

Appendix A

Schedule of evidence taken into account

Case No: WC 38/09

Core documents

Doc No	Description	Pages
A1.1	Email detailing Mr Whiting's initial contact with Wiltshire Council regarding Councillor Flanagan's register of members' interests, 6 October 2009	16
A1.2	Removed	17-21
A1.3	Complaint form submitted by Mr Whiting, 12 October 2009	22-25
A1.4	Removed	26-27
A1.5	Removed	28-29
A1.6	Removed	30-32
A1.7	Code of Conduct adopted by Dilton Marsh Parish Council on 20 September 2007	33-37
A1.8	Declaration of Acceptance of Office of Councillor Flanagan dated 16 October 2008	38

Notes of telephone conversations, letters, and interviews with witnesses

Doc No	Description	Pages
A2.1	Record of interview with Mr Whiting, 16 December 2009	39-41
A2.2	Letter from Councillor Flanagan in response to the allegations, 4 January 2010	42-43
A2.3	Record of interview with Councillor Flanagan, 14 January 2010	44-45
A2.4	File note detailing points of clarification during a telephone call to Councillor Flanagan, 8 February 2010	46

Minutes of meetings and other documentary evidence

Doc No	Description	Pages
A3.1	Removed	47
A3.2	Report to Standards (Assessment) Sub-Committee, 19 November 2009	48-49

A3.3	Decision notice of Assessment Sub-Committee, 19 November 2009	50-51
A3.4	Letter from Monitoring Officer appointing Investigating Officer, 7 December 2009	52-53
A3.5	Investigation Plan, 8 December 2009	54-56
A3.6	Email from the Clerk to Dilton Marsh Parish Council regarding register of interests forms and adoption of Code of Conduct, 4 November 2009	57
A3.7	Letter from the Clerk enclosing those register of members' interest forms and declaration of acceptance of office forms currently held by him, 10 November 2009	58-59
A3.8	Letter to the Clerk regarding the completed forms, 26 November 2009	60
A3.9	Email from the Clerk concerning the procedures for obtaining register of members' interests forms, 29 November 2009	61
A3.10	Removed	62
A3.11	Removed	63
A3.12	Removed	64
A3.13	Email from the Clerk confirming Code of Conduct training provided to members of the Parish Council, 25 January 2010	65

Councillor Flanagan's comments on draft report

Doc No	Description	Pages
	None to date	

List of unused materials

None

AI.1

From: Powell, Henry
Sent: 06 October 2009 09:52
To: Wilton, Nina
Subject: Cllr Morris Flanagan

Hi Nina

Details as per telephone conversation:

Last week I had a call from a Mr Whiting who wished to see the register of interests of Cllr Morris Flanagan of Dilton Marsh. [REDACTED]

Cllr Flanagan's ROI isn't in our file so I contacted the clerk (Mr Coleman). The clerk is sending all of the ROIs he still has in his possession to us asap, but they don't include Cllr Flanagan's, as he has never completed one (or at least given it to the clerk). He was elected in October 2008.

The clerk says Cllr Flanagan claims to have posted his ROI direct to us yesterday.

I'll call Mr Whiting and advise of the above. We'll see if the ROI turns up.

Henry

t. 01225 718052

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A1.3

Complaint Form – Members’ Code of Conduct

Your details

1. Please provide us with your name and contact details

Title	Mr
First name	Edward
Last name	Whiting
Address	67 The High St Dilton Marsh Nr Westbury Wiltshire BA13 4DW
Daytime telephone	[REDACTED]
Evening telephone	[REDACTED]
Mobile	[REDACTED]
e-mail address	[REDACTED]

We will not disclose your contact details to anyone unless it is necessary to do so in order to deal with your complaint.

However, we will tell the following people that you have made a complaint:

- The council member you have complained about
- The Monitoring Officer
- The members of the assessment sub-committee of the council's Standards Committee
- The corporate standards manager

2. Please tick the box that best describes you:

Member of the public	X
Elected or co-opted member of an authority	
An independent member of the Standards Committee	
Member of Parliament	
Monitoring Officer	
Other council/local authority employee	
Other (please specify)	

3. Please give us the name of the member(s) you believe may have breached the Code of Conduct and their council.

First name	Last name	Authority
Maurice	Flanagan	Dilton Marsh Parish

4. Please explain how you think the member has broken the Code of Conduct. If you are complaining about more than one member you need to explain exactly how each one of them may have broken the Code.

It is important that you give us all the information you want the assessment sub-committee to take into account. They will use the information you give to decide whether or not to take any action about your complaint. For example, please make sure you tell us:

- Exactly what you are alleging the member said or did. For instance, instead of saying that the member insulted you, you should state what it was they said;
- You should give the dates of the alleged incident(s) wherever possible. Where you cannot do that, you must at least provide a general timeframe;
- You should let us know whether there were any witnesses to the alleged incident(s) and provide their names and contact details if possible;
- You should provide any relevant background information.

Please write down the details of your complaint here. Continue on a separate sheet if there is not enough space on this form.

Mr Flanagan, a Parish Counselor for Dilton Marsh failed to disclose his register of interest within the time required.

[REDACTED]

[REDACTED]

[REDACTED]

description of your desired outcome

Clear and concise to 1/ Disciplinary action for the failing to act within the Counselors rules, despite previous role as Counselor.

[REDACTED]

Only complete this section if you are asking us to keep your identity confidential

5. In the interests of fairness and natural justice, we believe that members who are complained about have a right to know who made the complaint. We also believe they have a right to receive a summary of the complaint. We are unlikely to withhold your identity or the nature of your complaint unless you have good reason to believe that releasing that information would result in:
 - You or your witnesses being unlawfully bullied or intimidated or;

- The destruction of information or evidence that would seriously hamper an investigation into the complaint.

We will not automatically agree to a request to keep your identity or the substance of your complaint confidential. Your request and your reasons for asking for confidentiality will be considered by the assessment sub-committee at the same time as they consider whether or not to proceed with your complaint. If they decide that your identity and information about your complaint must be released to the member you are complaining about, we will let you know. Normally we would then allow you to withdraw your complaint if you wish to do so.

However, under exceptional circumstances where a complaint is very serious, we can proceed with an investigation and disclose your name even if you have expressly asked us not to.

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

[REDACTED]

Additional help

Complaints should normally be submitted in writing. However, if you have any specific needs, for example if you have a disability, or if English is not your first language, we can provide you with help to make your complaint. If you would like help, please contact Nina Wilton, on 01225 713078.

Local Authorities (Model Code of Conduct) Order 2007 No.1159

THE MODEL CODE OF CONDUCT
FOR PARISH AND TOWN COUNCILS

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 Annexure 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—
- the authority;
 - any of the authority's committees or sub-committees, joint committees or joint sub-committees;
- “member” includes a co-opted member and an appointed member.
- (5) 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—
- conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - 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—
- on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - 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(a));
 - (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.
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; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. Paragraph 7 does not apply to your authority.

(a) 2006 c.3.

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; or
 - (ii) (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 (5), 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.

Prejudicial interest generally

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) this sub-paragraph does not apply to your authority;
 - (ii) this sub-paragraph does not apply to your authority;
 - (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.

11. Paragraph 11 does not apply to your authority.

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; and

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

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

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.

DECLARATION OF ACCEPTANCE OF OFFICE

I MAURICE FANAGAN having been elected/co-opted to
the office of MEMBER of

DILTON MARSH District/Town/Parish Council declare that I take
that office upon myself and will duly and faithfully fulfil the duties of it according to the
best of my judgement and ability.

I undertake to observe the code as to the conduct which is expected of members of
DILTON MARSH District/Town/Parish Council

Signed Mon. Fanagan

Date 16/10/08

This Declaration was made and signed before me

Signed

Proper Officer of the Council

1. Record of interview conducted by Marie Lindsay with the complainant Mr Edward Whiting.

A2.1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

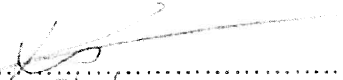
11. Mr Whiting submitted his complaint following an initial enquiry to Wiltshire Council to find out whether Councillor Flanagan had declared an interest in no.69 The High Street. He was advised that enquiries made with the Clerk to Dilton Marsh Parish Council showed that Councillor Flanagan had not submitted a Register of Members' Interests form. Mr Whiting is aware that this contact with the Clerk will have acted as a prompt to Councillor Flanagan to submit his Register of Members' Interest form which he may otherwise not have done.

16th December 2009

This is a note of the interview conducted by Mrs Marie Lindsay with Mr Edward

Whiting at his home address at 3.30pm on Wednesday 16th December 2009.

I confirm that I have reviewed this record and made and initialled any alterations I think are necessary and identified any errors I believe are in the record. Subject to any initialled amendments I confirm that this represents a true record of the interview.

Signed.....

Dated.....5.11.09.....

[REDACTED]

4/01/10

Dear M/s Lindsay

I would like to make the following comments in response to the allegations by Mr Edward Whiting

1. Re Declaration of Interest:

I filled in my declaration of interest and sent it in to the council. I have not been informed that the council did not receive this. Thus, it should have been available for Mr Whiting to view at the time of his allegations.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Yours sincerely

Maurice Flanagan

A2.3

1. Record of interview conducted by Marie Lindsay with Councillor Maurice Flanagan.

2. [REDACTED]

3. [REDACTED]

[REDACTED]

*made MF.

4. Councillor Flanagan confirmed that he was co-opted onto Dilton Marsh Parish Council on 16 October 2008. He was previously a member of the parish council for a period of one term ending in approximately 1998.

5. Councillor Flanagan explained that on the day that he was co-opted onto Dilton Marsh Parish Council he completed the Declaration of Acceptance of Office form. He took the Register of Members' Interests form away with him to complete. He admits that he did not understand the significance of returning the form within 28 days and it was not until he was reminded by the Clerk that he found the form and sent it direct to West Wiltshire District Council. He sent it in March or April 2009 and clearly remembers addressing the envelope. He states that he did declare an interest in 69 The High Street, Dilton Marsh on the form and he had no reason to believe that it had not been received.

6. [REDACTED]

7. [REDACTED]

- [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]

14th January 2010

This is a note of the interview conducted by Mrs Marie Lindsay with Councillor Maurice Flanagan at his home address at 2.00pm on Thursday 14th January 2010.

I confirm that I have reviewed this record and made and initialled any alterations I think are necessary and identified any errors I believe are in the record. Subject to any initialled amendments I confirm that this represents a true record of the interview.

Signed..... *Marie Lindsay*
Dated..... *22/01/10*

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A2.4

TELEPHONE/ATTENDANCE NOTE

File: Councillor Flanagan Ref. 38/09 Date 8/2/10

Call From: Maie Lindsay

Call To: Cllr Flanagan

Telephone call to Councillor Flanagan to clarify the following points:

1) Why did he return his register of members' interest form to West Wiltshire District Council and not to the Clerk of Dilton Marsh Parish Council?

Councillor Flanagan replied that as he thought 'time was of the essence' he would send it straight to West Wiltshire. He cannot recall the Clerk implying that he had to return it to him at Dilton Marsh Parish Council.

2) What is Councillor Flanagan's response to the suggestion by the Clerk, upon enquiries after receipt of Mr Whiting's complaint, that Cllr Flanagan had sent his register of members' interests form to Wiltshire Council 'the previous day' (Oct 09)?

Councillor Flanagan replied that this must be a misunderstanding. He has only ever completed and returned one register of members' interests form and this was sent to West Wiltshire District Council in April/May 2009.

M. Lindsay.

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Initial Assessment

Complaint regarding the conduct of Councillor Maurice Flanagan – Dilton Marsh Parish Council

1. On 15th October 2009 the Monitoring Officer received a complaint from Mr Edward Whiting regarding the alleged conduct of Councillor Maurice Flanagan, a member of Dilton Marsh Parish Council.
2. The complaint concerns an allegation that Councillor Maurice Flanagan has failed to comply with the statutory requirement to register his interests within 28 days of assuming office as a member of Dilton Marsh Parish Council.
3. ~~_____~~
~~_____~~
~~_____~~
~~_____~~
4. Copies of the complaint and e-mail correspondence to clarify the complaint are attached.
5. The complainant does not specify what paragraphs of the Code of Conduct may have been breached. Based on the text of the complaint and documents providing further and better particulars of the complaint, the complaint could be taken to be that Councillor Flanagan breached the following paragraphs of the Code:
 - a. 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 officer (where that is later),
 Register in your authority's register of members' interests ... 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.

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

[REDACTED]

7. Preliminary enquiries by the Monitoring Officer have established that:

- b. Councillor Flanagan is a member of Dilton Marsh Parish Council;
- c. Councillor Flanagan has not registered his interests;

[REDACTED]

8. The Assessment Sub-committee is required to take into account the matters set out in the Local Assessment Criteria attached at Appendix A

9. The Assessment Sub-Committee is requested to assess whether the complaint, if proven, would represent a breach of the Code of Conduct for Members, and to reach one of the following three decisions:

- a. Refer the complaint to the Monitoring Officer of the authority for investigation or other appropriate action (e.g., mediation or informal resolution)
- b. Refer the complaint to the Standards Board for England
- c. Decide that no further action should be taken in respect of the complaint

Ian Gibbons – Monitoring Officer

Report Author: Nina Wilton, Head of Governance

The following unpublished documents have been relied on in the preparation of this Report: None

A3.3

DECISION NOTICE: REFERRAL FOR INVESTIGATION

Reference WC-38/09

Complaint

On 19 November 2009, the standards committee of this authority considered a complaint from Mr Edward Whiting concerning the alleged conduct of Councillor Maurice Flanagan, a member of Dilton Marsh Parish Council.

The complainant alleges that Councillor Flanagan failed to complete his register of interests, and that the complainant alleges that Councillor Flanagan has a registrable interest in 69 The High Street, Dilton Marsh. [REDACTED]

[REDACTED]

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the assessment sub-committee of the standards committee decided to refer the allegation to the monitoring officer for investigation.

Potential breaches of the Code of Conduct identified

We have identified below the paragraphs of the Code of Conduct which may apply to the alleged conduct:

- (a) 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 officer (where that is later),

Register in your authority's register of members' interests.... 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.

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

This decision notice is sent to the person or persons making the allegation and the member against whom the allegation was made.

What happens now?

- Investigation – Please see the attached guide on the investigations process

Additional Help

If you need additional support in relation to this or future contact with us, 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 Disability Discrimination Act 2000.

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

Signed *Jane Bayley* Date *26.11.09*

Chair of the Wiltshire Council Assessment Sub-Committee

7 December 2009

A3.4

Marie Lindsay
Ethical Governance Officer
Wiltshire Council

Your ref: ML
Our ref: IRG/WC 38/09

Dear Mrs Lindsay,

Appointment as Investigating Officer - Complaint against Councillor Flanagan

I am writing as Monitoring Officer in exercise of the powers available to me under section 82A of the Local Government Act 2000 to appoint you to act on my behalf as the Investigating Officer in respect of allegations by Mr Edward Whiting (the complainant) concerning the alleged conduct of Councillor Maurice Flanagan, a member of Dilton Marsh Parish Council.

Details of the complaint are set out in the enclosed papers, comprising:

1. Report to the Assessment Sub-Committee of Wiltshire Council's Standards Committee dated 19 November 2009
2. Decision Notice: Referral for Investigation
3. File of correspondence to date

I would be obliged if you would investigate the complaint in accordance with the statutory framework for dealing with complaints under the Members' Code of Conduct, and guidance issued by the Standards Board for England, in particular the Guidance Note "How to Conduct an Investigation"

As set out in the guidance you should prepare an investigation plan and send this to me for review. I would also like you to report to me on your progress with the investigation at regular intervals to be agreed.

You should aim to complete and present your final report to me within 8 weeks of the date of this letter. Please let me know at the earliest opportunity if you consider that it may not be possible to meet this timescale.

You should maintain confidentiality throughout the investigation in accordance with the Standards Committee (England) Regulations 2008 and the Standards Board's Guidance.

Thank you for undertaking this role.

Yours sincerely



Ian Gibbons
Solicitor to the Council and Monitoring Officer
Direct Line: 01225 713052
Fax Number: 01225 718399
Email: ian.gibbons@wiltshire.gov.uk



INVESTOR IN PEOPLE

Investigation plan

Case No: WC-38/09

Date received by standards committee: 19 November 2009

Date referred to investigator: 7 December 2009

Ref No:

Subject member:	Councillor Maurice Flanagan	Complainant:	Mr Edward Whiting
Authority:	Dilton Marsh Parish Council	Investigator:	Marie Lindsay

Target for monitoring officer's receipt of draft report

Date due: 25 February 2009

Explanation: Investigator on leave 21 December 2009 to 5 January 2010.

Target for issue of draft report

Date due: 4 March 2010

Explanation: To allow Monitoring Officer time to consider draft report

Target for issue of final report

Date due: 22 March 2010

Explanation: To allow time for subject member and complainant to comment on draft report, and for investigator to make any relevant amendments resulting from those comments.

Case analysis

Behaviour alleged

That Councillor Flanagan failed to complete his register of interests.

[REDACTED]

Relevant Code paragraphs

Paragraph 13(1) – you must register your personal interests in your authority's register of members' interests;

[REDACTED]

Issues for determination

Did Cllr Flanagan fail to register his interests within 28 days of assuming office?

Has he subsequently submitted his register of interests?

[REDACTED]

[REDACTED]

Evidence required

Statement from complainant
Statement from Councillor Flanagan

[REDACTED]

Evidence obtained

To add additional analysis, copy and paste the above table.

Other matters

Identify any thoughts/lines of inquiry not outlined in the table and also highlight any problems in the referral process.

Approved by:

Date:

From: Roger Coleman [mailto:roger.p.coleman@btinternet.com]
Sent: 04 November 2009 17:53
To: Browne, Anna
Subject: Re: Register of Members' Interests and Declarations of Acceptance of Office

A3.6

Ms. Browne,

Thank for your e-mail and letter (received today).
I have all the documents that you request but no means of copying them.
I will send you the originals and you are welcome to keep them.
I have no wish to keep this information. I would in any case direct any request from the public to view the information to you. It is not good practice to have more copies of personal information than are strictly necessary and it is my view that only the originals need be held.

The only records I do not hold are these:

██████████	Register of Interests Form.	Sent directly by the councillor to WWDC.
██████████	Register of Interests Form.	Sent directly by the councillor to WWDC.
Maurice Flanagan	Register of Interests Form.	Sent directly by the councillor to Wiltshire Council.

I can confirm that Dilton Marsh Parish Council passed a resolution at the Parish Council meeting held on 20 September 2007 to adopt the Code and for your information the approved minutes of that meeting state:

532/07 The Model Code of Conduct 2007 (Revised).
The Council resolved by a majority to adopt the Model Code of Conduct 2007 including Paragraph 12(2). The Clerk was asked to confirm that existing PC Standing Orders specifically prescribe a 'Public Adjournment'.

The Standards Board of England has a full record of the Parish Councils who have signed up to the Code.

Regards

Roger Coleman
Clerk to Dilton Marsh Parish Council.

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

From: Browne, Anna
To: roger.p.coleman@btinternet.com
Sent: Friday, October 30, 2009 10:37 AM
Subject: Register of Members' Interests and Declarations of Acceptance of Office

Dear Mr Coleman

Please see the attached letter which I have sent by email in the first instance due to the postal strikes. A hard copy will follow in the post.

Kind regards

Anna Browne
Governance Support Officer
Wiltshire Council
Tel: 01225 718454

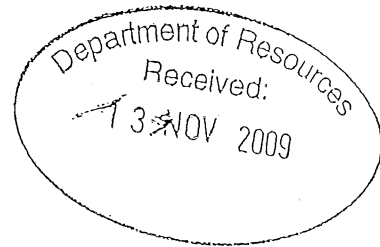
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DITTON MARSH
Parish Council

Clerk to the Council: Mr Roger Coleman
2 The Laurels, Westwood, Wiltshire BA15 2AX
Phone/Fax: 01225 862770
Roger.P.Coleman@btinternet.com

A3.7

Wiltshire Council
Department of Resources
Bythesea Road
TROWBRIDGE
Wiltshire
BA14 8JN



10 November 2009

For the attention of Anna Browne.

Dear Ms. Browne,

Register of Members' Interests and Declarations of Acceptance of Office.

I have enclosed the original of the forms that were in my possession – as agreed (via e-mail exchange).

I am informed that those forms that are missing from this pack have been sent to you, or your predecessor in West Wiltshire District Council, directly.

I have attached a list showing you the councillor and the status of the submitted forms. In addition to my e-mail to you (also attached) I do not have the Register of Interests Form for Councillor [REDACTED]

Yours sincerely,

A handwritten signature in cursive script that reads "Coleman".

Roger Coleman

Dilton Marsh Parish Council – 10 November 2009.

Councillor

Register of Interests Form

Declaration of Office Form

[REDACTED]

YES
NO
YES
NO
YES
YES
YES
YES
NO
YES
YES
YES
NO being sent 17/11/09
YES

YES
YES
YES
YES
YES
YES
YES
YES
YES
YES
YES
YES
NO being sent 17/11
YES

A3.8

26 November 2009

Department of Resources,
Bythesea Road,
Trowbridge,
Wiltshire
BA14 8JN

Mr R Coleman
Clerk to Dilton Marsh Parish Council
2 The Laurels
Westwood
Bradford on Avon
Wiltshire BA15 2AX

Your ref:
Our ref: NWAB83/3/3/7//

Dear Mr Coleman

Re: Register of Members' Interests

Thank you for your recent correspondence enclosing Declarations of Acceptance of Office and Registers of Members' Interests for Dilton Marsh Parish Council.

The Deputy Monitoring Officer is unable to sign the Register of Members' Interests as they date mainly from 2006 and 2007, and it will therefore be necessary to ask councillors to complete one of the following forms:

Register of Members' Interests - Confirmation of Information Previously Given
Register of Interest - Notice of Revision

Alternatively, councillors may wish to complete another Register of Interests form.

I enclose copies of the relevant paperwork (further copies are available on the Wiltshire Council website, under town and parish councils, if you do not have access to copying facilities) and look forward to receiving the completed forms as a matter of urgency.

Yours sincerely

Anna Browne
Governance Support Officer

Direct Line: 01225 718454
Fax Number: 01225 718399
Email: anna.browne@wiltshire.gov.uk

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From: Roger Coleman [mailto:roger.p.coleman@btinternet.com]
Sent: 29 November 2009 16:57
To: Browne, Anna
Subject: Dilton Marsh PC - Register of Interests Forms

A3.9

Anna,

I owe you and your colleague (Deputy Monitoring Officer) an apology. I held the firm belief that I remained the custodian of these completed Forms having ensured that councillors completed them and returned them to me within the 28 days from election/appointment. Thereafter, it was my duty at some later stage (period undefined) to forward them to the Monitoring Officer (WWDC as it was). The 'Guidance Note' issued by WWDC at the time of the Council adopting the Code stated:

'The forms should be returned to the clerk, who will check that every question has been answered and then send the form to the Monitoring Officer at WWDC'.

No timescale was indicated. I had assumed that the Register of Interest Form was similar to the Declaration of Office Forms i.e. the Clerk could retain them. Interestingly, in the three or so years after the Parish Council elections WWDC never contacted me regarding the 'missing' forms, even though there have been resignations and subsequent co-options/elections.

I have now obtained and have examined the 'The Local Authorities (Model Code of Conduct) Order 2007 No. 1159, and at Part 3, Para 13 (1)(b) it is quite specific that it is the Monitoring Officer who has to receive this notification and within 28 days. I should have forwarded them to you directly. I didn't. My apologies.

I have prepared a letter to be sent to the relevant Dilton Marsh councillors requesting them to comply with the instruction contained in your recent letter to me (Ref. NWAB83/3/3/3/7 dated 26 November 2009. This will be sent forthwith.....but I do need to know the dates that the councillors concerned signed the original Register of Interests Form. Can you let me have those dates please? I have also explained in the letter that it was my error that has resulted in this action and in the letter I have directed the councillors to return their 'new' form directly to you.

This exchange of correspondence has prompted me to examine the records for the three other Parish Councils for which I am Clerk - Semington, Westwood and Wingfield. I am keen that the position is fully regularised with each Council. I have sent you, under separate cover, the Register of Interests Forms that I possess in respect of these Parish Councillors and would be grateful if you could inform me what action you wish me to take.

Notwithstanding the above, I can confirm that in each case, newly elected or co-opted councillors have been given copies of the Register of Interests Form and the Declaration of Office Form with clear instructions regarding their completion and timescales involved - albeit, misleadingly told by me, that they had to be returned to me within the 28 days. All those returned directly to me complied with the necessary timescale of 28 days.

Again, apologies for this error and thank you for bringing it to my attention.

Regards

Roger Coleman
Clerk to Dilton Marsh Parish Council

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For more information please visit <http://www.messagelabs.com/email>

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A3.13

Lindsay, Marie

From: Roger Coleman [roger.p.coleman@btinternet.com]
Sent: 25 January 2010 08:47
To: Lindsay, Marie
Subject: Re: Code of Conduct Complaint

Marie,

When a new councillor is appointed I explain the code of conduct in general terms to them and give them the information sheet prepared by WWDC, a copy of the A4 (orange) publication giving full details of the Code of Conduct, the 'credit card size' summary of the Code and a copy of 'The Good Councillor's Guide (although, occasionally, I have had an insufficient number of these to give out). Additionally, I send out with the Agenda full details of all correspondence received and this included the recent information regarding the Standards Board/Code of Conduct plus CD. There have no attendances on formal Training Courses - although I cannot remember any being advertised or offered.

I hope that helps.

Regards

Roger

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

From: Lindsay, Marie
To: roger.p.coleman@btinternet.com
Sent: Wednesday, January 20, 2010 3:16 PM
Subject: Code of Conduct Complaint

Dear Roger

I am beginning to put together my report in respect of the complaint that I am currently investigating.

I would be grateful if you could advise me whether members of Dilton Marsh Parish Council have received any training on the Code of Conduct and if so, when.

Kind regards
Marie

Marie Lindsay
Ethical Governance Officer
Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire BA14 8JN

Tel: 01225 718465
Fax: 01225 718399

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