

Our Reference

Please Ask For

Date 11 November 2019

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Dear Mr

**Councillor Syed Hussain – East Staffordshire Borough Council  
Draft investigation report**

We write on behalf of Councillor Syed Hussain, whom we are advising as a member of the Association of Labour Councillors.

We have received a copy of your draft investigation report, dated 17 October 2019. We are now writing to you to present our comments in response to your report.

As a preliminary point, we are concerned by the delay in conducting your investigation of this complaint. We understand that you interviewed Councillor Hussain on 13 February 2019. However, your draft report was not completed until 17 October 2019. There has been a delay of 8 months in producing this draft report, and no explanation has been provided for this delay.

Furthermore, it is unclear from your report whom you have interviewed beyond Councillor Hussain in the course of your investigation. We understand that you have chosen not to interview Councillor Hussain's suggested witnesses,

This means that the report has been artificially constructed to set the written account of the complainant and against that of Councillor Hussain. Your draft report makes clear that you prefer the accounts of However, your decision not to seek independent, corroborative evidence suggests that your findings are therefore entirely subjective, which undermines the value of your investigation of this complaint.

Allegations were made regarding the increase in membership applications to the community centre during Councillor Hussain's tenure. This allegation is presented by as an attempt on the part of Councillor Hussain to establish a power base within the Queen Street Neighbourhood Resource Centre ('QSNRC'). New members of the community centre would have the right to vote on membership of the Board of

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Trustees at the next Annual General Meeting<sup>1</sup>, which in turn would potentially challenge the long-established status quo of the complainant in his role as Chairman. This may have influenced the general tenor of the complaint, and evidence in support.

We note that you have asked the complainant and a series of questions further to your interview of Councillor Hussain. We reserve the right to comment further on their response to your questions, as well as the evidence provided in support of the complaint, at a later stage.

By way of summary of the comments below, we note the following concerns regarding the conclusion of your draft report:

- (a) the report demonstrates a failure to appreciate the difference between an allegation and supporting evidence of an allegation;
- (b) the report relies on the account of the complainant and his (former) employee over that of Councillor Hussain. This is without any real critical analysis of the two accounts, or in consideration of reliable, independent evidence;
- (c) the report fails to consider evidence from witnesses such as whom our client had proposed as witnesses in support of his account;
- (d) the report fails to consider the political and/or vexatious motivations of the complainant in bringing this complaint against Councillor Hussain;
- (e) the report appears to ignore the existence of the letter dated 15 February 2019 which sets out Councillor Hussain's concerns regarding the motivations behind this Code of Conduct complaint; and
- (f) the report expresses your personal viewpoint with little or no substantive reasoning to support those views (see, for example, paragraphs 16, 21, 22, 25, 32, 48).

#### **Draft Report – Comments:**

We have set out our comments in the order set out in your report, referring to the paragraph numbers where appropriate.

- **Paragraph 2: “In this report I have been asked to consider the complaints against the Code of Conduct...”**

This paragraph does not specify what your terms of reference are for the preparation of this report, and does not confirm who authorised you to consider whether Councillor Hussain “*demonstrated some other kind of unlawful conduct*” or what this phrase actually means.

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<sup>1</sup> As per Article 2.8.4 of the company's Articles of Association

- **Paragraph 4: “I considered it was appropriate to interview the Councillor. That interview took place on 13 February 2019...”**

It is unclear from your report whether you interviewed anyone other than Councillor Hussain. We also note that, during your interview with Councillor Hussain, he asked you to speak to [redacted] as witnesses in support of his response to the allegations made against him.

Your reluctance to interview Councillor Hussain's witnesses is disappointing given the lack of independent corroborative evidence supporting the complainant's allegations. We also consider your decision not to interview the complainant nor [redacted] to be indicative of a reluctance to test the veracity of the allegations made by the complainant. We consider this to be a fundamental flaw in the investigative process, and undermines the findings in your draft report.

- **Paragraph 5: “As a result of that interview I sought further information from both the complainant and [redacted]”**

Your report relies extensively on the content of the “*detailed written responses*” provided by the complainant and [redacted]. We do not consider these documents to be reliable evidence in support of the allegations against Councillor Hussain, given their obvious partiality in these proceedings. We reject your later findings in reliance on these documents, and question your decision not to interview the complainant or [redacted] in person.

We also note that [redacted] is no longer the manager of the community centre. The inaccuracy of the information provided in this paragraph is deeply concerning.

- **Paragraph 7: “In my view the complaint made provides evidence of a breach of the Code of Conduct.”**

The complaint itself is not evidence of a breach of the Code of Conduct. Please clarify your meaning here - are you referring to the attachments to the complaint as originally submitted? For the reasons stated within this letter, we reject the findings made in your report in reliance of the contemporaneous records and “*detailed responses*” prepared by the clearly biased complainant and [redacted].

Furthermore, we note that this paragraph does not identify which provisions of the Council's Code of Conduct you have found Councillor Hussain to be in breach.

- **Paragraph 8: “The complainant is [redacted] the Board of Trustees of Queen Street Neighbourhood Resource Centre...”**

We have several concerns with this paragraph, which are also true of the report generally:

(a) Your report fails to provide any background information about the parties involved in this complaint. For instance, you do not make any reference to the fact that Councillor Hussain is a councillor for both East Staffordshire Borough Council ('ESBC') and Staffordshire County Council ('SCC'). In addition to his general duties as a councillor, he has a role on the Scrutiny Community Regeneration, Environment and Health and Well-being Committee for the Borough Council, and he is on the following committees for the County Council:

- (i) Charity and Trusts Committee;
- (ii) Joint Healthy Staffordshire, Safe and Strong and Prosperous Staffordshire select Committees;
- (iii) Prosperous Staffordshire Select Committee; and
- (iv) Standing Advisory Council on Religious Education Committee.

We consider this information to be relevant given that it provides context to the varied positions of responsibility held by Councillor Hussain in his role as councillor.

(b) Your report also fails to explain how Councillor Hussain came to be a member of the Board of Trustees at the QSNRC. He was nominated by the Council's leader, and was the second councillor appointed to the Board, the other being Councillor \_\_\_\_\_ of the ESBC;

(c) Your report does not make reference to the fact that Councillor Hussain had an established relationship with \_\_\_\_\_ prior to his appointment on the Board of Trustees, and that they worked together for several years on issues affecting the local community, such as the condition of roads and potholes. We consider this to be relevant when considering the allegations referred to in Section B and C of your report;

(d) Furthermore, the report fails to provide any background information relating to the complainant. Significantly, your report does not identify the complainant as being a Liberal Democrats candidate for East Staffordshire Borough Council<sup>2</sup>. Furthermore, he was previously elected as a Liberal Democrats councillor in the ward that Councillor Hussain now represents for the Labour Party. We are disappointed by your decision to omit this information from the report, given that it could suggest at worst a political motive in bringing this complaint against Councillor Hussain. At best, it provides much needed political context.

The 'Assessment Guidelines' under the Council's Arrangements identify circumstances where the Monitoring Officer may decide that a complaint should not be formally investigated, and paragraph 2.9 says:

*"Where the Complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the Complaint".*

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<sup>2</sup> See, for example, \_\_\_\_\_ profile for the Lichfield, Tamworth and Burton Liberal Democrats: <https://tbtlibdems.org.uk/en/page/hu>

It appears that the Monitoring Officer, \_\_\_\_\_ has not considered the “political motivation” at the initial assessment stage of this complaint.

- (e) Your report omits reference to the fact that \_\_\_\_\_ is no longer employed by QSNRC. It also fails to explain what \_\_\_\_\_ day-to-day role entailed as former manager of the QSNRC. Given the allegations considered under Section B and C of your report, we consider this information to be relevant to the consideration of whether Councillor Hussain asked him to do anything outside of the remit of his role;
- (f) The report fails to provide sufficient information relating to the role and function of the QSNRC within the community; and
- (g) The report also fails to provide any explanation of how the QSNRC works as a company, and does not explain in any detail the rules relating to the constitution of its Board of Trustees and how decisions are made by the Board. It also does not provide any further information as to who else was a member of the Board at the time of the alleged incidents.

We know from the company’s Articles of Association that

*“3.2 The Board of Trustees when complete consists of at least five and not more than thirteen persons. The number of Trustees acting on behalf of organisations must always be less than half the total number and shall consist of:*

*3.2.1 up to three persons appointed by East Staffordshire Borough Council...”*

Your report does not make reference to this requirement nor the fact that there was another Council-appointed member on the Board of Trustees, Councillor \_\_\_\_\_ at the time of the alleged incidents.

Your decision not to include reference to this information is concerning, particularly as in paragraph 13 of your report, you say that Councillor Hussain’s non-attendance at particular Board meetings “*was the difference between the board being able to conduct business and make decisions, and it not being able to*”. This statement is clearly wrong given that Councillor \_\_\_\_\_ also sat on the Board of Trustees and should be considered to be equally responsible for ensuring that meetings were quorate<sup>3</sup>.

- **Paragraph 9: “The gravamen of these complaint is the allegation that the Councillor acted inappropriately...”**

This is denied by Councillor \_\_\_\_\_ for the reasons set out within this letter.

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<sup>3</sup> As per Article 4.2 of the QSNRC’s Articles of Association.

We also note that you use the acronyms 'QSNRC' and 'QSCC' interchangeably throughout your report but it is unclear whether you consider them to be separate entities. Please clarify this.

### **Section A:**

- **Paragraph 11: “By paragraph 3.1 of the Code of Conduct for the Board of Directors for QSCC (“the Board’s Code) all directors agreed that they would attend all appropriate meetings or give apologies...”**

We maintain that Councillor Hussain was not in “*dereliction of his duties*”. He gave his apologies to the manager of the QSNRC, in the instances he was unable to attend requisite Board meetings.

This report should quote directly from the Code of Conduct for the Board of Directors of Queen Street Community Centre ('QSNRC's Code of Conduct'). Your quotation omits:

*“3.1 I will attend all appropriate meetings and other appointments at Queen Street Community Centre or give apologies. **If I cannot regularly attend meetings I will consider whether there are other ways I can engage with Queen Street Community Centre.**”* (emphasis added by this firm)

This is clearly relevant to your consideration in paragraph 14 below regarding the “*proper discharge of the functions appointed*” to Councillor Hussain as a member of the Board of Trustees. We comment on this further below.

- **Paragraph 12: “From the detailed records provided to me...”**

You say that it “*appears he [Councillor Hussain] attended two board meetings that year, in February and October*”. Despite repeated requests, we have still yet to receive a copy of the attendance records for the Board meetings. We ask that you please provide these documents without delay. Please also confirm how many meetings were actually held between the relevant timeframe so as to give context to the comments made in this paragraph.

- **Paragraph 13: “Similarly, in 2018 the record I have runs until September 2018. The Councillor attended only two meetings, in May and September 2018...”**

Again, we have not had sight of what we assume to be attendance records referred to in this paragraph. It is unclear what these records are. It is also unknown how many meetings were actually held in 2018. Your report says “*on four of the occasions the Councillor was not present*” – what time period is this referring to?

More significantly, we disagree with the following statement: “*On four of the occasions the Councillor was not present, only four members of the board were present*”.

This observation is misleading. As stated above, your report does not comment on the fact that there was another councillor sitting on the Board of Trustees, Councillor To our knowledge, he has had this role for 10-15 years, and should be considered equally responsible for ensuring that meetings were quorate. Your decision to omit reference to the fact that other councillors held the role of Trustee creates the appearance of bias in the findings of your report, particularly when your report includes provocative statements such as:

*“on those four occasions, his non attendance was the difference between the board being able to conduct business and make decisions, and it not being able to.”*

Also, there is evidence confirming our client did make apologies for his absence from board meetings – see, for example, the **enclosed** minutes of the meeting on 17 July 2017.

- **Paragraph 14: “The Councillor was not able, in interview, to adequately account for this situation...”**

We disagree with the wording in this paragraph for the following reasons:

- (a) You say that Councillor Hussain could not “*adequately account*” for his meeting absences.

As stated above, Councillor Hussain is an elected Member for both East Borough Council and Staffordshire County Council. He holds positions on five council committees, and also actively participates in constituency casework. He is also a parent to three children, and is an active member within the community and a practising Muslim. By choosing to omit reference to this background information your report creates a subversive and somewhat sinister suggestion that our client simply could not be bothered to attend the Board meetings. This is not the case, and any basic investigation of Councillor Hussain would provide this information – see, for example, his profiles on the Borough Council and County Council websites, **enclosed** for ease of reference.

More pertinently, we are concerned that you dismiss the “*effort he had put into community events and the running of the centre outside of board meetings*” as “*no real substitute for the proper discharge of the functions appointed to him*” as a Board member. This is a good example of one of the more flagrantly objective judgments set out in the report instead of reasoned argument.

Furthermore, this conclusion is inappropriate given that it fails to give due regard to the essence of paragraph 3.1 of the QSNRC’s Code:

**“3.1 I will attend all appropriate meetings and other appointments at Queen Street Community Centre or give apologies. *If I cannot regularly attend meetings I will consider whether there are other*”**

*ways I can engage with Queen Street Community Centre.*  
(emphasis added by this firm)

Paragraph 3.1 clearly recognises that the functions of a Board member can be varied. Your report does not give regard to this, and actively dismisses the other contributions Councillor Hussain has made to the Community Centre. Councillor Hussain has supported the Community Centre in many ways, including allocating council funding to the centre for the purchase of new equipment, such as a printer and screen projector, and also in encouraging new members to join the centre. It is therefore unclear why you chose to make such a subjective finding in this paragraph and creates the appearance of partiality in favour of the complainant without objective justification.

(b) Furthermore, you note that Councillor Hussain:

*“said he sent apologies on every occasion when he did not attend, but I have been given detailed records from [redacted] drawn from the contemporaneous material, that indicate that is unlikely to be right.”*

We have not had sight of all of these “*detailed records*” therefore cannot comment as to their veracity. However, Councillor Hussain maintains that on each occasion he was unable to attend a Board meeting he made his apologies, either in person or by telephone, to [redacted]. This appears to be the accepted method of giving apologies according to the complainant’s response to your written questions (undated) at question 1: “*We asked for apologies to the manager prior to the meetings*”.

The complainant’s response to your first question also indicates that Councillor Hussain did make his apologies when he could not attend the meetings:

*“At the beginning [redacted] defended Cllr Hussain and asked for his apologies to be recorded. Other trustees objected after this happened a number of times and apologies were no longer recorded”.*

What this response demonstrates is that our client did in fact send his apologies when he was unable to attend Board meetings, and that these apologies were acknowledged by another Board member,

On that basis we do not consider his non-attendance to amount to a “*lack of engagement*” so as to bring the Council’s reputation into disrepute; and

(c) This paragraph indicates a reliance on “*contemporaneous material*” provided by the complainant to support your finding that Councillor Hussain’s account “*is unlikely to be right.*” You provide no explanation as to how you have arrived at this conclusion, and is but one example of your apparent willingness to support the account of the complainant without seeking independent, corroborative evidence. If such evidence does exist, we have yet to have sight of it.



- **Paragraph 15: “In light of his familiarity with the rules of QSCC, the Councillor would have understood the importance of at least one Council nominee being present for all board meetings. The articles of QSCC provide that they cannot make decisions without one nominee being present.”**

We repeat the point made above regarding your decision to omit reference to existence as another Council-appointed member of the Board of Trustees.

- **Paragraph 16: “In my view this lack of engagement with QSCC, in the face of the Councillor’s appointment to the board, is liable to bring the Council’s reputation into disrepute.”**

We disagree with this finding on the basis that insufficient evidence has been provided to confirm (a) how many meetings Councillor Hussain actually failed to attend, and (b) how many of those meetings he failed to send an apology.

Furthermore, we reject this finding on the basis that it does not accurately reflect the essence of paragraph 3.1 of the Board’s Code, which clearly provides for “*other ways [a Director] can engage*” with the Community Centre in the event that they cannot regularly attend meetings. It is therefore inaccurate to consider Councillor Hussain’s attendance to amount to a “*lack of engagement*” to the extent that it brings the Council’s reputation into disrepute.

We therefore consider the judgment in this paragraph to be entirely subjective and without a reasoned argument in support of your findings. It is certainly unclear from the report how this allegation would affect the reputation of the Council itself. As it stands, the report reaches a very damning conclusion based entirely on the author’s personal “view”, making no use whatsoever of helpful case law or guidance still available from the previous Standards Board for England and Upper Tribunal judgments, which could have assisted in making reasoned arguments for the findings of breach or otherwise of the Council’s Code of Conduct.

## **Section B**

- **Paragraph 18: “The complaint centred upon the Councillor’s conduct in requiring to operate from the Uxbridge Street Community Centre...”**

We make the following points in respect of this paragraph:

- (a) Councillor Hussain denies the allegation that he “*required*” to operate from the Uxbridge Street Community Centre (USCC). Councillor Hussain has no decision-making powers within the organisation therefore was not in a position to dictate which community centre they applied to as a venue for their training programmes etc.

He also denies requesting the meeting between [redacted] and the USCC to be kept confidential.

(b) You say that it is

*“implicit in the complaint that the Councillor may have sought to dissuade members of the Muslim community from attending courses held elsewhere”.*

We reject this inference as mere speculation. The email in question does not specify or make reference to members of the Muslim community, and whilst the email does refer to learners of a *“particular ethnicity”*, it cannot properly be inferred that they were referring to the Muslim community, given that being a Muslim is a religious identity, not an ethnic one.

(c) You then go on to note:

*“The Councillor had, according to the complaint, told other members of the QSCC board that [redacted] “could not be trusted”. It does not appear that any persuasive justification for that comment, which [redacted] took as defamatory, was provided to the board.”*

This is denied. Furthermore, we question your decision not to interview any of the other witnesses relevant to the allegations made, such as [redacted] or the other Board members of the QSNRC. Your report relies on the credibility of the [redacted] email at face value without pursuing any critical analysis of what is being alleged.

- **Paragraph 19: “Linked to that, from [redacted] response to my further questions it appears that the Councillor also sought to disparage [redacted] to QSCC’s board during a meeting in May 2018, with a view to QSCC rejecting [redacted] as a licensee within the building...”**

We make the following comments in response to this paragraph:

(a) You say that, from the complainant’s response, that *“it appears that the Councillor also sought to disparage [redacted] to QSCC’s board during a meeting in May 2018”*. Your report does not comment on what was alleged to have been said by Councillor Hussain at that meeting, or what evidence exists to support these allegations;

(b) Furthermore, this paragraph fails to make reference to the fact that, according to the [redacted] email,

*“the major reason for us not been[sic] given permission to book the rooms for training was due to a misunderstanding created by the use of the incorrect word “repatriation” by one of your colleagues.”*

Councillor Hussain has explained that during a Board meeting to discuss application for a licence to use QSNRC facilities, had told the Trustees that . representative) had said her intention was to educate Eastern Europeans so that they could be subsequently "repatriated". Councillor Hussain was concerned that she had made this comment. Given that appear to acknowledge this comment as the "major reason" for not being given permission to use the QSNRC facilities, it is surprising that you have not asked the complainant nor to comment on this further;

- (c) Your report fails to give due regard to the fact that our client did not have any specific powers of veto when it came to making a decision to offer a licence to . As such, each board member who voted in that decision was responsible for the decision made, and not just our client. This includes the complainant, and we are concerned that you did not ask the complainant to comment on his decision not to grant a license to at the time of the relevant Board meeting;
- (d) During the course of your investigation, we understand you have been given a copy of minutes from a meeting held with UKTC on 18 June 2018. It is unclear who was present at this meeting and who was making the comments recorded. We do not consider this document to be reliable and refute the allegations made about Councillor Hussain's conduct. we reserve the right to comment further on this document at a later stage;
- (e) You refer to and her interest in using the QSNRC facilities. However, you omit reference to the fact at the QSNCR. It is unclear why you consider interest in the QSNRC facilities to be relevant to the allegation made by and we consider your decision to refer to in this paragraph to be inappropriate in the circumstances.
- (f) You also refer to the fact that and an individual called "were all directors of a Community Interest Company associated with USCC".

Again, it is unclear why you consider this to be relevant to your findings in relation to the alleged misconduct of our client. You have not explained what possible allegation of misconduct could be derived from this information, and we take issue with your suggestion that the Council "*may wish to investigate this issue further at any future hearing*". We consider that this sort of innuendo is not appropriate in a report of this nature.

From a basic search on Companies House, we understand that

The registered address is given as QSNRC, therefore one would assume the company is known to the complainant. We understand that is no longer a director, and that the person you identify as who was the

company secretary. Although we consider the preceding information to be irrelevant to your investigation, we make the point of clarifying that Councillor Hussain did not and does not have any role or decision-making capacity in this company.

Councillor Hussain reserves the right to comment further on this point should the Council wish to investigate this issue further at any future hearing. For the avoidance of doubt, we do not consider this to be relevant to the complainant's 28 September 2018 complaint and reject your insinuation to the contrary as entirely inappropriate.

- **Paragraph 20: “The allegation made in the complaint was clearly a serious one. QSCC sought to progress it. The essence of the allegation was not just made in the email, it had been made by in a discussion they had...”**

The allegations made within this paragraph are denied. Given your view of the allegations as “*serious*” we question your failure to interview or any other relevant persons, such as in order to ascertain further the events surrounding the allegations.

We also question your continued reliance on contemporaneous notes of the meeting held on 19 July 2018. This is clearly a partial document given that it was produced by an individual who has made a series of allegations against Councillor Hussain, and so should not be treated as independent, corroborative evidence in support of the allegations made. We are concerned that you do not appear to question the veracity of this document. In any event, Councillor Hussain denies putting any pressure on Mr in respect of use of QSNRC facilities.

- **Paragraph 21: “Unfortunately, the Councillor decided not to co-operate with the complaints process...”**

This paragraph is problematic for several reasons. First of all, it does not specify what complaints process you are referring to and on what basis. To our knowledge, the complainant did not communicate the reasons for the concerns set out in his 2 August 2018 letter, in which he requested an informal meeting with our client. We question whether the attempts to have an informal meeting can be properly considered to be “the complaints process”. It does not appear that any formal measures were taken before the complainant made the decision to refer this complaint to the Council.

Secondly, we consider this paragraph to be misleading. In the event that it is referring to the concerns raised in the letter dated 2 August 2018 then this paragraph clearly fails to acknowledge that our client did co-operate with the attempts of the complainant to have an informal discussion about the alleged concerns, as confirmed by the documents attached to the original complaint.

- **Paragraph 22: “The Councillor told me that he accepted the informal meeting had taken place. He said he went there as the Ward Councillor and also as a County Councillor...”**

This paragraph is extremely misleading and is but one example of where we are concerned that a transcript and/or audio recording was not produced for your interview with our client.

Our client says that he attended a meeting at Uxbridge Street Community Centre between [redacted] and representatives from [redacted] a man called [redacted] and [redacted]).

[redacted] the Mosque attached to the community centre at Uxbridge Street. Mr [redacted] had invited our client to attend in his capacity as a councillor, and to help facilitate the meeting. This was considered to be appropriate given that the Uxbridge Street Community Centre is also within the ward of Councillor Hussain, and would clearly have a legitimate interest in the sustainability of the community centre. Your report does not give any regard to this.

Councillor Hussain denies making any “*demands of* [redacted]. We understand that [redacted] were considering various venues for their training course, and that Uxbridge Street Community Centre was also undergoing refurbishment at the time of the meeting meaning that it would have been problematic for [redacted] to use the facilities at USCC at the time – had you chosen to interview [redacted] this information would have been forthcoming. Councillor Hussain instructs that he actively encouraged the use of the QSNRC facilities.

You say that you asked our client a series of questions regarding the control of the USCC without explaining why you consider this to be relevant to your investigation. You say that “*he sought to favour USCC for reasons of his own*” – this creates the inference that Councillor Hussain was seeking to obtain a benefit for the local Mosque or Muslim Community. This inference is inappropriate, particularly given the fact that the complaint does not make such an allegation, and no evidence has been provided to suggest that our client had such motivation.

The report seeks to infer a bias towards the Muslim community on the part of Councillor Hussain - this is supported by the speculative comments made by [redacted] in his response to your questions. He comments that [redacted] of [redacted] “*pertained towards the Buddhist faith*”. The innuendo here that our client being of the Muslim faith would be instinctively against [redacted] serves to damage Councillor Hussain’s reputation further.

Furthermore, when commenting on our client’s “*evasiveness*” you fail to provide a context for the questions you asked during your interview and whether these questions were relevant to the complaint under investigation. This undermines the finding that “*his evasiveness provides some support both to the [redacted] complaint and to complaint[sic] I am dealing with*”, particularly as you do not explain how his alleged evasiveness corroborates such complaints.

- **Paragraph 23:** “Therefore, the Councillor was unable to account for the use of the word “*demand*”, or even something close to it, within the complaint. Similarly, he was unable to account for why the complainant would have alleged that he had said the matter should be kept private and confidential, and not disclosed to QSCC...”

We find fault with the wording and substantive content of this paragraph for the following reasons:

- (a) Councillor Hussain was “*unable to account*” for the allegations referred to in this paragraph because he denies the allegations made in the first place;
- (b) We disagree that Councillor Hussain

*“was not able to provide any reasons for why or any of the three individuals who had all put their names to the complaint, had any motivation to lie or otherwise seek to undermine him.”*

Councillor Hussain wrote to you on 15 February 2019 to set out his concerns regarding the motivations of the complainant. Your report does not refer to this letter, and does not make any attempt to consider the motivations or political allegiances of the complainant and

- **Paragraph 25:** “The reason the Councillor gave me for not engaging with the QSCC disciplinary processes was that he was intimidated by the idea of explaining to the trustees his side of the allegations...”

You say that you “*do not accept that the Councillor felt intimidated*”. However, your report provides no justification whatsoever for this finding. Rather, you choose to rely on the “*detailed response*” of the complainant, who you say “*has been categoric...that it is not true that the Councillor was refused a representative*”. Your reliance on the partial evidence of the complainant without testing the veracity of such evidence by interviewing other witnesses undermines the value of your report as an independent investigation into the complaint.

Our client maintains that he did co-operate with the attempts to arrange an informal meeting and that, when he asked to bring a representative to that meeting, he was asked whether he wanted to make the process “formal” by doing so.

- **Paragraph 26:** “In this respect, in my view it is important to look at some of the contemporaneous evidence...”

We repeat our point here regarding the unreliable nature of this contemporaneous evidence. It cannot properly be considered to be corroborative of the allegations made against our client. This is particularly the case when considering the letter dated 2 August 2018. You appear to rely on this letter as an example of our client’s failure to co-operate with the QSCC’s internal

procedures. However, this letter is ambiguous and clearly does not identify how many times our client was asked to return the signed Code of Conduct or when he was initially asked to return the signed Code. This paragraph also does not acknowledge that Councillor Hussain did return the signed Code of Conduct once the request was made by the complainant.

- **Paragraph 27: “His response to this position was to ask [redacted] to draft a letter of resignation...”**

It is unclear on what basis you consider the letter of resignation to be a response to the letter dated 2 August 2018, as referred to in paragraph 26 above.

Councillor Hussain instructs that [redacted] encouraged him to view resignation as a positive option in response to the complainant’s apparent hostility. Councillor Hussain also confirms that [redacted] volunteered to prepare, and did prepare, the letter of resignation on his behalf. This letter was not sent, as Councillor Hussain was keen to seek resolution to the informal process before taking any further steps.

- **Paragraph 28: “Accordingly, in terms of contemporaneous written material the Councillor’s position was not that he objected to the way the process was being undertaken by QSCC...”**

It is unclear on what basis you are seeking to rely on the contemporaneous written material to identify our client’s position. The resignation letter was prepared by [redacted] – how can this be considered an accurate reflection of Councillor Hussain’s intentions, particularly when the letter itself was not sent out to anyone.

We again raise a concern regarding your reliance on contemporaneous evidence in order to fit the chosen narrative of our client’s misconduct. It appears that throughout the report the mere existence of “contemporaneous records” serves to entirely dismiss any of our client’s verbal responses.

- **Paragraph 29: “Considering all the evidence above, on the balance of probabilities I prefer [redacted] account of these events...”**

It is unclear from this paragraph on what basis you prefer the complainant’s account. Either way, we consider your evaluation of the evidence available to be subjective and without reliable supporting evidence. We disagree with your findings and reiterate that you have failed to test the veracity of the evidence relied on by the complainant in order to justify your findings.

- **Paragraph 30: “I note that the Councillor’s non-cooperation in this respect is part of what appears to be a pattern of behaviour...”**

We note the following in response to this paragraph:

- (a) You say that Councillor Hussain “was asked on at least six occasions to engage with the QSCC process”. We have seen no independent, corroborative evidence to support that this is correct, and so question your decision to rely on this in your report;
- (b) Councillor Hussain did make efforts to engage with the process to arrange an informal meeting, and suggested dates for that meeting;
- (c) This paragraph does not give due regard to the fact that Councillor Hussain asked the complainant to confirm the nature of the concerns to be discussed at the informal meeting. The complainant, and his employee, repeatedly failed to confirm what the concerns were. When Councillor Hussain asked to attend the meeting with a representative, he was accused of wanting to make the meeting “formal”;
- (d) You note that Councillor Hussain

*“simply failed to respond to the complaint when issued to him, and I can see no apparent difficulty with him having provided a written response to the Council’s monitoring officer.”*

This is a misleading statement. There is no requirement under the Council’s Arrangements for allowing a Member to submit written representations at the initial stage of the complaint’s process. The Monitoring Officer did not offer our client the opportunity to make such written representations, and her letter of 3 October 2018 certainly does not invite him to submit such representations. We do not consider this consideration to be relevant to your investigation accordingly.

- **Paragraph 31:** has alleged in terms that part of the reason for the Councillor seeking to delay his engagement with this process was due to a wish to have any process determined after the next AGM...”

Whilst we do not consider the fact that applicants for membership had been made during Councillor Hussain’s tenure as Trustee we do question your decision not to consider why the complainant and both view new membership to be a negative.

- **Paragraph 32:** “I regret to say that I have decided that the substance of this complaint is probably true. In any event, in my view there was no adequate justification for the Councillor failing to engage with the disciplinary processes of QSCC...”

We disagree with your findings and repeat the point that your report places inappropriate reliance on the biased comments of the complainant and contemporaneous documents that cannot properly be considered to be reliable evidence of misconduct against Councillor Hussain.



We consider that the phrase “probably true” is an entirely unreasonable basis on which to make findings against our client which will damage his reputation irreparably. The phrase signals a woeful attitude towards evidence-based reasoning and a disappointingly short-cut approach to matters of this import.

### Section C

- **Paragraph 33: “...By paragraph 4.2 directors must not use their position to unduly influence staff. This paragraph is a clear recognition of the risk posed by directors wielding the power that is conferred by their role and position in an inappropriate way.”**

We consider this paragraph to be relevant to the consideration of the influence of the complainant over his (now former) employee, [redacted]. Your report does not give any regard to the balance of power in their relationship as an explanation as to why [redacted] who has for so many years supported Councillor Hussain, would now seek to tarnish his reputation by making allegations contained within this complaint.

- **Paragraph 34: “I have seen the notes of a meeting on 19 July 2018 where [redacted] voiced various concerns he had about the Councillor’s behaviour...”**

As stated above, we do not consider this to be reliable evidence in support of the allegations made against Councillor Hussain.

- **Paragraph 35: “Before turning to the rest of [redacted] complaints I should note that I put the substance of those complaints to the Councillor during interview...”**

This paragraph is problematic in how you comment on the answers provided by our client. You say that you asked him “*whether he thought [redacted] had any reason to be untruthful.*” You note our client replied “*I don’t know why [Mr [redacted]] is making these things up.*” You have chosen to interpret this as meaning “*he could not think of any reason why [redacted] would fabricate material against him.*” It is disappointing that you have relied on this response to decide that [redacted] account must therefore be credible.

Indeed, your apparent haste to rely on the account of [redacted] means that you fail to consider what Councillor Hussain actually meant when he said “*I don’t know why [redacted] is making these things up.*” It is unclear from your report whether you asked our client any questions regarding his relationship with either the complainant or [redacted]. With regards to the latter, our client has confirmed that he had known [redacted] for several years before he became a trustee at QSNRC. Councillor Hussain attributes

These examples give credence to our client’s position that

he had a good relationship with [redacted] It is therefore entirely plausible that he would struggle to understand why [redacted] has made the allegations referred to in this complaint, given that he understood them to have had a good working relationship previously. If anything, his answer to your question appears to be an expression of sadness, rather than an admission that Mr [redacted] is without ulterior motive.

Your assessment of our client's account should be reconsidered in light of this clearly pertinent background information.

- **Paragraph 36: "The second complaint relates the Councillor interfering directly in a karting fun day organised at the QSCC..."**

Our client denies the allegations as made by [redacted] Your report does not make reference to the fact that Councillor Hussain attended the event with his son with the intention of participating in the fun day. He did not ask the music to be turned down with reference to the local Muslim community, and Mr [redacted] did not refer to this particular request when recounting the incident to [redacted] soon after. As you may recall, [redacted] was one of the witnesses proposed by our client for you to interview in the course of your investigation. We question your decision not to interview [redacted] given the lack of independent evidence otherwise available.

We also question your decision to describe [redacted] "detailed response" as a "clear and detailed narrative of what happened on that day". This creates the inference that our client did not provide such a narrative, and serves to reinforce the apparent bias of this report in favour of the evidence provided by the complainant and [redacted]

You also say

*"Like the Councillor, I cannot see any reason why [redacted] [sic] would misrecollect or deliberately falsify this (or his other allegations), and I prefer his explanation of this event on the balance of probabilities".*

You do not provide any justification for this. You certainly do not provide any consideration as to what motive [redacted] would have in making this allegation. By failing to consider the potential political and/or malicious motives behind this complaint (as considered in our letter above) the value of your report is undermined as an independent, objective investigation.

- **Paragraph 37: "The third complaint relates to a meeting on 19 July 2018 of which [redacted] made a near contemporaneous note..."**

We repeat our concerns above regarding your reliance on "near contemporaneous" evidence which cannot properly be considered to be reliable in the circumstances.

Again, you appear to consider a contemporaneous note to be such powerful evidence that it can completely undermine any verbal response, seemingly on any number of questions.

Our client denies the allegations made by [redacted] as set out in this paragraph and in the evidence you appear to rely on, including the “*detailed response*” of [redacted] to your questions. We repeat the comments above that Councillor Hussain has many council-based and personal obligations which certainly brings into doubt the allegation that he was seeking to become the Chair of the QSNRC Board of Trustees. Furthermore, his general difficulty in attending Board meetings (as considered in Section A above) would surely undermine such an ambition. We invite you to reconsider your perspective of the allegations accordingly.

We also note your observation that

“ [redacted] was, of course, an employee answerable to his employer for all usual duties including fidelity and loyalty.”

We consider this to be a clear explanation as to why [redacted] would later support the allegations made by the complainant, who, as the Chair of the Board of Trustees, would have significant power with regards to his future employment at the community centre. Your decision not consider this dynamic to the complainant and [redacted] relationship is a failing within your report.

We also reject your comment at the end of this paragraph: “*It seems to me this was an obviously inappropriate approach to an employee.*” Your decision to add this on at the end of your summary of [redacted] allegations suggests you have already decided that the allegations are correct, despite the contrary account provided by Councillor Hussain. By way of example, we note that Mr [redacted] written response to your questions explains that Councillor Hussain offered to

“*place me on the parish council and would find a place for me in “the cabinet” of his party which he would be in charge of at ESBC.*”

[redacted] appears to be ignorant of the fact that council positions are elected, rather than appointed. It is therefore unclear how Councillor Hussain could be expected to implement what he is alleged to have said to [redacted] We consider this to undermine the value of the evidence provided by

- **Paragraph 38: “The Councillor responded to this allegation by stating that Mr [redacted] had in fact given him the requisite forms and that Mr [redacted] was positively encouraging the Councillor to take those steps towards changing the governance of QSCC because he recognised that QSCC had a problem with diversity...”**

Councillor Hussain rejects the allegation of any misconduct in the context of inviting new members to join the QSNRC. We note from [redacted] written response to your questions that he says:

*"I recall he asked to see the blank forms and among them were some older versions which I discarded. The only explanation can be that he took one of these discarded forms and copied it....It is possible that the form he used was taken from our recycling bin"*

This is completely spurious speculation and without any evidentiary basis. Councillor Hussain denies this allegation, and we ask you to consider the fact that clearly had "older versions" of the form when Councillor Hussain asked to see the blank forms. It is clearly within the realm of possibilities that gave an older version of the form to Councillor Hussain when he asked for copies of the forms to give to new applicants.

- **Paragraph 39: "My assessment of this head of complaint is influenced by the two further heads of complaint which, if accepted, taken together appear to show an entirely improper approach..."**

We disagree with your assessment for the reasons set out in this letter, namely that Councillor Hussain and had a good, working relationship in which provided the Councillor with support and encouragement in his endeavours within the local community.

- **Paragraph 40: "The fourth allegation relates to the Councillor requiring (or at least asking) to repeatedly assist him with matters outside of his contract of employment during the working day, in particular with work of a political nature"**

You do not comment here on what was considered within the remit of Mr contract of employment. It is therefore unclear how you can properly assess what was appropriate for Councillor Hussain to ask of during his tenure as Trustee. It is also unclear what is meant by your reference to work of a "political" nature.

- **Paragraph 41: "The Councillor's response to this allegation was that he used services and the printing services in the building as a customer. He told me he was actively encouraged to use the printing services by because the centre would benefit as a result of the payments..."**

Councillor Hussain was an established user of the QSNRC services for a considerable period before he became a Trustee. Your report does not give any regard to this. Your report also does not give any regard to the established relationship between Councillor Hussain and that went beyond Trustee/employee. We have commented further on this above.

We understand that payments for the copying and printing services were in cash and that small payments were placed in a jar at the QSCC. Occasionally, a receipt was produced – see **enclosed** one example. We would expect the QSNRC to retain a copy of these receipts.

We also enclose a copy of the sort of 'political' material that is referred to in this paragraph. This is not party political material. In the event that seeks to rely on this allegation we would expect him to provide further explanation as to what the alleged "political" material was.

- **Paragraph 42: "Again, [redacted] has provided a detailed rebuttal to the Councillor's version of events..."**

This paragraph is an example of the inadequate reasoning employed throughout this report. You constantly describe [redacted] written response as "detailed" and "consistent with his original complaint". The use of "detailed" suggests Councillor Hussain's account is found wanting in comparison – we reject this assumption and consider your report to place excessive reliance on the account of [redacted] who is clearly a partial witness to these proceedings. It is entirely reasonable, if not predictable, to expect that his written response would be "consistent" with his original complaint – this in itself should not be relied on to support the credibility of his allegations.

It is unclear on what basis Councillor Hussain is alleged to have approached [redacted] for "assistance" in such a way that was contrary to the QSNRC or Council's Code of Conduct. No explanation has been provided in your report as to what [redacted] was asked to do. Our client's position is that he used the photocopying and printing services of the QSNRC as any other member of the community. This is clearly accordance with the QSNRC's Code of Conduct, paragraph 4.1.

Whilst we reserve the right to comment in more detail on [redacted] written response to your questions, we would take this opportunity to criticise the comments made on this issue. He says, "I had a legitimate fear that I could lose my job", as the reason for complying with our client's alleged requests for assistance. [redacted] does not comment on why he did not seek advice or assistance from the complainant, or any of the other Trustees, or whom we understand was responsible for staffing at the community centre. We question the legitimacy of these allegations and query why [redacted] would continue to assist Councillor Hussain if he was concerned about the appropriateness of the assistance provided.

- **Paragraph 43: "In relation to the use of the QSCC printer [redacted] says that happened on an almost weekly basis and during political periods sometimes several times a week..."**

Our client rejects the allegations that he did not pay for the use of printing facilities at the QSNRC.

We note in [redacted] response to your questions, that he says "[T]here was absolutely and categorically never any payment for the printing services used". This is not correct. Our client has one receipt which confirms payment

of printing services – see **enclosed**. This undermines the credibility of the account provided by \_\_\_\_\_ particularly as he later explains that

*“After Cllr Hussain’s attitude to QSCC changed and we fell from favour he came into the community centre highly agitated and nervous and paid a small sum of money – a few pounds in loose change and coins to “cover him” for all the printing he had done over the past few years”*

Whilst we take issue with what \_\_\_\_\_ says regarding the payment, this account nevertheless undermines his earlier assertion that our client never paid any money for the use of the Centre’s printing services. This in turn undermines your report’s reliance on \_\_\_\_\_ account in the findings made against our client.

We also question the reliability of this allegation, particularly the claim that the total cost of printing unpaid for amount to approximately £1000. That Mr \_\_\_\_\_ chose not to raise this allegation sooner undermines the credibility of his evidence, particularly when he cannot provide an explanation of how he has estimated that figure and that the QSNRC does not appear to keep a record of the printing and copying services used. You do not comment here on whether keeping a record of such services, or money received from use of such services, was part of \_\_\_\_\_ role at the QSNRC.

- **Paragraph 45: “However, the near contemporaneous note recorded by \_\_\_\_\_ of his discussion with the Councillor on 13 July 2018 is, again, very different...”**

Councillor Hussain denies the allegations made in this paragraph. We repeat our argument here regarding the unreliable nature of this “near contemporaneous note” by a clearly partial witness. We do not consider this note to be corroborative, independent evidence in support of the allegations against Councillor Hussain.

- **Paragraph 46: “46. On this account, if the Councillor believed what he was apparently being told by a journalist, then plainly he ought to have reported it to the board...”**

Councillor Hussain denies the allegations made in paragraph 45. In this paragraph you consider the allegation as set out in the “near contemporaneous note” to be “*consistent with the elaboration on this point provided by \_\_\_\_\_ in his rebuttal material*”. You are effectively saying that \_\_\_\_\_ is corroborating his own allegation. This cannot be considered to be sufficient evidence in support of \_\_\_\_\_ account of the fifth allegation against Councillor Hussain.

- **Paragraph 47: “This kind of behaviour seems to strike a chord with what \_\_\_\_\_ also alleged happened relating to his landlord; and the Councillors repeated references to the fact that he knew landlord (as well as his son).”**

No independent evidence has been provided in support of the “*kind of behaviour*” you refer to in your report; rather, your report merely relies on the “detailed response” and “rebuttal” of \_\_\_\_\_ as corroborative of his own “*near contemporaneous note*”. You have ignored the total lack of supporting evidence in this case, and have therefore inappropriately relied on the accounts of the complainant and his employee, \_\_\_\_\_ over that of Councillor Hussain. We consider this to undermine the credibility of the findings within your report.

We also note that you do not address Councillor Hussain’s position with regards to the allegations made by \_\_\_\_\_ relating to knowing his landlord and his landlord’s son. Councillor Hussain denies saying “*I know your landlord*” to \_\_\_\_\_ in any threatening or intimidating way.

We note that \_\_\_\_\_ answer to your second question, comments that Councillor Hussain

*“brought my landlords[sic] son into the officer, he was very polite and courteous and there was absolutely no problem with this gentleman at all, however after the meeting the intimation form Cllr Hussain was that “he knew my landlord”...I should add there was no practicable reason for the unannounced visit of my landlord’s son into the community centre other than (tenuously) Cllr Hussain explaining how he himself was helping the local community. I believe this visit was unnecessary and inappropriate”*

We understand the landlord’s son to be \_\_\_\_\_ - he is a prominent Muslim who has been acknowledged for his work within the local community. We do not consider it to be “inappropriate” that he would attend the community centre given his contributions to the local community. We do not consider there to be anything inappropriate about the fact that Councillor Hussain knows \_\_\_\_\_ landlord and the landlord’s son, and certainly do not consider there to be “no practicable reason” for his visit to the Community Centre.

- **Paragraph 48: “Therefore, taking the third fourth and fifth heads of complaint together a stark question arises on the balance of probabilities as to whose account more likely to be accurate...”**

We reject the findings in this paragraph insofar as you say that Councillor Hussain “*has not suggested any of those three has a motivation to be untruthful*”. This is not the case and we again refer you to his letter dated 15 February 2019, which clearly sets out his concerns regarding the political and vexatious motivations of the complainant and his employee,

Furthermore, we repeat our argument here "*contemporaneous notes*" are not reliable forms of evidence corroborating the allegations against Councillor Hussain.

Also, you say:

*"e. The Councillors general approach to discharging his duties as a director raises questions in itself. There is no controversy about the extent of his absences from board meetings."*

This is rejected and we refer you to our above comments in response to the paragraphs in the report's Section A. We also note that there is a typing error in this paragraph and that it should read "*e. The Councillor's general approach...*".

We also reject your finding that "*There is a consistency and level of detail to complaints which, to my mind, hangs together.*" This is, again, an entirely subjective opinion uncorroborated by supporting evidence.

We also reject this finding:

*"g. Lastly, it is clear that there was an inexplicable level of delay in the Councillor actually signing up to the obligations contained in the Board's Code. This delay was not one or days, weeks or months, but years. It is suggestive of a reluctance to be held to those rules and standards."*

In a report peppered with spurious reasoning behind serious findings this "*suggestive*" conclusion is one of the most fanciful.

Our client rejects this finding, and we refer you to our comments in response to paragraph 26 above.

- **Paragraph 49: "In light of my findings above there are various allegations which provide evidence of a breach of the Code..."**

We disagree with the conclusions in this paragraph for the reasons set out above. Furthermore, we are concerned by your repeated reliance on the allegations themselves as evidence in support of the alleged misconduct. The allegations themselves cannot properly be considered to be corroborative evidence and this is a mistake your report makes throughout, for instance in paragraph 7 of your report.

The report demonstrates a failure to understand the difference between an allegation and supporting evidence of an allegation. This further undermines the value of the findings made against Councillor Hussain.

Now that we have provided you with our comments to your draft report we await the receipt of your final report, which we hope will give due regard to the concerns raised in this letter.



Yours faithfully 

**Edward Duthieshamash**  
ed@edwardsduthieshamash.co.uk

CC: (Monitoring Officer), East Staffordshire Borough Council

**Queen Street Neighbourhood Resource Centre**  
**Registered Number 5012490. Incorporated 12<sup>th</sup> January 2004**

**Minutes of the 135<sup>th</sup> Board Meeting**

**Monday 17<sup>th</sup> July 2017**

<b>Present</b>	<b>Apologies</b>

<b>Item No</b>	<b>Item Discussion Point</b>	<b>Action</b>
987	<p><b>Welcome and Apologies</b></p> <p>The Chair welcomed everyone and the apologies were accepted. The Chair informed everyone that as only 3 board members were present no decisions could be made, only advisories.</p> <p>          suggested that the board members who had not attended meetings for some time were written to. To try and clarify if they still wished to continue.</p>	<p>          and     to write to these board members.</p>
988	<p><b>Matters Arising</b></p> <p>943     reported that the board still needs to replace 3 members.     suggested putting an advert on social media.     suggested that may do this.</p> <p>944 The issue with       appears to have been resolved.</p> <p>945 The rainwater harvesting system is still not working correctly.</p> <p>946 Community Payback are hoping to be able to attend the Centre on a Tuesday again soon and not on a Sunday as previously thought.</p> <p>947     reported that he had a meeting with     to discuss the     agreements.     reported that the new signed contacts had still not been received from .</p> <p>948 Microsoft Office still needs to be installed on the office computer.</p>	<p>          to pass on Facebook login details to SBC.</p>
989	<p><b>The Chair's Report</b></p>	



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## Councillor Syed Hussain

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### Outside Bodies

#### Current Committee Membership:

Committee	Committee Role	Committee Dates
<a href="#">Council</a>	Member	Monday, June 24, 2019
<a href="#">Scrutiny Community Regeneration, Environment and Health and Well Being Committee</a>	Member	Monday, June 24, 2019

## Councillor Community Fund - View our community projects

East Staffordshire Borough Council  
PO Box 8045  
Burton upon Trent  
DE14 9JG

Main Switchboard Telephone: 01283 508 000, 9:00am - 5:00pm Monday to Friday

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# Syed Hussain



 **Labour** Party: Labour

**Division:** East Staffordshire - Burton Trent

**Parish:** Anglesey ; Stapenhill

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## Contact information

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## Committee appointments

- [Charities and Trusts Committee](#)
- [County Council](#)

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- [Prosperous Staffordshire Select Committee](#)
- [Standing Advisory Council on Religious Education Committee D](#)

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# Receipt

No

1397

Date

17/7/16

Received from

The sum of  
(amount in words)

Cover of  
Printing Paper Costs.

Balance outstanding

£

1.95

Amount in words

Cash

Cheque

Credit Card

please tick appropriate payment method

Received By  
(signature)



Many thanks

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Supported by Cllr Syed Anwar Hussain (Cllr For Anglesey Ward) Tel

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