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STANDARDS HEARING SUB COMMITTEE

DATE: FRIDAY 11 MARCH 2011
TIME: 9.30AM
PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)

Committee Members–

Councillors Rennie and Mrs Stephens
Independent Members - Mr Campbell, Ms Farrell and Mr Pearce (Chair)

Members are invited to attend the above meeting to consider the items of business overleaf.

Members and Officers are requested to sign the attendance list at the meeting.

Please note that, unless the Chair agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used during meetings.

BARRY KEEL
CHIEF EXECUTIVE

STANDARDS HEARING SUB COMMITTEE

PART 1 (PUBLIC PANEL)

1. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

2. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

4. TERMS OF REFERENCE

(Pages 1 - 2)

For Members to receive the terms of reference for the Standards Hearings Sub Committee.

5. CODE OF CONDUCT

(Pages 3 - 10)

For Members to receive a copy of the Members Code of Conduct.

6. HEARING PROCEDURE

(Pages 11 - 16)

The Committee will receive a copy of the hearing procedure.

7. PRE HEARING SUMMARY

(Pages 17 - 20)

The Committee will consider the pre hearing summary.

8. COMPLAINT TO BE CONSIDERED FROM COUNCILLOR RICKETTS AGAINST COUNCILLOR STEVENS

The Committee will consider a complaint from Councillor Ricketts against Councillor Stevens.

9. EXEMPT BUSINESS

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s)... of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE PANEL)

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the panel is entitled to consider certain items in private. Members of the public will be asked to leave meeting when such items are discussed.

Nil.

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Terms of Reference of the Hearings Sub-Committee**As approved by the Standards Committee**

1. Terms of Reference
 - a. The Hearings Sub-Committee is established to determine any matters referred to it from the Standards Committee, the Standards Board for England, the Monitoring Officer or a complainant; for local determination.
 - b. Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
 - i. it accepts a finding of no failure to observe the Code of Conduct by the Monitoring Officer;
 - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee, and if so, for dealing with any necessary preliminary steps; or
 - iii. the matter should be referred to the Adjudication Panel for determination.

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.
 - c. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) above, the Sub-Committee shall state its reasons for that decision.
 - d. Upon completion of a hearing by the Hearings Sub-Committee the Sub Committee shall be responsible for determining that:
 - i. the Member has not failed to follow the Code of Conduct; or
 - ii. the Member has failed to follow the Code of Conduct but no action needs to be taken; or
 - iii. the Member has failed to follow the Code of Conduct and should be penalised.
 - e. Where the Sub Committee finds that a Member should be penalised it may do one or a combination of the following:
 - i. censure the Member; this is the only form of penalty available when the person is no longer a member of the authority;
 - ii. restrict the Members access to the resources of the authority for up to six months, which could include limiting access to the premises of the authority;
 - iii. suspend or partly suspend the Member for up to six months;
 - iv. suspend or partly suspend the Member for up to six months on the condition that the suspension or partial suspension shall end if the Member apologises in writing, receives any training, or takes part I n any conciliation that the Sub-Committee requires them to ;

- v. require the Member to submit a written apology in a form specified by the Sub-Committee;
- vi. require the Member to undertake such training as is specified by the Sub-Committee;
- vii. require the Member to participate in such conciliation as is specified by the Sub –Committee.

2. Composition of the Hearings Sub-Committee

The Hearings Sub-Committee shall comprise 5 Members drawn from the Standards Committee who must have completed the Councils prescribed training on the Hearing of complaints of breaches of the Members Code of Conduct. The Chair of the Sub-Committee shall be an independent co-opted Member of the Standards Committee and at least one Member of the Sub Committee shall be an elected Member of the Authority.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 Members, with an Independent Co-opted member as Chairman, and at least one elected Member of the Council.

4. Frequency of Meetings

The Hearings Sub-Committee shall meet as and when required to enable it to determine any matters referred to it.

*Local Authorities (Model Code of Conduct) Order 2007 No.1159***THE MODEL CODE OF CONDUCT****Part 1****General provisions****Introduction and interpretation**

- 1.—(1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (see Annexe to this Code).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
“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 or joint sub-committees, or area committees;“member” includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

- 2.—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,
and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3.—(1) You must treat others with respect.
- (2) You must not—
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
4. You must not—
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You—
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7.—(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by –
- (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2
Interests

Personal interests

- 8.—(1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
 - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; 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;
- (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 a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 9.—(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
 - (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
 - (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
 - (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
 - (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
 - (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.
- 10.—(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and

- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where-
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12.—(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

- 13.—(1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

- 14.—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Approved by Council on 6 August 2007

Annexe - The Ten General Principles

The general principles governing your conduct under the *Relevant Authorities (General Principles) Order 2001* are set out below:

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

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

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Standards Committee

Agreed procedures for meetings of the Hearings Sub Committee

The procedures below aim to give a consistent approach to determining matters locally.

These procedures should be interpreted in line with any regulations issued by the Secretary of State or guidance issued by Standards for England.

1 Interpretation

- 1.1** 'Subject member' means the member of the authority who is the subject of the allegation being considered by the Hearings Sub Committee, unless stated otherwise. It also includes the member's nominated representative.
- 1.2** 'Investigator' means the monitoring officer or ethical standards officer and includes their nominated representative.
- 1.3** 'Legal adviser' means the officer responsible for providing legal advice to the standards committee. This maybe the monitoring officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- 1.4** 'Sub Committee' means the Hearings Sub Committee of the Council.

2 Representation

- 2.1** The subject member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

3 Legal advice

- 3.1** The Sub Committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee

should be shared with the subject member and the investigator if they are present.

4 Setting the scene

- 4.1** After all the members and everyone involved have been formally introduced, the chair or legal adviser should explain how the Sub Committee is going to run the hearing.

5 Preliminary procedural issues

- 5.1** The Sub Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

6 Making findings of fact

- 6.1** After dealing with any preliminary issues, the Sub Committee should then move on to consider whether there are any significant disagreements about the facts contained in the investigator's report.
- 6.2** If there is no disagreement about the facts, the Sub Committee can move on to the next stage of the hearing.
- 6.3** If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Sub Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Sub Committee may give the subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.
- 6.4** The subject member should then have the opportunity to make representations to support their version of the facts and, with the Sub Committee's permission, to call any necessary witnesses to give evidence.

- 6.5** At any time, the Sub Committee may question any of the people involved or any witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.
- 6.6** If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Sub Committee will consider whether it would be in the public interest to continue in their absence.
- 6.7** After considering the member's explanation for not raising the issue at an earlier stage, the Sub Committee may then:
- continue with the hearing, relying on the information in the investigator's report;
 - allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary;
 - postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.
- 6.8** The Sub Committee will usually move to another room to consider the representations and evidence in private.
- 6.9** On their return, the Chair will announce the Sub Committee's findings of fact.

7 Did the subject member fail to follow the Code of Conduct?

- 7.1** The Sub Committee then needs to consider whether, based on the facts it has found, the subject member has failed to follow the Code.
- 7.2** The subject member should be invited to give relevant reasons why the Sub Committee should decide that they have not failed to follow the Code.
- 7.3** The Sub Committee should then consider any verbal or written representations from the investigator.
- 7.4** The Sub Committee may, at any time, question anyone involved on any point they raise on their representations.

7.5 The subject member should be invited to make any final relevant points.

7.6 The Sub Committee will then move to another room to consider the representations.

7.7 On their return, the Chair will announce the Sub Committee's decision as to whether the subject member has failed to follow the Code.

8 If the subject member has not failed to follow the Code of Conduct

8.1 If the committee decides that the subject member has not failed to follow the Code, the Sub Committee can move onto consider whether it should make any recommendations to the authority.

9 If the subject member has failed to follow the Code of Conduct

9.1 If the Sub Committee decides that the subject member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the subject member as to:

- whether the committee should apply a sanction
- what form any sanction should take.

9.2 The Sub Committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

9.3 The Sub Committee will then deliberate in private to consider whether to impose a sanction on the subject member and, if so, what sanction it should be.

9.4 On their return, the chair will announce the Sub Committee's decision.

10 Recommendations to the authority

10.1 After considering any verbal or written representations from the investigator, the Sub Committee will consider whether it should make any

recommendations to the authority, with a view to promoting high standards of conduct among members.

11 The written decision

- 11.1 The committee will announce its decision on the day and provide a short written decision on that day. It will also issue a full written decision shortly after the end of the hearing.

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Pre-hearing Process Summary

The name of the authority is Plymouth City Council

The name of the subject member is Councillor William Stevens (“Cllr Stevens”)

The name of the complainant is Councillor Steven Ricketts (“Cllr Ricketts”)

The case reference number is AC/2010/M1/R1

The name of the Standards Committee Member who will chair the hearing is Mr Steve Pearce

The name of the Monitoring Officer is Mr David Shepperd

The name of the clerk of the hearing or other administrative officer is Ms H Rickman

The date the pre-hearing process summary was produced is 24/02/2011.

The date, time and place of the hearing is Friday 11 March 2011 at 9.30 am in the Temeraire Committee Room in the Council House, Plymouth

A summary of the complaint

The complaint alleged that Councillor Stevens, a member of Plymouth City Council, breached the Members Code of Conduct by making comments at a meeting of the full Council held on 1 February 2010 that included false accusations, vexatious words and allegations about him.

The comments below followed an article that Councillor Stevens says he came across on the ‘Tory Bear website’. The comments he relayed at the full Council meeting were comments that Councillor Stevens says were attributable to Councillor Ricketts.

At the meeting of full Council Councillor Stevens asked the following question of the Council Leader, Councillor Mrs Pengelly. The extract that follows is taken from the recorded transcript of the meeting:

‘Does the Leader of the Council agree with me that one of the most important bits of community consultation and engagement that her Cabinet is responsible for is with the overwhelming moderate Muslim population that we have in the City? Can she tell us if that’s a responsibility that her Cabinet takes seriously and can she tell us if she thinks that task is helped or hindered by the comments Steve Ricketts can make – its worth waiting for – is that task helped or hindered by the comments Steve Ricketts can make a woman climax by looking at her and shouting Allah?’

Following a response by the Leader of the Council, Councillor Mrs Pengelly, there then followed dialogue between Councillor Stevens, the Lord Mayor (Councillor Ken Foster (meeting Chair)) and the Monitoring Officer, Mr Howes, regarding meeting process as Councillor Stevens sought to assert his right to ask a supplementary question ahead of any response from Councillor Ricketts.

A complaint was made by Councillor Ricketts to Mr Howes by e-mail on 8 February 2010. In the complaint Councillor Ricketts, referring to the transcript of the Council hearing, says:

‘the whole transcript shows the disgusting way that he tried to accuse me of something I knew nothing about. This is defamation of my character and this vexatious tirade deserves disciplinary action – this should follow in line with the Members Code of Conduct’.

A report was considered by the Standards Assessment Sub Committee on 18 February 2010, at which it resolved to authorise an investigation in relation to potential breaches of the Members Code of Conduct as referenced in the summary below. During his investigation the Investigator, Mr Pinwell of Foot Anstey Solicitors, considered further letters of complaint that had been received – one from Mrs Bronwen Lacey, Director of Children’s Services dated 3 February 2010, another from the Leader of the Council, Councillor Mrs Pengelly, dated 12 March 2010.

The relevant section or sections of the Code of Conduct are set out below:

- 2 (1) Subject to sub paragraphs (2) to (5) you must comply with this Code whenever you –
 - (a) conduct the business of your authority (which in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression that you are acting as a representative of your authority
- (2) Subject to sub paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 3 (1) You must treat others with respect
 - (2) (a) You must not act in a way which may cause your authority to breach an equality enactment
 - (2) (b) You must not bully another person.

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

The findings of fact in the investigation report that are agreed

Whilst Councillor Stevens has not confirmed which, if any, finding(s) of fact within the investigation report that he agrees with it would appear that he does not dispute the transcript of the full Council meeting which recorded what he said and the exchanges that subsequently took place between him, the Lord Mayor (Councillor Ken Foster), Councillor Mrs Pengelly, Councillor Ricketts and the Monitoring Officer, Mr Howes.

The findings of fact in the investigation report that are not agreed

Councillor Stevens has not confirmed which, if any, finding(s) of fact within the investigation report that he disagrees with. This is despite having first been asked for this on 17 November 2010 and subsequently on 31 January 2011. It would appear that Councillor Stevens does not agree with the investigator's conclusions (as distinct from any findings of fact) and considers that the investigator should have interviewed additional persons. It is unclear whether Councillor Stevens disagrees with and is therefore contesting the format of the investigator's report – a matter which had been raised by Councillor Stevens' former legal representative.

The subject member will attend and be represented by Ms Karen Gillard. Mr Gareth Pinwell, the Investigating Officer, will attend to present his report; Mr David Shepperd, the Deputy Monitoring Officer, will attend and advise the Committee.

Witnesses

As no findings of fact have been disputed the Investigating Officer has advised that it may not be necessary for him to call witnesses to attend the hearing to give evidence.

The Subject Member has advised that, despite him not disputing any of the findings of fact, he wants to ask all of the witnesses that the Investigator interviewed to the hearing. These are listed on page 4 of the Investigation Report. They are: Councillor Ricketts, Councillor Mrs Pengelly, Councillor Ken Foster, Councillor T Beer, Mr T Howes and Mrs Bronwen Lacey. In addition, Councillor Stevens has also advised that he wants the following witnesses to attend for the reasons he has stated below:

Councillor Tudor Evans and Councillor Briony Rudkin who will testify that what happened was appropriate, necessary and within normal local government debate;

Sue Stratton, Chaz Singh, Ossie Glover and Mohammed Elm Handi, who will testify that Councillor Stevens did not breach equality laws and bring his office into disrepute;

Linda Torney to discuss her initial report.

The Subject Member **must** make his own arrangements to ensure that his witnesses (and witnesses he would like to question) will attend the hearing.

The Standards Committee has the right to govern its own procedures as long as it acts fairly. For this reason, the Standards Committee may limit the number of witnesses if the number is unreasonable.

The Standards Committee will normally take a decision on whether to hear any particular evidence or witness after having heard submissions from both parties on the issue. Ultimately, however, this is a decision for the hearing.

Witnesses of fact that are disputed would normally attend the hearing and should be prepared to be cross-examined. It should be noted, however, that it does not appear that Councillor Stevens has disputed any witness of fact. Witnesses of the character of the subject member, if required, regularly present their evidence in writing and may or may not actually attend the hearing. Again, it is ultimately a decision of the hearing from which, if any, witnesses they wish to hear evidence.

An outline of the proposed procedure for the hearing is enclosed in the bundle of documents and is attached to this Pre-hearing Summary for ease of reference.

David Shepperd
Head of Legal Services
Plymouth City Council