Council's protocols;
- (h) other remedial action by the Borough or Parish Council;
- (i) other steps (other than investigation) if it appears appropriate to the Monitoring Officer in consultation with the Independent Person.

6.4 If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Joint Standards Committee [and, if applicable, the Parish Council] for information, but will take no further action.

6.5 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer may after consultation with the Independent Person(s) and the Chairman and Vice-Chairmen of the Joint Standards Committee reconsider whether the complaint should be investigated, or an investigation concluded.

EXAMPLE TEMPLATE – COMPLAINT FORM

The complaint form may be viewed on the Council's website via the following link -

<http://www.tmbc.gov.uk/services/council-and-democracy/councillors,-democracy-and-elections/council-constitution/articles/standards-committee>

EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g. REFERRAL FOR INVESTIGATION

Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature, or may be personal information.

Complaint No:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person(s)

[Summarise the Independent Person(s) views in numbered paragraphs]

Consultation with the Chairman & Vice-Chairmen of the Joint Standards Committee

[Summarise their views in numbered paragraphs]

Decision

Having consulted and taken into account the views of the Independent Person(s) and Chairman and Vice-Chairmen of the Joint Standards Committee, the Monitoring Officer decided to refer the complaint for investigation.

Potential breaches of the Code of Conduct identified

At this stage, the Monitoring Officer is not required to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant

- Member against whom the complaint was made
- [Clerk to the relevant Parish or Town Council]
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both [Borough] [City] [District] and County level*)

What happens now

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Additional Help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]. We welcome calls via [Typetalk](#)

Signed:

Date

Print name:

Monitoring Officer of the Tonbridge and Malling Borough Council

Gibson Building

Gibson Drive

Kings Hill

West Malling

Kent ME19 4LZ

ANNEX 3

2. PROCEDURE FOR INVESTIGATING THE COMPLAINT

1. Preliminaries

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.
- 1.4 Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 Within 10 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:
 - (a) provide details of the complaint to the Subject Member;
 - (b) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
 - (c) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
 - (d) request contact details of any potential witnesses;
 - (e) require that confidentiality is maintained and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8 The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the [Monitoring Officer] [Hearing Panel].

2. The draft report

- 2.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT') to the Monitoring Officer for review.
- 2.2 Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'CONFIDENTIAL' and will detail:

- (a) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- (b) a summary of the complaint;
- (c) the Subject Member's response to the complaint;
- (d) relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- (e) a list of any documents relevant to the matter;
- (f) a list of those persons/organisations who have been interviewed;
- (g) a statement of the Investigating Officer's draft findings of fact and reasons;
- (h) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- (i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

2.3 Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL'.

3. Consideration of Investigating Officer's final report

3.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person(s) and Chairman and Vice-Chairmen of the Joint Standards Committee.

3.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person(s), Chairman and Vice-Chairmen of the Joint Standards Committee, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

3.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person(s), Chairman and Vice-Chairmen of the Joint Standards Committee concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

- (a) take no action or
- (b) seek informal resolution or
- (c) refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 2 to these Arrangements.

HEARING PANEL PROCEDURE

1. Rules of procedure

1.1 The Hearing Panel shall be comprised as follows –

(a) Where the Subject Member is a Borough Councillor, the Panel shall be comprised of five Borough Members and one Parish/ Town Member drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

(b) Where the Subject Member is a Town or Parish Councillor, the Panel shall be comprised of three Borough Members and three Parish/ Town Members drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

(c) Where the Subject Member is acting in a capacity both as a Borough Councillor and as a Town/ Parish Councillor, the Panel shall be comprised of five Borough Members and one Parish/ Town Member drawn from the Joint Standards Committee, one of whom shall be elected as Chairman

Where practicable, members of the Hearing Panel shall be drawn from a different planning area of the Borough than the member against whom the complaint has been made.

1.2 The quorum for a meeting of the Hearing Panel is three.

1.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may submit their views on the complaint to the Hearing Panel in writing instead.

1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied where it is necessary to exclude the public and press from meetings of the Hearing Panel where it is likely that confidential or exempt information will be disclosed.

1.5 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.

1.6 Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in

exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.¹

2. Right to be accompanied by a representative

The Subject Member may choose to be accompanied and/or represented at the Hearing Panel by a fellow councillor, friend or colleague.

3. The conduct of the hearing

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) elect a Chairman;
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- (e) introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Hearing Panel may adjourn the hearing at any time.

3.4 Presentation of the complaint

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls his/her witnesses. No new points will be permitted;
- (b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;
- (c) The Hearing Panel may question the Investigating Officer upon the content of his/her report and any witnesses called by the Investigating Officer.

3.5 Presentation of the Subject Member's case

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
- (c) The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

¹ Janik v Standards Board for England & Adjudication Panel for England (2007)

3.6 **Summing up**

- (a) The Investigating Officer sums up the complaint;
- (b) The Subject Member or their representative sums up their case.

3.7 **Views/Submissions of the Independent Person**

The Chairman will invite the Independent Person to express their view on whether they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct or no breach as the case may be.

3.8 **Deliberations of the Hearing Panel**

Deliberation in private

- (a) The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and from whom.

Announcing decision on facts found

- 3.9 (a) The Hearing Panel will reconvene the hearing in public and the Chairman will announce that on the facts found, the Panel considers that there has been a breach of the Code of Conduct, or no breach, as the case may be.
- (b) Where the Hearing Panel finds that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member* and the Monitoring Officer to make their representations as to whether any sanctions (in accordance with paragraph 4 of this Annex 4) should be applied and what form they should take.

*The Subject Member will be invited to make representations on the form of any sanctions, but not as to whether any sanctions should be applied.

- (c) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.
- (d) If evidence presented to the Hearing Panel highlights other potential breaches of the Borough or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

Formal Announcement of Decision

- 3.10 (a) Where the complaint has a number of aspects, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- (b) The Hearing Panel will make its decision on the balance of probability, based on the evidence before it during the hearing.
- (c) Having taken into account the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chairman will announce:
- (i) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;
 - (ii) the sanctions (if any) to be applied;
 - (iii) the recommendations (if any) to be made to the Borough or Parish Council or Monitoring Officer;
 - (iv) that there is no right of appeal against the Panel's decision and/or recommendations.

4. Range of possible sanctions

- 4.1 Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/ recommended:
- (a) Recommending to the Borough/ Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
 - (b) Recommending to the Subject Member's Group Leader or Parish Council, or in the case of a ungrouped Subject Member, to the Borough/ Parish Council that they be removed from committees or sub-committees of the Council;
 - (c) Recommending to the Leader of the Borough Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
 - (d) Instructing the Monitoring Officer [or recommendation to the Parish Council] to arrange training for the Subject Member;
 - (e) Recommending to the Borough/ Parish Council that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Borough/ Parish Council;
 - (f) Recommending to the Borough/ Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or email and internet access;
 - (g) Recommending to the Borough/ Parish Council the exclusion of the Subject Member from the Borough/ Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending Borough/ Parish Council committee and sub- committee meetings;
 - (h) Reporting the Panel's findings to the Borough/ Parish Council for information;
 - (i) Instructing the Monitoring Officer to apply the informal resolution process;
 - (j) Sending a formal letter to the Subject Member;
 - (k) Recommending to the Borough/ Parish Council to issue a press release or other form of publicity;
 - (l) Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.

- 4.2 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.
- 4.3 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.
- 4.4 When deciding whether to apply one or more sanctions referred to in paragraph 4.1 above, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:
- (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough/ Parish Council's Code of Conduct?
 - (b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
 - (c) Has there been a breach of trust?
 - (d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
 - (e) What was the result/impact of failing to follow the Borough/ Parish Council's Code of Conduct?
 - (f) How serious was the incident?
 - (g) Does the Subject Member accept that they were at fault?
 - (h) Did the Subject Member apologise to the relevant persons?
 - (i) Has the Subject Member previously been reprimanded or warned for similar misconduct?
 - (j) Has the Subject Member previously breached of the Borough or Parish Council's Code of Conduct?
 - (k) Is there likely to be a repetition of the incident?

5. Publication and notification of the [Hearing Panel's] decision and recommendations

- 5.1 Within 10 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the Borough Council's website.
- 5.2 Within 10 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:
- (a) the Subject Member;
 - (b) the Complainant;
 - (c) the Clerk to the Parish Council;
 - (d) Kent County Council's Standards Committee (*applicable only where the subject Member is serving at both Borough and County level*);
- 5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to the next ordinary meeting of the Joint Standards Committee for information.

TEMPLATE - DECISION NOTICE (of Hearing Panel)

Complaint No: xxxx

On [insert date], the Hearing Panel of the Tonbridge and Malling Borough Council considered a report of an investigation into the alleged conduct of Councillor [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both [Borough] [City] [District] and County level]*

Additional help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]. We welcome calls via [Typetalk](#)

Signed:

Date

Print name:

Chairman of the Hearing Panel

Tonbridge and Malling Borough Council

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