

Private and Confidential

Case Reference: WC 03/12

Report of an investigation under Section 57A(2)(a) and 66 of the Local Government Act 2000 as amended, and Regulation 14 of the Standards Committee (England) Regulations 2008 by Roger Wiltshire appointed by the Monitoring Officer for Wiltshire Council into allegations concerning Councillor Russell Hawker.

REPORT

Date – 24th August 2012

Content

- 1. Executive Summary**
- 2. The Complaint**
- 3. Preliminary Issues**
- 4. Relevant Legislation**
- 5. Evidence Gathered**
- 6. Summary of the evidence and findings of material facts**
- 7. Reasoning**
- 8. Findings**

1. Executive Summary

1.1 On the 23rd January 2012 the Monitoring Officer for Wiltshire Council received a complaint from Mr John (Ian) Taylor. Mr Taylor alleges that Councillor Hawker has bullied him and behaved disrespectfully towards him at functions and meetings of Westbury Town Council, and in emails sent to various recipients in relation to work carried out by Mr Taylor as a member and Chair of the Laverton Institute Trust Management Committee (see appendix A1, pages 32 -36).

1.2 On the 23rd February 2012 the Standards Assessment Sub-committee of Wiltshire Council considered the complaint. In accordance with section 57A(2) of the Local Government Act 2000, as amended, the Assessment Sub-committee decided to refer the allegations relating to a breach of paragraph 3(1) *You must treat others with respect*, and paragraph 3(2) *You must not (b) bully any person*, of the Code of Conduct to the Monitoring Officer for investigation (see appendix A2, pages 37 - 38).

1.3 The Monitoring Officer delegated his investigatory powers to Roger Wiltshire, Ethical Governance Officer for Wiltshire Council, under section 82A of the Local Government Act 2000

1.4 Findings

1.4.1 In the events identified in paragraphs 7.4 to 7.12 below Councillor Hawker was either conducting the business of his authority or gave the impression he was acting as a representative of the authority. Accordingly the complaints fall within scope of the Code of Conduct by virtue of paragraph 2 of the Code.

1.4.2 The Standards for England guidance on paragraph 3(1) of the Code (*You must treat others with respect*), is clear that 'individuals should not be subject to unreasonable or excessive personal attacks'. Councillor Hawker actions and comments were both unreasonable and excessive and there has been a breach of paragraph 3(1) of the Code of Conduct.

1.4.3 The Standards for England guidance on paragraph 3(2) of the Code (*You must not... (b) bully any person*), says that bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Councillor Hawker has acted in a manner contrary to the guidance and there has been a breach of paragraph 3(2)(b) of the Code of Conduct.

1.5 Councillor Hawkers Official Details

1.5.1 Councillor Hawker has been a member of Westbury Town Council since May 2002 (see appendix A3, page 39).

- 1.5.2 Councillor Hawker serves on the Laverton Institute Trust Management Committee.
- 1.5.3 Councillor Hawker was elected Chairman of the Laverton Institute Trust Management Committee on the 17th October 2011 (see appendix A3, page 39).
- 1.5.4 Councillor Hawker also currently serves on the following Westbury Town Council committees and working groups –
Highways, Planning and Development Committee;
Car Parks Working Groups;
Tourism Working Group;
Town Centre Viability Working Group;
Health Working Group;
CCTV Working Group.
(See appendix A3, page 39).

2. The Complaint (see appendix A1, pages 32 - 36)

- 2.1 Mr Taylor alleges that at a reception held to launch the refurbished Laverton Institute building, Councillor Hawker, in his role as Chair of the Laverton Institute Trust Management Committee, made a speech which identified Mr Taylor by implication and accused Mr Taylor of ruining the refurbishment project and delaying the project progress by several years.
- 2.2 In the Westbury Town Council meeting held on the 7th November 2011, during the public forum of the meeting, Mr Taylor made a statement regarding the accusations made by Councillor Hawker at the reception launch. Mr Taylor alleges Councillor Hawker failed to apologise for his speech and stated that he stood by his remarks.
- 2.3 On the 25th November 2011, Councillor Hawker, in his role as Chair of the Laverton Institute Trust Management Committee, sent an email to 42 individuals and representatives of organisations, stating 'I intend to reply in full to every lie and misleading claim made by John Clegg and Ian Taylor'.
- 2.4 Mr Taylor alleges that in the Westbury Town Council meeting held on the 9th January 2012, Councillor Hawker accused Mr Taylor of lying, before the Mayor intervened and told Councillor Hawker to stop. The accusation was made in front of several members of the public and representatives of the press.
- 2.5 Mr Taylor believes Councillor Hawker has defamed him, bullied him and behaved disrespectfully towards Mr Taylor.

3 Preliminary issues

3.1 The start date of the complaint

3.2 In his complaint Mr Taylor states *'On the 25th October 2011 a Reception was held at The Laverton to celebrate its refurbishment and re-opening'*.

The Decision Notice summaries the complaint as *'The complainant alleges that between 25 October 2011 and 9 January 2012 Councillor Hawker engaged in bullying and disrespectful behaviour.....'*

3.3 The Laverton launch event was held on the 21st October 2011.

3.4 Although Mr Taylor gave the date of the event as the 25th October this appears to be an error as he identified the event as the Laverton launch event, and the information obtained during the course of the investigation show Mr Taylor was referring to the event held on the 21st October.

As Mr Taylor identified the event to which his complaint referred I have taken the start date of the investigation to be the date of the Laverton launch event, the 21st October. In making this decision I took the advice of Frank Cain, Barrister, Head of Legal Services and Deputy Monitoring Officer which included *'Therefore I am of the opinion that notwithstanding the decision notice the original complaint relates to the period 21 October and 9 January and therefore it would be appropriate for your investigation to include the meeting of the 21st.'*

3.5 I would ask whether the sub-committee wishes to consider and rule on whether they are willing to consider any information gathered relating to the 21st October Laverton launch event and if so whether they wish to formally record the correction of the error contained within the decision notice.

4 The relevant legislation and guidance

4.1 Westbury Town Council has adopted a Code of Conduct in which the following paragraphs are included;

4.2 Paragraph 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.

4.3 In relation to this paragraph of the Code, there are two relevant Tribunal decisions. In one, the Appeals Tribunal held that taken overall, the contents of a councillor's blog gave the impression that she was acting in the role of councillor and representing the council. In the other, the First Tier Tribunal held that a blog entry made by a councillor on the day after the Annual Council meeting, giving a

detailed account of the meeting, was undertaken in his capacity as a councillor (see appendices B1, pages 47-48, and B2, pages 49-50, respectively).

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

4.5 The Standards for England guidance relating to paragraph 3 (1) of the Code of Conduct is included in the appendix at B3, pages 51-52.

4.6 *Paragraph 3.(2) You must not.....
(b) bully any person;*

4.7 The Standards for England guidance relating to paragraph 3(2)(b) of the Code of Conduct is included at appendix B3, pages 51-52.

4.8 The European Convention on Human Rights.

Article 10 of the European Convention of Human Rights 'Freedom of expression' is included at appendix B3, pages 51-52.

4.9 Councillor Hawker, in an email dated 14th May 2012, highlighted the Appeals Tribunal Decision APE 0441, *Councillor Whipp V. Standards Committee of Pendle Borough Council*. In that case the Appeals Tribunal decided that the Standards Committee should have considered whether Councillor Whipp was justified in referring to two councillors and a member of the public as 'liars'. As there was insufficient evidence for the Appeals Tribunal to determine whether or not Councillor Whipp's use of 'liars' was justified, the appeal was allowed. The decision is included at appendix B4, pages 53-58.

4.10 In contrast, in case reference APE 0427, *Councillor Mason V. Needham Market Town Council*, Councillor Mason stated the Mayor and Deputy Clerk 'were proven blatant liars'. The Adjudication Panel decided that it was not the truth of the comments that were at issue but whether Councillor Mason had failed to treat others with respect. The Adjudication Panel decided there had been a breach of the Code of Conduct. The decision is included at appendix B5, pages 59-66.

4.11 In the First Tier Tribunal Decision, case reference LGS/2011/0537, Councillor Martin Brookes of Oakham Town Council, the Tribunal said it was not for the Tribunal to determine the validity of Councillor Brookes' criticism of the Town Clerk, but the Tribunal observed that the allegations made by Councillor Brookes did not inexorably lead to the conclusion that the Town Clerk was at fault. The relevant paragraphs are included at appendix B2, pages 49-50.

5 Evidence gathered

5.1 Oral evidence

5.1.1 Mr Taylor, statement (see appendix C1, pages 67-69)

- 5.1.2 Councillor Andrews, statement (see appendix C2, pages 70-72)
- 5.1.3 Mr Harvey (Westbury Town Clerk), statement (see appendix C3, pages 73-74)
- 5.1.4 Mrs Mantle (Assistant to the Town Clerk), statement (see appendix C4, pages 75-76)
- 5.1.5 Councillor Windess, statement (see appendix C5, pages 77-78)
- 5.1.6 Mr Eatwell, statement (see appendix C6, pages 79)
- 5.1.7 Councillor Hawker, statement (see appendix C7, pages 80-89)
- 5.1.8 Councillor Hawker, record of interview (see appendix C8, pages 90-96)

5.2 Other evidence

Documents have been received from -

Councillor Hawker

The staff of Westbury Town Council

The White Horse News paper

The Adjudication Panel website

6 Summary of the evidence and findings of material facts

Background

- 6.1 Mr Taylor is a former member of Westbury Town Council. Mr Taylor became a member of the Town Council in May 2007 and resigned on the 31st March 2009 (see appendix A3, page 39).
- 6.2 Mr Taylor is a former Chairman of the Laverton Institute Trust Management Committee. Mr Taylor was elected Chairman on the 23rd May 2007 and resigned on the 31st March 2009 (see appendix A, page 39).
- 6.3 The Laverton is a Victorian building in Westbury. Part of the building is used by Westbury Town Council as offices, and the building has recently been refurbished.
- 6.4 The Laverton Institute Trust is a charity registered with the Charities Commission. The Charities Commission website shows Westbury Town Council to be the trustee (see appendix A6, page 42).
- 6.5 The Laverton is managed by the Laverton Institute Trust Management Committee, a working group of Westbury Town Council (see appendix A6, page 42).
- 6.6 Councillor Hawker was elected Chairman of the Laverton Institute Trust Management Committee on the 17th October 2011 (see appendix A7, pages 43-44).
- 6.7 Councillor Stephen Andrews was the previous Chairman.

6.8 John Parker is the Laverton Project Officer, employed on a consultancy basis by Westbury Town Council.

6.9 Sioux How is employed by Westbury Town Council as Laverton Development and Marketing Manager. Sioux How is an officer of Westbury Town Council.

Detailed evidence and Findings of Fact

Within the narrative each finding of fact has been italicised and underlined for ease of reference.

6.10 'The Laverton launch event'

6.10.1 The evidence gathered during the course of the investigation and held in appendices D1 – D6, pages 97-102, show *The Laverton launch event was held on the 21st October 2011.*

6.10.2 The minutes of the Laverton Institute Trust Management Committee meeting held on the 26th April 2011 show the committee agreeing a provisional date for the Laverton launch event (see appendix D2, page 98).

The official invitations and the articles that appeared in the White Horse News ask people to respond to or contact staff of Westbury Town Council (see appendices D3 and D4, pages 99-100). In their statements Mr Harvey, Mrs Mantle and Mr Taylor state the Laverton launch event was an official event of Westbury Town Council.

In an email to me, dated 29th March 2011 Mr Harvey states the launch event was an official event of Westbury Town Council (see appendix D1, page 97).

Councillor Andrews in his email dated the 3rd May 2012, also states the launch was an official Westbury Town Council event (see appendix D7, page 103).

The Laverton launch event held on the 21st October 2011 was an official event of Westbury Town Council.

6.10.3 Councillor Hawker is named on the Laverton event invitation list as a Wiltshire Council Representative; however, he would also have been invited as a member of Westbury Town Council, and a member of the Laverton Institute Trust Management Committee (LITMC) (see appendix D6, page 102).

In his statement Mr Harvey said that Councillor Hawker was invited to the launch event as a councillor but more importantly he had recently become Chairman of the LITMC. Mrs Mantle in her statement says Councillor Hawker was invited to the launch event; he had become Chair of the LITMC the week before the event and he attended the event as Chair and member of the Laverton Institute Trust Management Committee.

In an email dated the 3rd May 2011, Councillor Hawker said in point 4 that he was certain that he was acting as a councillor and conducting council business at the re-launch event (see appendix D8, page 104).

In the record of the interview and in his statement Councillor Hawker says he attended the Laverton launch event in his capacity as a town councillor and as chairman of the LITMC.

Councillor Hawker attended the Laverton launch event in his capacity as a Westbury Town Councillor and as Chairman of the Laverton Institute Trust Management Committee.

6.10.4 In his statement Mr Harvey says Councillor Hawker made a speech at the event in his role as Chairman of the LITMC. Mr Taylor in his statement says Councillor Hawker was introduced as Chair of the Laverton Trust and he spoke at length. Councillor Hawker in the interview record and statement says he made a speech in his capacity as Chairman of the LITMC.

Councillor Hawker addressed the Laverton re-launch event in his capacity as Chairman of the Laverton Institute Trust Management Committee, a working group of Westbury Town Council, and in his capacity as a Westbury Town Councillor.

6.10.5 The statements of Mr Taylor, Mr Harvey and Councillor Hawker agree that Councillor Hawker did not mention Mr Taylor by name; however, there is agreement that it was possible to identify individuals, including Mr Taylor.

During his speech delivered at the Laverton launch event Councillor Hawker did not refer to Mr Taylor by name.

6.10.6 Mr Taylor could be identified from the comments made by Councillor Hawker.

6.10.7 There is also agreement that Councillor Hawker's speech was critical of Mr Taylor, that the speech accused Mr Taylor of applying for the wrong funding, delaying or disrupting the progress of the Laverton Project, and even destroying or trying to kill the project off.

The record of interview shows Councillor Hawker saying 'I was criticising Ian's actions, not attacking him personally.' (See appendix C8, pages 90-96).

Councillor Hawker in his statement says 'I criticised the actions of some people but made no personal attacks and did not mention names anyway.' (See appendix C7, pages 80-89).

Councillor Hawker's speech was critical of Mr Taylor and the actions of Mr Taylor whilst he was Chairman of the LITMC.

6.10.8 The statements of Councillor Windess, Mr Harvey and Mr Taylor state some people were upset by Councillor Hawker's speech, that it was not the time or place for the speech and that some people walked out of the event.

Councillor Hawker's speech caused some upset.

6.11 The Westbury Town Forums

6.11.1 The Westbury Town Forum calls itself the official Westbury Town Forum. It is an internet 'discussion' site which allows people to start a discussion on a particular topic, or add 'posts' to an existing discussion topic. The Forum claims to be independent and nothing to do with the Council, newspapers or businesses.

6.11.2 In the record of interview and in his statement Councillor Hawker confirms he contributes to the forum using the pseudonym 'Baldy' (see appendices C7 and C8, pages 80-89 and 90-96).

Councillor Hawker contributes to discussions using the pseudonym 'Baldy'

6.11.3 Other contributors to the postings, Mike Hawkins and Charlie Finbow, have sent replies to the 'Baldy' posts but addressed to 'Russell' (see appendix E1). In the record of interview Councillor Hawker says "...most people who use the forum would know I am 'Baldy' (see appendix C8, pages 90-96).

Forum users know that 'Baldy' is the pseudonym of Councillor Hawker

6.11.4 Councillor Hawker's posts are accompanied by a header 'I may disagree with your views but I am NOT attacking you!', and a footer 'I'm here in my private capacity as a local resident only (Unless stated otherwise)'. (see appendix E1, pages 105-113)

6.11.5 **The content of the forum posts**

On the 22nd October 2011, Councillor Hawker, using the pseudonym 'Baldy', added posts to an ongoing discussion, topic – 'Re: the Laverton grand opening' (see appendix E1, pages 105-113).

6.11.6 Councillor Hawker in his posts makes a report of an official Westbury Town Council event;

He responds to a question from Mike Hawkins that seems to have been asked of him in his official capacity, 'Thanks for this Russell.....' 'How do you, as the new Chairman, propose to bring in income?

Councillor Hawker refers to members of Westbury Town Council staff and their part in organising the launch;

Councillor Hawker refers to 'we' when describing the actions taken by Westbury Town Council – We had to start all over again in 2008 and we brought in John Parker as project adviser/officer to lead us along.

We have a new hall manager in a post called the 'Laverton Development and Marketing Officer.....

....but there are some good people on the working group who know how to market and sell things...should the need to do it ourselves arise.....'

Councillor Hawker talks at length and in detail of why the previous LITMC chairman resigned and why he, Councillor Hawker, was willing to accept the nomination to be Chair of the LITMC, a working group of Westbury Town Council.

In his posts to the Westbury Town Forum on the 22nd October 2011, Councillor Hawker discussed and reported on official business of Westbury Town Council.

6.11.7 In the Appeals Tribunal case reference APE 0421 Councillor McTigue, the Tribunal found that Councillor McTigue, when making postings to a forum site using the pseudonym 'Indie' gave the impression she was acting in her role of councillor and representing the council (see appendix B1, pages 47-48).

6.11.8 The First Tier Tribunal in case reference LGS/2011/0537, Councillor Brookes, decided that a blog entry made by Councillor Brookes in which he described in detail an account of a council meeting, was made in his official capacity; he was using his blog to communicate, as a councillor, with the electorate of the parish (see appendix B2, pages 49-50).

6.11.9 I have taken into account the content of Councillor Hawker's posts to the forum site and the Tribunal decisions as highlighted in paragraphs 6.11.7 and 6.11.8 above, and find that whilst making posts to the Westbury Town Forum, Councillor Hawker gave the impression he was acting in his capacity as a councillor and was representing the council.

6.12 Westbury Town Council meeting 7th November 2011

6.12.1 A full meeting of Westbury Town Council was held on the 7th November 2011.

6.12.2 Councillor Hawker attended the meeting in his capacity as a member of Westbury Town Council

6.12.3 During the 'Public Forum' section of the above meeting, Mr Taylor made a statement regarding the speech made by Councillor Hawker at the Laverton re-launch event. Mr Taylor's statement included that he had given a small dossier of documents to the Town Clerk.

6.12.4 During the 'Public Forum' section of the same meeting, Mr J Clegg made comments regarding the way Councillor Andrews had been dismissed as Chair of the Laverton Institute Trust Management Committee.

6.12.5 The minutes of the 7th November meeting state 'In reply, Councillor Hawker stated he stood by all he had said against Mr I Taylor and Mr J Clegg'.

6.12.6 A motion was raised at the 7th November 2011 meeting, that the Laverton Institute Trust Management Committee be changed from a working group, to a committee of the Council. The motion was defeated.

(See appendices F1 pages 114-116, F2 pages 117-120, F3 pages 121, and F4 pages 122-137).

6.13 The White Horse News paper

6.13.1 Mr Taylor sent a letter to the White Horse News paper, published in the 24th November 2011 edition, in which he talks of Councillor Hawker's proposal to change the Laverton Working Group to a committee. Mr Taylor also calls into question Councillor Hawker's motivation for raising the proposal (see appendices G1 page 138 and G2 page 139).

The 'White Horse News' newspaper dated the 24th November 2011 contained a letter written by Mr Taylor.

6.13.2 The same edition of the White Horse News contained an article also relating to Councillor Hawker's speech and Mr Taylor's statement. The article quotes Mr Taylor as saying 'Obviously I found his remarks offensive and unnecessary. I thought his behaviour was inappropriate and loutish. Unfortunately that's nothing new. More importantly his remarks are untrue' (see appendix G3, page 140).

The 'White Horse News' paper dated the 24th November 2011 contained an article relating to Councillor Hawker's speech at the Laverton launch event and Mr Taylor's statement made to Westbury Town Council on the 7th November 2011.

6.14 Westbury Town Council email addresses

6.14.1 Mr Harvey, Westbury Town Clerk, Mrs Mantle Assistant to the Clerk and Councillor Hawker have all said in their statements and interview record that only Westbury Town Council staff have official council email addresses. Councillors use their own, personal email addresses.

6.14.2 Westbury Town Councillors do not have official, Westbury Town Council email accounts or addresses. Westbury Town Councillors use their personal emails addresses.

6.15 Councillor Hawker's email to Mr Harvey and Mrs Mantle

6.15.1 On the 24th November 2011 Councillor Hawker sent an email to Keith Harvey (Town Clerk, Westbury Town Council) into which he also copied Barbara Mantle (Assistant to the Town Clerk). (See appendix H1, page 146).

6.15.2 The email includes –

- A request for documents of Westbury Town Council;
- A request for documents given to and held by Westbury Town Council;
- How Councillor Hawker wants to receive those documents;
- The time at which the information was to be ready;
- The request for information is in bold print;
- The instruction for the documents to be available 'ASAP' is also in bold print.

6.15.3 Councillor Hawker says he sent the email in his capacity as a local politician; he was not conducting council business.

Mr Harvey says in his statement that he assumed Councillor Hawker was asking for documents in his capacity as a Westbury Town Councillor. Mrs Mantle believes Councillor Hawker sent the email in his capacity as a Westbury Town Councillor.

The email was from a serving councillor making a strong request for documents held by the Town Council, specifying the format for the documents and when they were to be ready. The two members of Westbury Town Council in receipt of the email believe it was an official request for information from a councillor.

At the time Councillor Hawker sent the email to Mr Harvey and Mrs Mantle he was acting in his capacity as a councillor.

6.15.4 Within the email Councillor Hawker refers to Ian Taylor in the following terms- ‘...the pack of lies that Ian Taylor has recently stated...’. ‘...Ian Taylor is a bare-faced liar and deceived the council...’, ‘...based on a string of lies and his own muddles and nonsense...’, ‘...He then made a series of deceptive manoeuvres...’, ‘.....statements designed to confuse everyone.....’. (See appendix H1, page 146).

6.16 The Laverton General Interest Group (GIG)

6.16.1 The Laverton GIG is a ‘General Interest Group’ comprised of people with an interest in The Laverton, for example- stakeholders and those who may wish to use the venue. An email was sent to the GIG mailing list, with the subject heading – Laverton GIG agenda for 6.30pm 7 December.

6.16.2 Mr Kerry Eatwell, a member of the GIG, sent an email, copied to all GIG members, on the 25th November 2011 saying that he had no objection to the new chairman’s appointment, but he did not agree with the manner and timing of the appointment and that he was withdrawing from the GIG.

6.16.3 Councillor Hawker responded at length to Mr Eatwell via email, copied to all GIG members, on the same day (see appendix I1, pages 147-149).
Councillor Hawker sent an email on the 25th November 2011 at 17.42pm, which was copied to all members of the GIG.

6.16.4 Mr Eatwell in his statement said ‘To me, the email from Russell Hawker appeared to be a personal email, rather than one sent in his capacity as a councillor’.

6.16.5 In the interview record Councillor Hawker says that he joined the GIG as a member of the public but he was now the Chairman and received the email from Mr Eatwell as Chairman of the committee.

6.16.6 In his both his statement and record of interview Councillor Hawker says he did not stop to think in what capacity he was replying to Mr Eatwell. In the

interview record Councillor Hawker also says that people may have thought he was responding as a councillor.

6.16.7 In the third paragraph of Councillor Hawker's email he states 'As a councillor, I've always been happy to stand up to liars and other nonsense'. In the last paragraph Councillor Hawker says 'As a councillor determined to ensure that the public know the truth...' Reinforcing he is a councillor.

6.16.8 In his email, Councillor Hawker twice states he is a councillor.

6.16.9 Councillor Hawker refers to the speech he made at an official event of the Council, the Laverton launch event. The 4th paragraph mentions the public forum of a Westbury Town Council meeting; the 7th paragraph refers to the events of a previous Town Council meeting and the actions of a councillor at that meeting; the 9th paragraph refers to a meeting of the LITMC, a working group of the Town Council; paragraphs 5, 12 and 13 refer to the Laverton launch event, an official event of Westbury Town Council; the 13th paragraph refers to the Mayor's speech and Councillor Hawker's own speech made at the launch event.

The email talks at length of why Councillor Andrews had to stand down as Chair of the LITMC; of the working of the LITMC, a working group of Westbury Town Council; and of John Parker, employed by Westbury Town Council as a Project Manager, applying for grants.

In his email sent on the 25th November 2011 to all members of the GIG, Councillor Hawker refers extensively to the business of Westbury Town Council.

6.16.10 I have considered the content of Councillor Hawker's email and that he twice states he is a councillor. I have also taken into account the Tribunal decisions in the cases held in appendices B1 and B2 and find that the email sent by Councillor Hawker on the 25th November 2011 to members of the GIG gave the impression he was acting in his capacity as a councillor and was representing the authority.

6.16.11 In the fourth paragraph of the letter Councillor Hawker states 'I intend to reply in full to every lie and misleading claim made by John Clegg and Ian Taylor recently in the public forum of the town council (and as repeated verbatim in this week's White Horse News)'.

6.16.12 On the 26th November 2011 at 8.58am, Councillor Hawker sent an email to all members of the General Interest Group (see appendix I2, pages 150-151).

Given the short time between the emails, that both emails were sent to the same people, and that the second email starts 'I do not intend to reply to all of Ian's points by email.....' a link to the statement contained in the first email, it is reasonable to assume the email of the 26th November is an addendum of the previous email.

6.16.13 In the email of the 26th November Councillor Hawker points out that he is the longest serving member of the LITMC; the email talks of how and why Ian Taylor was co opted to the LITMC; Councillor Hawker mentions Mr Taylor confusing the rest of the council; and there is mention of how the applications for Lottery Funding were handled.

6.16.14 Included in Councillor Hawker's email are the following references to Mr Taylor – 'It was clear to me that the committee was being hoodwinked by a fraudster', '.....I had no confidence in anything Ian ever said because it was all a series of manipulations and nonsense designed to cover his own errors and confuse the rest of the council...'

6.16.15 In his email sent on the 26th November 2011 to all members of the GIG, Councillor Hawker refers extensively to the business of Westbury Town Council.

6.16.16 I have considered the content of the email and that it appears to be an addendum to the email sent on the 25th November. I have also considered the Tribunal decisions in the cases held in appendices B1 and B2 and find that the email sent by Councillor Hawker on the 26th November 2011 to members of the GIG gave the impression he was acting in his capacity as a councillor and was representing the authority.

6.17 Councillor Hawker's letters published in the White Horse News

6.17.1 The White Horse News paper published on the 6th December 2011 contained two letters written by Councillor Hawker. One letter was in response to Mr Clegg, the other in response to Mr Taylor. In the first part of the letter regarding Mr Taylor, Councillor Hawker reiterates his belief Mr Taylor was the wrong person to chair the LITMC and apply for grants; that Mr Taylor bungled the grant applications, and that Mr Taylor effectively shut the Laverton building. In the second part of the letter Councillor Hawker says it was Councillor Andrews who proposed the LITMC change from working group to standing committee (see appendix G4, page 141).

The 'White Horse News' paper dated the 6th December 2011 contained two letters from Councillor Hawker.

The letters refer extensively to the workings of Westbury Town Council.

The letter regarding Mr Taylor is signed Councillor Russell Hawker, Westbury Town Council.

6.17.2 In the First Tier Tribunal case. LGS/2011/0537, Councillor Brookes (see appendix B2, pages 49-50), the Tribunal decided Councillor Brookes used a blog to communicate as a councillor with the electorate. Councillor Hawker has used the White Horse News to express his views on council business and has identified himself as a councillor.

Councillor Hawker was acting in his official capacity when sending the above letters to the White Horse News.

6.17.3 In an email dated the 29th June 2012, Councillor Andrews states the proposal to change the LITMC from a working group to a committee was not made by him. Councillor Andrews believes the proposal was made by Councillor Hawker (see appendix G5, pages 142-143). Neither the agendas nor the minutes of the LITMC meetings held on the 17th and 20th October 2011 record who made the proposal. However, Keith Harvey, Westbury Town Clerk, and Barbara Mantle, Assistant to the Town Clerk, state Councillor Andrews did not ask for the item to be on the agenda, their impression is that the request came from Councillor Hawker (see appendices G6, page 144, and G7, page 145).

Councillor Andrews did not request the proposal to change the LITMC from a working group to a committee be added to the agenda of meetings.

6.18 The Westbury Town Council meeting, 9th January 2012 (see appendix J2, page 155)

6.18.1 A full meeting of Westbury Town Council was held on the 9th January 2012

6.18.2 Councillor Hawker attended the meeting in his capacity as a member of Westbury Town Council.

6.18.3 The minutes of the above meeting show item T.2581 'Matters Arising from These Minutes:', 'Members' matters arising from these minutes;

6.18.4 Councillor Andrews spoke on this item, referring to the Mr Taylor's statement made in the public forum of the meeting held on the 7th November 2011 and Councillor Hawker's response (see paragraphs 6.12 to 6.12.5 above).

6.18.5 The minutes of the meeting state 'Councillor Hawker did not accept Councillor Andrews' comments on this matter'.

6.18.6 Councillor Andrews believes that Councillor Hawker responded that he still stood by what he had said and if Mr Taylor was saying differently he was lying; Councillor Andrews believes that the Mayor, then Councillor Windess, intervened, banging his gavel. Councillor Windess concurs with Councillor Andrew's comments, but no one else recalls an intervention.

There is no conclusive evidence that Councillor Hawker, during the Westbury Town Council meeting held on the 9th January 2012, stated Mr Taylor was lying

6.18.7 On the 19th July 2012 I received an email from Mr Taylor which included three attached documents – the minutes of the Westbury Town Council meeting held on the 4th September 2006, the minutes of the LITMC working group meeting held on

the 1st November 2006, and the minutes of the Westbury Town Council meeting held on the 6th November 2006. The relevant extracts from the meetings are held at appendix J3, pages 156-158.

6.18.8 *The minutes of the LITMC meeting on the 1st November 2006 show the preparation work towards the bid for Heritage Lottery Funding was divided amongst the working group, including Councillor Hawker.*

6.18.9 Councillor Hawker has claimed that the bid for Heritage Lottery Funding made by Mr Taylor failed as Mr Taylor failed to stress the heritage aspect of the Laverton (see the email dated 24th November 2011, appendix H1 page 146, email dated 26th November 2011 page 150-151, and letter to the newspaper G4 page 141). The minutes of the LITMC working group meeting held on the 1st November 2006 show that Mr Taylor suggested the bid be themed on heritage, but that another proposal was made suggesting the charity objectives be stressed. The minutes suggest the latter proposal was accepted (see appendix J3, pages 156-158).

6.18.10 On the 19th June 2012 I received an email from Councillor Hawker. The last paragraph of Councillor Hawker's email includes '*.....an email from the Heritage Lottery Fund received today confirming that they are encouraging us.....to make a HLF application. This shows the fallacy that HLF were not interested in The Laverton as claimed by Ian Taylor.....*' Attached were email exchanges between John Parker, Laverton Project Officer, and Philippa Davies of the Heritage Lottery Fund. At the request of Councillor Hawker I have not included copies of the emails in the appendix.

The emails only show that the Heritage Lottery Fund is currently broadly supportive in aiding the Laverton Project in making an application for funding. It is not proof of any exchange or support in the period 2007 to 2009, and is not proof that an application for funding made in that period would have been successful.

7 Reasoning

7.1 Matters that fall to be considered in the investigation

7.1.1 Councillor Hawker, in an email dated the 12th May 2012, queried the approach of the investigation. Councillor Hawker said that I could not tell whether a breach of paragraphs 3(1) or 3(2)(b) of the Code of Conduct had occurred without considering all the relevant circumstances of the matter and - fundamentally - whether what he said or did was actually correct or factually true (see appendix J2). This would ultimately mean the investigation having to decide whether or not Mr Taylor, as per Councillor Hawker's allegations, had lied whilst a member or Chair of the Laverton Institute Management Committee. It is not the place of this investigation to make such a decision.

7.1.2 Councillor Hawker, in an email sent on the 14th May 2012, included a link to an Appeals Tribunal case, reference APE 0441, Councillor Whipp (see appendix B4, pages 53-58).

Councillor Hawker believes the decision in that case is relevant to the complaint against him.

7.1.3 The Standards Committee of Pendle Borough Council decided that Councillor Whipp, a member of Barnoldswick Town Council, had breached the Code of Conduct under paragraph 3(1) when he referred to two councillors and a member of the public as 'liars' in an open meeting of the Town Council. The Standards Committee decided that the use of the word 'liars' went beyond political expression, and was rude and offensive. The Standards Committee did not consider whether or not the use of the word 'liars' was justifiable, and seem to have determined that such a possibility did not concern them. The Appeals Tribunal stated this approach was flawed; in that particular case there was evidence to suggest the term 'liars' was justifiable (see appendix B4, pages 53-58 and paragraphs 7 to 14 of the Tribunal decision).

7.1.4 Paragraph 15 of the Tribunal decision sets out the grounds for allowing Councillor Whipp's appeal.

7.1.5 Paragraph 16 of the Tribunal decision makes reference to another case, APE0427, *Mason versus Needham Market Town Council*, and points out the cases are different and each turns on its own particular facts.

7.2 I have considered case reference APE 0427, *Councillor Mason versus Needham Market Town Council* (see appendix B5, pages 59-66).

7.2.1 In a meeting of Needham Market Town Council in May 2008, Councillor Mason referred to another councillor, Josephine Lea, and the Deputy Clerk as 'proven blatant liars'. Councillor Mason believed these two people, during a previous investigation into the conduct of Councillor Mason that had taken place in 2006, had lied regarding an alleged telephone call said to have taken place in December 2005.

7.2.2 The Tribunal found Councillor Mason's views were well known and there was no new information that required the issue to be raised again.

7.2.3 The Tribunal decided that although they understood Councillor Mason wished the Tribunal to make a finding on the events that took place in December 2005, it was not necessary to do so when determining whether Councillor Mason had breached the Code of Conduct. The Tribunal was satisfied that the comments of Councillor Mason were, in the particular circumstances, a breach of the Code whether or not they were true.

7.2.4 I contend that the circumstances of the complaint against Councillor Hawker, reference WC 03/12, align closely with those of the Adjudication Panel case APE0427, Councillor Mason.

7.3 I would also refer to case reference LGS/2011/0537; Councillor Brookes (see paragraph 4.11 above and appendix B2, paragraph 34 of the Tribunal Decision). The fact that Westbury Town Council failed in its original bid to secure lottery funding does not inexorably lead to the conclusion that Mr Taylor was at fault, nor that he lied, misled or defrauded Westbury Town Council.

7.4 Paragraph 2 of the Code of Conduct, Scope

7.4.1 I have first considered whether Councillor Hawker was conducting the business of his authority, or was acting, claiming to act or gave the impression he was acting as a representative of his authority at the time of the incidents considered as part of this investigation (see paragraph 4.2 above).

7.5 The Laverton Launch event on the 21st October 2011.

7.5.1 Councillor Hawker attended the Laverton launch event in his capacity as a Westbury Town Councillor and made a speech in his role as Chairman of the Laverton Institute Trust Management Committee, a working group of Westbury Town Council. Councillor Hawker was conducting the business of his authority and paragraph 2(1)(a) of the Code of Conduct applies.

7.6 The Westbury Town Council meetings held on the 7th November 2011.

7.6.1 Councillor Hawker attended the above meeting in his capacity as a member of Westbury Town Council and as such paragraph 2(1)(a) of the Code of Conduct applies.

7.7 The posts made by Councillor Hawker on the Westbury Town Forum.

7.7.4 Taking the contents of the postings as a whole (see paragraphs 6.11 to 6.11.6 above and appendix E1), and the decisions of the Tribunals in the McTigue and Brookes cases, I contend that whilst making posts on the Westbury Town Forum, Councillor Hawker gave the impression that he was acting as a representative of Westbury Town Council and paragraph 2(1)(b) of the Code of Conduct applies.

7.8 Councillor Hawker's email 24th November 2011

7.8.1 Councillor Hawker sent an email to the Town Clerk and the Assistant to the Town Clerk on the 24th November 2011. When sending the email Councillor Hawker was acting in his capacity as a councillor (see paragraphs 6.15 – 6.15.3 above) and paragraph 2(1)(a) of the Code of Conduct applies.

7.9 The emails sent to the Laverton General Interest Group (GIG)

7.9.1 The emails of 25th and 26th November 2011

7.9.2 I have considered the emails in the light of the Tribunal decisions as contained in appendices B1 and B2, and I do not agree with Mr Eatwell when he says Councillor Hawker's email appeared to be a personal email (see paragraph 6.16.4 above).

Given that twice in the emails Councillor Hawker identifies himself as a councillor, the content of the emails, and the detail of the workings of Westbury Town Council as highlighted in paragraphs 6.16.7 to 6.16.15 above, Councillor Hawker gave the impression that he was acting as a representative of his authority and paragraph 2(1)(b) of the Code of Conduct applies.

7.11 Councillor Hawker's letters published in the White Horse News, 6th December 2011 edition.

7.11.1 Councillor Hawker's letter published in the White Horse News` regarding Mr Taylor is signed 'Russell Hawker, Westbury Town Councillor', and talks extensively of Westbury Town Council business and how the council runs. Councillor Hawker used the letter published in the newspaper to communicate his view of council matters to the local electors. I have taken into account the Tribunal Decision in the Brookes case (see appendix B2) and conclude that Councillor Hawker was conducting the business of the authority in the letter and therefore paragraph 2(1)(a) of the Code of Conduct applies.

7.12 The Westbury Town Council meeting held on the 9th January 2012.

7.12.1 Councillor Hawker attended the above meeting in his capacity as a member of Westbury Town Council and as such paragraph 2(1)(a) of the Code of Conduct applies.

7.13 Paragraph 3(1) You must treat others with respect.

7.13.1 The Standards for England guidance relating to paragraph 3(1) of the Code of Conduct is included in appendix B3.

7.13.4 **The European Convention on Human Rights**, paragraph 10(1) gives everyone the right to freedom of expression, the right to hold opinions, and the right to impart information without interference from public authority. Political expression is allowed a high level of protection. However, it is not an absolute right, Article 10(2) sets out the conditions in which an interference of freedom of expression is allowed and includes '*for the protection of the reputation or the rights of others*' (see appendix B3). The right to freedom of expression does not entitle a person to make comments which damage the reputation or infringe the rights of another. The statements and comments made by Councillor Hawker as identified in paragraphs 7.14 to 7.18.7 below are personal abuse and do not

receive the protection of paragraph 10 of the European Convention on Human Rights.

7.14 The Laverton Launch event held on the 21st October 2011.

7.14.1 Councillor Hawker, at the Laverton launch event made a speech which was heavily critical of the role and work undertaken by people previously involved in the Laverton Project. Although Councillor Hawker did not mention Ian Taylor, a former Chairman of the LITMC, by name, it was clear to some that Councillor Hawker was referring to Ian Taylor. There is agreement that Councillor Hawker's speech caused some upset and that following the speech some people left the meeting (see paragraphs 6.10.5 – 6.10.8, above).

7.14.2 Standards for England guidance for paragraph 3(1) states that criticism of ideas and opinions is part of democratic debate, however, Councillor Hawker's speech at the Laverton launch event was not part of a debate as Mr Taylor had no right of reply.

7.13.2 The same guidance states *'they (councillors) may also seek to discredit the policies and actions of their opponents'*. Mr Taylor resigned from Westbury Town Council on the 31st March 2009, two and half years before the Laverton launch event and the start of the chain of events that led to Mr Taylor's complaint. In light of this, it is hard to classify Mr Taylor as an 'opponent' of Councillor Hawker, and Mr Taylor should be viewed as a member of the public. However, I am aware that Mr Taylor is capable of defending his opinions and has defended his position in a Westbury Town Council meeting and in the White Horse News.

7.14.3 Standards for England guidance for paragraph 3(1) further state that individuals should not be subject to unreasonable or excessive personal attack. Councillor Hawker was referring to events that had taken place between four and a half and two and half years prior to the launch event; publicly accused Mr Taylor of trying to kill the Laverton Project; did so at an event that celebrated the refurbishment of the Laverton; at a time when Mr Taylor did not have the right to reply.

7.14.4 Councillor Hawker's speech was an unreasonable attack on Mr Taylor, and can be seen as part of a pattern of behaviour that breaches paragraph 3(1) of the Code of Conduct.

7.15 Posts made by Councillor Hawker on the Westbury Town Forum.

7.15.1 The posts made by Councillor Hawker on the Westbury Town Forum include a 'header' *'I may disagree with your views but I am NOT attacking YOU!* However, Councillor Hawker's posts made on the 22nd October 2011 include the phrases -

'There was also a focus on those who did their best to kill off the project, just so that people remember who those brass-necked individuals are (given that they had the brass neck to attend the event).'

'Bill Braid did his best to kill off the Laverton Project....'

'Ian Taylor actually did destroy the project as chairman.....'

7.15.2 Councillor Hawker was referring to events that had taken place between four and a half and two and half years prior to the launch event; the event at which Councillor Hawker made his speech celebrated the refurbishment of the Laverton, and it is doubtful that Mr Taylor destroyed the project. Councillor Hawker's comments are not a disagreement over views, they are attacks on an individual, attacks which are Councillor Hawker's opinions, but which are not proven.

7.15.4 I contend that Councillor Hawker's posts on the Westbury Town Forum should be seen as part of a pattern of behaviour that breaches paragraph 3(1) of the Code of Conduct.

7.16 The Westbury Town Council meeting of the 7th November 2011

7.16.1 Mr Taylor attended the above meeting and during the time set aside for the Public Forum, read out a statement rebutting the comments made by Councillor Hawker in his speech at the Laverton launch event (see appendix F3).

7.16.2 The minutes of the meeting record Councillor Hawker stating that he stood by all he had said against Mr Taylor (see appendix F2).

7.16.3 The witness statements taken during the course of the investigation broadly agree with the minutes.

7.16.4 Councillor Hawker did not repeat or elaborate on his previous comments; he only said that he stood by them. I do not believe this is enough to show a breach of the Code of Conduct. Councillor Hawker's actions at the Westbury Town Council meeting held on the 7th November 2011 have not led to a breach of the Code of Conduct.

7.17 Councillor Hawker's email 24th November 2011

7.17.1 Councillor Hawker sent an email on the 24th November 2011. The email was sent to two staff members of Westbury Town Council. The first three, short, paragraphs and the last paragraph of the email do not breach the Code of Conduct. Further to this, if the email had only consisted of these paragraphs it would have still read in such a way as to make sense.

7.17.2 The fourth, long paragraph includes the phrases *'There are some serious issues arising from the pack of lies that Ian Taylor recently stated, not least his claim that what I have said is untrue....'*, *'The fact of the matter is that Ian Taylor is*

a bare-faced liar and deceived the council throughout his involvement...'; '...based on a string of lies and his own muddles and nonsense.' 'He then made a series of deceptive manoeuvres...and statements designed to confuse everyone.....'.

7.17.3 Definitions of the above phrases include –

‘Pack of lies’ – a completely false story or account;

‘Bare-faced’ – obvious, shameless, bold or brazen liar, a remark or action that is clearly untrue;

‘Deceptive’ – designed to mislead, to make someone believe something that is not true.

7.17.4 Mr Taylor has provided a copy of the statement which he read out at the Westbury Town Council meeting held on the 7th November 2011. Parts of the statement were repeated verbatim in an article that appeared in the White Horse News. Both the statement and article include a potentially provocative comment referring to Councillor Hawker - *‘I found his remarks offensive and unnecessary. I thought his behaviour was inappropriate and loutish. Unfortunately that’s nothing new.’*

7.17.6 Councillor Hawker makes three separate statements that Mr Taylor had lied. It is Councillor Hawker’s belief that Mr Taylor has lied, it is not fact and has not been proven or considered by an independent tribunal. Councillor Hawker also accuses Mr Taylor of deceiving the council and deception. The statements were a personal attack on Mr Taylor that were damaging to his reputation. Councillor Hawker’s email does not treat Mr Taylor with respect and is an unreasonable and excessive personal attack.

7.17.7 I contend that Councillor Hawker’s email dated the 24th November 2011 breaches paragraph 3(1) of the Code of Conduct, and should be viewed as part of a pattern of behaviour that has also caused a breach of the same paragraph of the Code of Conduct.

7.18 The General Interest Group emails

7.18.1 The majority of Councillor Hawker’s email of the 25th November 2011 refers to Councillor Andrews. Mr Taylor’s complaint, reference WC 03/12, did not include Councillor Hawker’s treatment of Councillor Andrews and I have not considered the comments relating to Councillor Andrews.

7.18.2 The email of the 25th November includes a reference to John Clegg. Mr Taylor’s complaint, reference WC 03/12, did not include Councillor Hawker’s treatment of John Clegg and I have not considered the comments relating to John Clegg.

7.18.3 The email of the 25th November includes the paragraph *'I intend to reply to every lie and misleading claim made by John Clegg and Ian Taylor recently in the public forum of the town council (and as repeated verbatim in this week's White Horse News). Almost every point they have made is untrue and/or misleading'*.

7.18.4 Councillor Hawker's email of the 26th November 2011 includes the phrases *'It was clear to me that the committee was being hoodwinked by a fraudster'* and *'I had no confidence in anything Ian ever said as it was all a series of manipulations and nonsense designed to cover his own errors and confuse the rest of the council...'*

7.18.5 The definitions of the above phrases include –

'Hoodwinked' – to dupe or trick; to trick someone to gain an advantage for you.

'Fraudster' – someone who deliberately cheats or deceives; someone who deceives in order to secure an unfair or unlawful advantage.

'Manipulate' – to control someone cleverly or deviously; to influence deviously; to tamper with or falsify for personal gain.

7.18.6 The above are very strong allegations that suggest Mr Taylor had lied and deceived the council for personal gain. The statements were a personal attack on Mr Taylor that were damaging to his reputation. Councillor Hawker's email does not treat Mr Taylor with respect and is an unreasonable and excessive personal attack.

7.18.7 I contend that Councillor Hawker's emails dated the 25th and 26th November 2011 breach paragraph 3(1) of the Code of Conduct, and should also be viewed as part of a pattern of behaviour that has caused a breach of the same paragraph of the Code of Conduct.

7.19 Councillor Hawker's letter published in the White Horse News

7.19.1 In the published letter Councillor Hawker says that Mr Taylor's comments were entirely untrue and/or juvenile nonsense. Councillor Hawker also says that he stands by what he said as it is all absolutely true. This is open to debate, e.g. who raised the proposal to change the LITMC to a committee (see paragraph 6.17.3 above), and the emphasis of the Heritage Lottery Fund bid (see paragraph 6.18.9), but it may well be that Councillor Hawker believes it to be true and he is entitled to hold and state an opinion. However, the statement that Mr Taylor's comments were entirely untrue and that Councillor Hawker was absolutely right is misleading, the use of the term 'juvenile nonsense' is provocative, and may be seen as a continuation of a pattern of behaviour. However, it should be remembered Councillor Hawker was replying to a letter that appeared to question his integrity and a newspaper article where Mr Taylor refers to Councillor Hawker's behaviour as inappropriate and loutish.

7.19.2 In this instance, Councillor Hawker did not breach the Code of Conduct.

7.20 The Westbury Town Council meeting held on the 9th January 2012

7.20.1 There is no conclusive evidence that Councillor Hawker, during the Westbury Town Council meeting held on the 9th January 2012, stated Mr Taylor was lying. Therefore, I conclude that at the Westbury Town Council meeting held on the 9th January 2012, Councillor Hawker did not breach the Code of Conduct.

7.13.3 Paragraph 3(2) You must not (b) bully any person.

Standards for England guidance relating to paragraph 3(2)(b) of the Code of Conduct is included in appendix B3. The guidance includes – *‘Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, and may form part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual...’*. The accusations and comments made by Councillor Hawker as set out in paragraphs 7.14 – 7.18.7 above, are offensive, insulting and humiliating to Mr Taylor, and they are an attempt to undermine Mr Taylor.

I contend that Councillor Hawker has breached paragraph 3(2)(b) of the Code of Conduct.

8 Findings

8.1 In the events identified in paragraphs 7.5 to 7.11.3 above, Councillor Hawker was either conducting the business of his authority or gave the impression he was acting as a representative of the authority and paragraph 2, of the Code of Conduct, Scope, applies.

8.2 The Standards for England guidance relating paragraph 3(1) You must treat others with respect, is clear ‘individuals should not be subject to unreasonable or excessive personal attacks’. Councillor Hawker actions and comments were both unreasonable and excessive and there has been a breach of paragraph 3(1) of the Code of Conduct.

8.3 The Standards for England guidance relating to paragraph 3(2) you must not (b) bully any person, says that bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Councillor Hawker has acted in a manner contrary to this and there has been a breach of paragraph 3(2)(b) of the Code of Conduct.

This page has intentionally been left blank

Appendix A

Schedule of Finding of Fact

1	Mr Taylor is a former member of Westbury Town Council. He became a member of the Town Council in May 2007 and resigned on the 31 st March 2009.
2	Mr Taylor is a former Chairman of the Laverton Institute Trust Management Committee (LITMC). He was elected on the 23 rd May 2007 and resigned on the 31 st March 2009.
3	The Laverton is a Victorian building in Westbury. Part of the building is used by Westbury Town Council as offices and the building has recently been refurbished.
4	The Laverton Institute Trust is a charity registered with the Charities Commission. The registration shows Westbury Town Council to be the trustee.
5	The Laverton Institute Trust Management Committee is a working group of Westbury Town Council. It is not a committee of the Council.
6	Councillor Hawker was elected chairman of the LITMC on the 17 th October 2011.
7	Councillor Stephen Andrews was the previous chairman.
8	John Parker is the Laverton Project Manager, employed on a consultancy basis by Westbury Town Council.
9	Sioux How is employed by Westbury Town Council as Laverton Development and Marketing Manager. Sioux How is an officer of Westbury Town Council.
10	The Laverton launch event was held on the 21 st October 2011
11	The Laverton launch event held on the 21 st October 2011 was an official event of Westbury Town Council
12	Councillor Hawker attended the Laverton launch event in his capacity as a Westbury Town Councillor and Chairman of the Laverton Institute Trust Management Committee (LITMC).
13	Councillor Hawker addressed the Laverton launch event in his capacity as Chairman of the LITMC and a member of Westbury Town Councillor.
14	During his speech Councillor Hawker did not refer to Mr Taylor by name; however, Mr Taylor could be identified from Councillor Hawker's comments.
15	Councillor Hawker's speech was critical of Mr Taylor and his actions.
16	Councillor Hawker's speech caused some upset.
17	Councillor Hawker contributes to the online Westbury Town Forum using the pseudonym 'Baldy'.
18	Other Forum users know 'Baldy' is the pseudonym of Councillor Hawker.
19	Councillor Hawker's forum posts have the header 'I may disagree with your views but I am NOT attacking you!'
20	Councillor Hawker's posts have the footer 'I'm here in my private capacity as a local resident only (Unless otherwise stated)'.
21	On the 22nd October 2011 Councillor Hawker, using the pseudonym Baldy, added posts to an ongoing discussion topic 'Re the Laverton grand opening'.
22	In his posts on the Westbury Town Forum Councillor Hawker discussed and reported on official business of Westbury Town Council.

23	Councillor Hawker's posts made to the Westbury Town Forum gave the impression Councillor Hawker was acting in his role as councillor and was representing the authority.
24	A full meeting of Westbury Town Council was held on the 7 th November 2011.
25	Councillor Hawker attended the meeting in his capacity as a member of Westbury Town Council
26	During the public forum of the above meeting, Mr Taylor made a statement regarding Councillor Hawker's speech at the Laverton launch event.
27	At the same meeting Mr Clegg made a statement regarding Councillor Andrew's dismissal as Chair of the Laverton Institute Trust Management Committee (LITMC).
28	Councillor Hawker replied to the above statements.
29	A motion was raised at the 7 th November 2011 meeting that the LITMC be changed from a working group to a committee. The motion was defeated.
30	The White Horse Newspaper dated the 24 th November 2011 contained a letter from Mr Taylor.
31	The White Horse Newspaper dated the 24 th November 2011 contained an article relating to Councillor Hawker's speech at the Laverton launch and Mr Taylor's statement at the Westbury Town Council meeting on the 7 th November.
32	Westbury Town Councillors do not have official Town Council email accounts and use their personal email accounts.
33	On the 24 th November 2011 Councillor Hawker sent an email to Keith Harvey and Barbara Mantle, both employees of Westbury Town Council.
34	Councillor Hawker sent the email in his capacity as a Westbury Town Councillor.
35	Within the email Councillor Hawker refers to Mr Taylor as a bare-faced liar, and alleges Mr Taylor deceived the council.
36	On the 25 th November 2011 at 17.42pm Councillor Hawker sent an email to all members of the Laverton General Interest Group (GIG).
37	In the email dated the 25 th November 2011, Councillor Hawker twice stated he is a councillor.
38	Councillor Hawker's email refers extensively to the business of Westbury Town Council.
39	Councillor Hawker's email of the 25 th November 2011 gave the impression he was acting in his role of councillor and representing the authority.
40	On the 26 th November at 8.58am Councillor Hawker sent a further email to all members of the GIG.
41	The email sent on the 26 th November 2011 is an addendum to the email sent on the 25 th November 2011.
42	Councillor Hawker's email of the 26 th November 2011 refers extensively to the business of Westbury Town Council.
43	Councillor Hawker alleges 'the committee was being hoodwinked by a fraudster', when referring to Mr Taylor.
44	Councillor Hawker's email of the 26 th November 2011 gave the impression he was acting in his role of councillor and representing the authority.
45	The White Horse Newspaper dated the 6 th December 2011 contained two letters written by Councillor Hawker.

46	In the letters published in the White Horse News Councillor Hawker refers extensively to the workings of Westbury Town Council
47	The letter relating to Mr Taylor is signed 'Councillor Russell Hawker, Westbury Town Council'.
48	Councillor Hawker was acting in his official capacity when sending the letters published in the White Horse News.
49	Councillor Andrews did not request a proposal to change the LITMC from a working group to a committee be added to the agenda of meetings.
50	A full meeting of Westbury Town Council was held on the 9 th January 2012.
51	Councillor Hawker attended the meeting in his capacity as a member of Westbury Town Council.
52	Councillor Andrews addressed the meeting under the item 'members' matters arising from these minutes'.
53	Councillor Andrews referred to Mr Taylor's statement, and Councillor Hawker's response, at the 7 th November meeting.
54	The minutes of the meeting show that Councillor Hawker did not accept Councillor Andrews' comments.
55	There is no conclusive evidence that Councillor Hawker stated Mr Taylor was lying.
56	The minutes of the LITMC meeting held on the 1 st November 2006 show the preparation work for a heritage Lottery Fund bid was divided amongst the members of the working group.
57	The minutes of the LITMC meeting on the 1 st November 2006 show Mr Taylor wanted to stress the heritage aspect of the lottery fund bid.

Appendix B

Case reference WC 03/12 Councillor Hawker

Reference	Document	Pages
A1	Complaint form from Mr Taylor	32-36
A2	Decision Notice	37-38
A3	E mail from Mrs Mantle confirming Councillor Hawker's and Mr Taylor's terms in office	39
A4	Councillor Hawker's register of members interests	40
A5	Councillor Hawker's declaration of acceptance of office	41
A6	Email from Barbara Mantle 7 th July 2011 and the status of the Laverton Institute Trust and Management Committee.	42
A7	Agenda and notes from the LITMC meeting held on the 17 th October 2011	43 - 44
A8	Agenda and notes from the LITMC meeting held on the 20 th October 2011	45 - 46
B1	Appeals Tribunal Decision case ref APE 0421, Councillor McTigue	47 - 48
B2	First Tier Tribunal case ref LGS/2011/0537, Councillor Brookes	49 - 50
B3	Standards for England Code of Conduct guidance for paragraphs 3(1); 3(2)(b); what constitutes bullying; and the European Convention on Human Rights, article 10.	51 - 52
B4	Appeals Tribunal Decision case ref APE 0441, Councillor Whipp	53 - 58
B5	Appeals Tribunal Decision case ref APE 0427, Councillor Mason	59 - 66
C1	Mr Taylor - statement	67 - 69
C2	Councillor Andrews - statement	70 - 72
C3	Mr Harvey, Town Clerk, - Statement	73 - 74
C4	Mrs Mantle, Assistant to the Town Clerk, - statement	75 - 76
C5	Councillor Windess - statement	77 - 78
C6	Mr Eatwell - statement	79
C7	Councillor Hawker- statement	80 - 89
C8	Councillor Hawker – Interview Record	90 - 96
D1	E mail from Mr Harvey dated 29 th March 2012	97
D2	LITMC notes of the meeting 26 th April 2011	98
D3	White Horse News website entry 499	99
D4	White Horse News website entry 498	100
D5	The Laverton launch event invitation	101
D6	The Laverton launch invitation list	102
D7	E mail from Councillor Andrews, 3 rd May 2012	103
D8	E mail from Councillor Hawker, 3 rd May 2012	104
E1	Westbury Town Forum posts	105 - 113
F1	Summons and agenda for the Westbury Town Council meeting, 7 th November 2011	114 - 116

F2	Minutes of the Westbury Town Council meeting, 7 th November 2011	117 - 120
F3	Copy of Mr Taylor's statement to the 7 th November meeting	121
F4	Copy of the documents handed by Mr Taylor to the 7 th November meeting	122 - 137
G1	White Horse News 24 th November 2011 and Mr Taylor's letter	138
G2	Copy of Mr Taylor's original letter	139
G3	White Horse News article 24 th November 2011	140
G4	White Horse News – Councillor Hawker's response to Mr Taylor	141
G5	Councillor Andrews' email dated the 29 th June 2012	142 - 143
G6	Email from Mrs Mantle dated the 19 th June 2012	144
G7	E mail from Keith Harvey dated the 20 th July 2012	145
H1	E mail 24 th November 2011 – Councillor Hawker to Keith Harvey, Town Clerk, Westbury Town Council	146
I1	E mail 25 th November 2011 – Councillor Hawker re GIG	147 - 149
I2	E mail 26 th November 2011 – Councillor Hawker re GIG	150 - 151
J1	Minutes of the Westbury Town Council meeting, 9 th January 2012	152 - 154
J2	Email from Councillor Hawker, dated 12 th May 2012	155
J3	Extracts from minutes of meetings held in 2006	156 – 158

Complaint Form – Members' Code of Conduct

Your details

1. Please provide us with your name and contact details

Title	Mr
First name	John
Last name	Taylor
Address	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
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	#
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
Russell	Hawker	Wiltshire & Westbury Councils

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.

I am being bullied and treated with disrespect by Councillor Russell Hawker.

On 25th October 2011 a Reception was held at The Laverton to celebrate its refurbishment and re-opening. It was attended by a number of distinguished guests who had supported the successful undertaking and in several instances, had contributed funds which helped finance the work. I had been invited, together with my wife, as a former Town Councillor and previous Chair of the Laverton committee; Councillor Hawker had been elected Chair of the Laverton committee four days previously. At the Reception he made a speech in which, identifying me by implication, he accused me of ruining the project and delaying its progress for several years. The circumstances made it impossible for me to refute his remarks and defend myself.

On 7th November 2011 I made a statement in the Public Forum prior to Westbury Town Council's bi-monthly meeting. I denied Councillor Hawker's accusations, criticised his inappropriate behaviour on 25th October and asked him to apologise. I also provided the Council with a précis of my role in the affairs of The Laverton between late 2006 and March 2009.. He refused to apologise saying he stood by his remarks. The circumstances made it impossible for me to respond and defend myself.

On 25th November 2011, as Chair of The Laverton Trust, Councillor Hawker sent an email addressed to 42 individuals and representatives of organisations such as the BA13+ Partnership and The White Horse News. In that email he wrote "I intend to reply in full to every lie and misleading claim made by John Clegg and Ian Taylor".

On 9th January last, in a public meeting of Westbury Town Council, he again accused me of lying. The Mayor intervened, instructing him to sit down and stop speaking. Several members of the public and a representative of The White Horse News were present and witnessed this defamation. I was not there but had I been, I would not have been permitted to defend myself.

Councillor Hawker cannot prove his accusations. They are not true. He has slandered my character and demeaned my work on behalf of the Laverton both before and during my time as a Town Councillor. He makes his defamatory statements using his position as the longest serving and best known councillor in the town and now as Chair of The Laverton Trust.

I am in no position to defend myself on an equal footing with the Councillor. Due to ill health I resigned from the Council and the Conservative Party in March 2009. Between that time and last November I made no public statements about the Laverton or anything else.

Councillor Hawker has defamed me, bullied me and behaved disrespectfully towards me. I earnestly ask the Standards Committee to reprimand him, stop him from attacking me and make him leave me in peace.

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:

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.

DECISION NOTICE: REFER FOR INVESTIGATION

Reference WC – 03/12

Subject Member

Councillor Russell Hawker – Westbury Town Council

Complainant

Mr John Taylor

Assessment Sub-Committee Membership

Mr Stuart Middleton (Independent)
Miss Pam Turner (Parish Councillor)
Councillor Julian Johnson (Wiltshire Council)

Monitoring Officer

Ian Gibbons

Complaint

The complainant alleges that between 25 October 2011 and 9 January 2012 Councillor Hawker engaged in bullying and disrespectful behaviour towards him in relation to his work on behalf of the Laverton in Westbury.

Decision

In accordance with Section 57A(2)(a) of the Local Government Act 2000, as amended, the Assessment Sub-Committee of the Standards Committee decided to refer the complaint to the Monitoring Officer for investigation.

Reasons for Decision

The Chairman led the Sub-Committee through the standards assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member, that the member was in office at the time of the alleged incident and that the Code was in force at the relevant time.

The Sub-Committee then considered whether the complaint, if proven, would amount to a breach of the Code, and in particular the following provisions:

- 3(1) – You must treat others with respect;
- 3(2)(b) – You must not bully any person.


In respect of paragraphs 3(1) and 3(2)(b) the Sub-Committee were satisfied that there was sufficient evidence to demonstrate that the complaint, if proven, was capable of giving rise to a breach of the Code. Sub-Committee felt that the circumstances as alleged warranted an investigation.

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:



Date:

21st March 2012

Chairman of the Wiltshire Council Assessment Sub-Committee

From: Barbara Mantle [barbara.mantle@westburytowncouncil.co.uk]
Sent: 27 April 2012 17:43
To: Wiltshire, Roger
Subject: RE: Private and Confidential

Hello

Ian Taylor came on to Town Council in May 2007 and was elected Chair of the Laverton Institute Trust Management Committee on the 23rd May 2007. He resigned from Town Council on the 31st March 2009.

Russell Hawker came on to Town Council in May 2002, and was elected Chair of the LITMC on the 17th October 2011. He is also a member of the following:

Highways, Planning & Development Committee
Car Parks Working Group
Tourism Working Group
Town Centre Viability Working Group
Health Working Group
ICTV Working Group

Kind regards

Barbara
Westbury Town Council
01373 822232

From: Wiltshire, Roger [mailto:Roger.Wiltshire@wiltshire.gov.uk]
Sent: 25 April 2012 15:10
To: Barbara mantle
Subject: Private and Confidential

Dear Mrs Mantle,

Re Code of Conduct case reference WC 03/12, Councillor Hawker

After our interview on the 23rd April, I asked if it possible to have the date when Ian Taylor became Chair of the LITMC, the date when Ian Taylor became a Westbury Town Councillor, and the dates he resigned. Can I add a bit more to my request? Is it possible to have the date Councillor Hawker first became a councillor, and any positions he currently holds as Town Councillor (especially the date Councillor Hawker became Chair of the LITMC).

Sorry to add this on and my thanks for your help with this case.

If you have any queries please do not hesitate to contact me.

Yours sincerely,
Roger Wiltshire
Ethical Governance Officer
Governance
Wiltshire Council, County Hall, Trowbridge,
Wiltshire, BA14 8JN, www.wiltshire.gov.uk
roger.wiltshire@wiltshire.gov.uk
01225 713462

REGISTER OF MEMBERS' INTERESTS

Local Government Act 2000 S.81(1)

A4

From: Cllr. Russell Hawker of [REDACTED]

To: The Monitoring Officer, Wiltshire Council

Cc: The Town Clerk, Westbury Town Council

Date: 7th June 2010

As a member of both
Westbury Town Council and **Wiltshire Council**,

I give notice of the following interests to be registered:

Sponsorship

None

Declarable Gifts

None

Contracts with Wiltshire Council or Westbury Town Council

None

Land in the area of either authority

My home: [REDACTED]

Employment or business

* Freelance "GP Chartered Surveyor" - Parasol Ltd and / or Hays Plc Group (*depending on which contract, if any*).

* Councillor, Wiltshire Council

Membership of other bodies

Westbury Heritage Society

Leigh Park Community Association (Westbury) (*as a resident of Leigh Park, Westbury*)

Westbury Youth Development Service CAYPIG (*an advisory body only*) (*as town council rep*)

Royal Institution of Chartered Surveyors

Wessex Group of Independents

Positions of general control or management in other bodies

Westbury Town Council

Wiltshire Council

Governing Body of Westbury C of E Junior School (*as Authority Governor for Wiltshire Council*)

Governing Body of Matravers School, Westbury (*as Authority Governor for Wiltshire Council*)

BA13+ Group (aka Westbury Community Area Partnership) (*as Wiltshire Council rep*)

Leigh Park Community Association (Westbury) (*as Wiltshire Council rep*)

Westbury Heritage Society (*as town council rep*)

Westbury CCTV Committee (*as town council rep*)

Westbury CCTV Committee (*as Wiltshire Council rep*)

Warminster Town Council CCTV Committee (*as town council rep*)

Warminster Town Council CCTV Committee (*as Wiltshire Council rep*)

West Wiltshire - Elblag Twinning Association (*Poland*) (*as town council rep*)

Russell Hawker

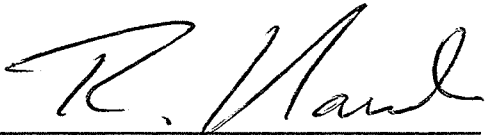
Westbury & Wiltshire Councillor (INDEPENDENT)

40

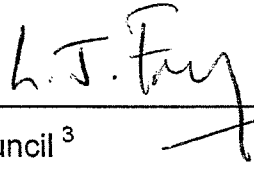
DECLARATION OF ACCEPTANCE OF OFFICE

I Russell Hawker¹ having been elected / ~~co-opted~~ to the office of Councillor² of **Westbury Town 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 ability.

I undertake to observe the Local Authorities (Model Code of Conduct) Order 2007 , specifically paragraph 12(2) regarding the conduct which is expected of members of **Westbury Town Council**.

Signed: 
Date: 14/5/07

This declaration was made and signed before me,

Signed: 
Proper Officer of the Council³

Notes:

- (1) Insert the name of the person making the declaration.
- (2) Insert "councillor" or "co-opted member" as appropriate.
- (3) Where the declaration is made before another person authorised by section 83(3) of the Local Government Act 1972, state instead the capacity in which that person takes the declaration.

From: Barbara Mantle [barbara.mantle@westburytowncouncil.co.uk]
Sent: 07 July 2011 11:41
To: Wiltshire, Roger
Cc: 'Keith Harvey'
Subject: RE: Private and Confidential

A6

Dear Roger

I can confirm that the meeting on the 4th May was the Annual Town Council meeting.

The Town Council adopted the Revised Model Code of Conduct 2007, including Paragraph 12(2) on the 14th May 2007.

I wasn't aware that Cllr Andrews is shown on our website as the chair of The Laverton Trust. This is misleading. Westbury Town Council as a corporate body is the sole trustee of The Laverton Institute Trust. The Laverton Institute Trust Management Committee (LITMC) manages the The Laverton on a day to day basis, and reports to full Town Council, as well as making recommendations on any projects, major expenditure etc. The Committee is misnamed, it is not a standing committee: it is only a working group of the Town Council. Cllr Andrews is chairman of the LITMC, and at the moment the other members are all town councillors, although we have had co-opted members in the past from user groups in the town. Town councillors are appointed by town council to the LITMC as and when necessary during the year, but membership of all working groups and committees is confirmed, or changed at the Annual Town Council meeting in May. The LITMC appoints the chair as and when necessary, but also confirms or re-appoints at the first meeting after the Annual Town Council meeting.

Hope this helps.

Kind regards

Barbara Mantle
 Westbury Town Council
 01373 822232

From: Wiltshire, Roger [mailto:Roger.Wiltshire@wiltshire.gov.uk]
Sent: 06 July 2011 12:58
To: barbara.mantle@westburytowncouncil.co.uk
Subject: Private and Confidential

Dear Barbara,

You have recently supplied some information to my colleague Anna Browne, in relation to a Code of Conduct complaint. I have been appointed as the Investigating Officer for the complaint and I would like to ask for the following information –

Can you confirm that the meeting on the 4th May was the Annual Town Council meeting and not the annual parish meeting; I have looked on the internet and it appears the parish meeting was on the 26th April, can this be confirmed?

Can you confirm which version of the Code of Conduct Westbury Town Council adopted – was it the full model code, which includes all of paragraph 12 'Effect of prejudicial interest on participation' ?

The charities commission website shows the Town Council as the trustee for the Laverton Institute, the Westbury Town council website shows Cllr Andrews as the Chair of the Laverton Trust. Can this be confirmed and can I ask how someone joins the committee/work group – is it just councillors? How does someone become the Chair of the Trust?

42

A7

WESTBURY TOWN COUNCIL

The Laverton Institute Trust Management Committee

Meeting to be held on Monday, 17th October 2011 at 5.30 pm at The Laverton

AGENDA

1. Election of a Chairman
2. Apologies.
3. To agree notes of the last meeting (12.09.11).
4. Matters arising.
5. Discussion of Strategic Development and Marketing Plan 2011-2018.
6. Discussion on Launch Events.
8. Discussion on timetable for the LITMC becoming a full standing committee for recommendation to Town Council.
7. Any other business.
8. Date and time of next meeting.

43

WESTBURY TOWN COUNCIL

Notes of the Laverton Institute Trust Management Committee held on the
17th October 2011 at 5.30 pm at The Laverton

PRESENT: Cllrs S Andrews (Chair), W Braid, Mrs S Ezra, R Hawker, S Miles
and D Windess
Mr K Harvey

1. **Election of Chairman.** Cllr Hawker was elected as chairman. Cllr. Andrews and Braid resigned immediately following the vote.
2. **Apologies.** Cllr D O'Hara – Illness
3. **Minutes.** The notes of the previous meeting held on the 12th September 2011 were approved.
4. **Matters Arising:** None
5. **Strategic Development and Marketing Plan 2011 – 2018.** The report had been read by members and accepted.
6. **Launch event on 21st - 22nd October 2011.** The timetable and plan of events were all discussed and agreed.
7. **The timetable for the LITMC becoming a full standing committee for recommendation to Full Town Council.**

The outcome of a discussion was that it was agreed the LITMC working Group should become a standing committee.
Suggested 5 councillors plus 2 ex officio.
To be named Laverton Committee.
Invite 3 members from the Laverton GIG.
Suggested having a working group dealing with day to day issues, i.e. Staff and Offices,
8. **Town Clerk brought to the attention of the Working Group that the Kitchen would need painting prior to the Launch Event.** It was agreed to instruct Emery's to commence the works after negotiating the price.
9. **Date and time of next meeting:** Quarterly to be agreed and when special business arises.

6.30 pm

44

A 8

WESTBURY TOWN COUNCIL

The Laverton Institute Trust Management Committee

Meeting to be held on Monday, 20th October 2011 at 4.30 pm at The Laverton

A G E N D A

1. Apologies.
2. Discussion on the LITMC becoming a full standing committee for recommendation to Town Council.
3. Any other business.
4. Date and time of next meeting.

45

WESTBURY TOWN COUNCIL

Notes of the Laverton Institute Trust Management Committee held on the
20th October 2011 at 4.30 pm at The Laverton

PRESENT: Cllrs R Hawker (Chair), Mrs S Ezra, D Windess, D O'Hara
Mr K Harvey

1. **Apologies.** None
2. **The LITMC becoming a full standing committee for recommendation to Full Town Council.** A discussion took place and the members of the Working Group agreed that the following Motion be put forward to Full Town Council at the meeting on 7th November 2011.

a) "The Laverton Institute Trust Management Working Group is now converted into a standing committee of the council called the "Laverton Committee" and is to hold meetings Quarterly or when there is sufficient or urgent business and is to comprise of five councillors plus the mayor and deputy mayor as ex officio members plus three non-voting seats for members of the public acting as representatives for users of the building and other parties interested in the success of The Laverton Institute trust.

Westbury Heritage Society will be invited to appoint one representative and the other two representatives will be appointed by the membership of the Laverton General Interest Group (LGIG)".

b) "To appoint members to the two vacant seats on the Laverton Committee".

It was also agreed that should the Motion be accepted an additional Working Group would not be required.

3. **Date and time of next meeting:** TBA following Town Council meeting on 7th November 2011.

5.15pm

Appeals Tribunal Decision

Case Ref:	APE 0421
Appeals Tribunal Date:	29 April 2009
Relevant Standards Committee:	Middlesbrough Council
Date of Standards Committee decision:	22 January 2009
Name of member concerned: <i>(Appellant)</i>	Councillor McTigue
Monitoring Officer:	Mr Richard Long
Independent Investigator:	Mrs Katharine Metcalfe
<u>Appeals Tribunal Members</u>	
Chairwoman:	Mrs Beverley Primhak
Member:	Mr Richard Enderby
Member:	Mr Chris Perrett

Official capacity

28. The Appellant argued that she was not acting in her official capacity as all her comments on the forum were made in her private time and all using the pseudonym of "Indie".
29. The Appeals Tribunal accepted that even if it became clear from the forum that an individual who was posting on the forum was a councillor, the Code of Conduct would not automatically be engaged. The question was whether in the postings on the forum the councillor was deemed to be, or gave the impression that he or she was, "acting in the role of councillor". This was fact-sensitive and would very much depend on the content of the postings.
30. It was noted that Councillor McTigue had used a pseudonym, and that she states in at least one of the postings that she is on the forum as a resident who just happens to be a councillor. However, taking the contents of the postings on the Evening Gazette forum as a whole the Appeals Tribunal concluded that the Appellant did give the impression that she was acting in the role of councillor and thus representing the council. Postings by "Indie" (Councillor McTigue) that resulted in this conclusion include:
- 30.1 25/6/08: *"I was sitting next to Cllr McPartland (who gave me a sweet!) and other Labour cllrs & I assure you, if my behaviour was even in the least not acceptable I would have been reported to the S Board before my feet touched the ground".*

- 30.2 25.6.08: *"cynic – you claimed that the council agreed with your complaint – who agreed – name them please so that I can verify it ..."*
- 30.3 26/6/08: *"BillygangI have suggested that since the council is targeted by the Government on recycling, that we pay people as an incentive – I don't make the decisions though – those above me do & they are appointed by the Labour Group. If you are not happy about your litter situation etc – complain to the right people why don't you – you cannot blame me. Which cllrs do you know who are childish – let's have some real evidence and examples here please – I for one agree but I would be interested in your experience of this. ..."*
- 30.4 26/6/08: *"I am a councillor as most people know I have no political banner ..."*
- 30.5 26/6/08: *"As you can appreciate I am limited as to how I can describe what happened – if you see what I mean."*
- 30.6 27/6/08: *"... do you know who your ward councillors are by any chance? Get to know them and then you can judge them."*
- 30.7 27/6/08: *"Mon – the residents in my ward are not just a number – I assure you of that. When one of them comes to me with a problem, the first thing I ask them is, how long it's been going on. If they reply – months or ages, I chide them for not contacting me sooner. ..."*
- 30.8 28/6/08: *"Every single person who uses this site could take their questions/complaints/questions and ask them in person at a full council meeting which is held every 6 weeks where they will be answered – providing the question is accepted by the Head of Legal Services. If they prefer to use this site instead – there is a chance I can answer them or perhaps the other cllrs on here who are anon.What's the difference between this and a public meeting where anything is discussed and aired, apart from the fact that you would see cllrs".*
- 30.9 28/6/08: *"..before I put anything up here for discussion I have the sense to check first with the legal dept in the Town Hall".*
- 30.1029/6/08: *"...my phone is in perfect working order so anyone here can contact me day or night and I have no objections whatsoever to people calling at my home which they do on a daily basis – it helps to live on the ward in some respects.We do our cllr work when it needs doing – there are no set hours – I thought everyone knew that."*
- 30.1129/6/08: *"..during this hearing/tribunal/appeal whatever you wish to call it I asked the cllr sitting next to me Cllr McPartland what he thought the costs would be and he rolled his eyes heavenwards. Would you like me to find out the approx cost for you & how many man hours have been spent on this?"*
- 30.1229/6/08: *" ...as a councillor I cannot deal with them in the same manner. ..."*
- 31 This conclusion is further supported by the impression that was clearly received by other posts on the blog.

**IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(Local Government Standards in England)**

CASE NO: LGS/2011/0537

ON APPLICATION FROM:

Ethical Standards Officer (ESO) of Standards for England

Application reference No: SBE-10830, 10831, 10862, 10863, 10864, 10897, 10898, 10899 and 10900 and SFE-000009, 000014, 000023, 000026 and 000027
Dated: 21 December 2010

APPLICANT: Jennifer Rogers, ESO, Standards for England

RESPONDENT: Councillor Martin Brookes of Oakham Town Council

DATE OF HEARING: 15 August & 30 September 2011

Venue: Birmingham Tribunal Centre and Leicester Law Courts

Date of Decision: 16 November 2011

BEFORE:

**Judge: David Laverick
Member: David Ritchie**

- 29. On 13 May, the day after the Town Council’s Annual Meeting, the Respondent had written his own detailed account of the meeting. The Tribunal sees that as being action undertaken in his official capacity – he was using his blog to communicate, as a councillor, with the electorate in the Parish. The blog of 14 May can be seen as an extension of that process and does of course begin with the publication of a letter he had received in his official capacity. The Tribunal takes the view that these actions of the Respondent do lie within the scope of the Code of Conduct.
- 33. Allegation 8 refers to criticisms made by the Respondent of the Town Clerk whose competence the Respondent had called into question and of whom the Respondent had made thinly veiled allegations of financial impropriety.
- 34. It was not for the Tribunal to determine the validity or otherwise of the Respondent’s criticisms but the Tribunal observe that the facts which seem to lie behind allegations that the Council had incurred unnecessary expenditure and had received a lesser number of tenders than expected did not inexorably lead to the conclusion, as asserted by the Respondent, that the Town Clerk was thereby at fault.
- 35.

36. The ESO had noted that the issue of whether public money was being properly spent was a matter of genuine public interest and submits that the Respondent's comments on the matter "attracted the higher level of protection afforded by the Human Rights legislation." She qualified that by excluding from such protection occasions where the Respondent expressed his criticism in a manner which was rude and offensive. Miss Kentridge, in her submissions, sought to draw a distinction between comments made in what she described as an appropriate forum, and those made in an inappropriate forum such as a public blog.
37. The Tribunal does not share Miss Kentridge's view – the Right to Freedom of Expression is, in the Tribunal's view applicable in either forum. But the Tribunal is mindful that Article 10 of the Code of Conduct does allow for restrictions on the right to freedom of expression which are imposed to protect the rights and reputations of others and draws a distinction between political comments on matters of public interest (which should not be subject to interference of expression from the Code of Conduct) and personal attacks upon an officer of the Council.