

East Staffordshire Borough Council

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Schedule of evidence

SG1

Weightmans

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CODE OF CONDUCT FOR COUNCILLORS

CONTENTS

1	Introduction and interpretation	2
2	Scope	3
3	General obligations.....	3
	Respect etc.....	3
	Confidential information etc.....	4
	Disrepute	4
	Improper advantage etc	4
	Decision making	5
	Investigations	5
4	Disclosable Pecuniary Interests	5
5	Registration of Disclosable Pecuniary Interests	6
6	Ordinary Interests	6
7	Sensitive Information.....	6
8	Disclosure of Interests at Meetings	7
9	Participation at Meetings.....	8
10	Matters Considered by a Single Councillor.....	8
11	Dispensations	9
	The General Principles	11
	Disclosable Pecuniary Interests	12

1 INTRODUCTION AND INTERPRETATION

- 1.1** The Council has adopted this Code of Conduct to set out the standards required by Councillors and Co-opted Members of East Staffordshire Borough Council.
- 1.2** The Code is consistent with the General Principles set out in Appendix 1 and the provisions of S29(1) Localism Act 2011.
- 1.3** In this Code:
- 1.3.1** "Co-opted Member" means a person who is not a member of East Staffordshire Borough Council but who:
- 1.3.1.1** is a member of any committee or sub-committee of the Council,
or
- 1.3.1.2** is a member of, and represents the Council on, any joint committee or joint sub-committee of the Council,
and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- 1.3.2** "Councillor" includes members and Co-opted Members of East Staffordshire Borough Council.
- 1.3.3** "interest" means a Disclosable Pecuniary Interest (see paragraph 4) or an Ordinary Interest (see paragraph 6).
- 1.3.4** "meeting" means any meeting of:
- 1.3.4.1** the Council;
- 1.3.4.2** the executive of the Council;
- 1.3.4.3** any of the Council's, or its executive's, committees, sub-committees, joint committees, joint sub-committees, or area committees;
- 1.3.4.4** any briefings by officers and site visits organised by the Council;
whether or not the press and public are excluded from the meeting.
- 1.3.5** "Relevant Person" means the Councillor or:
- 1.3.5.1** that Councillor's spouse or civil partner;
- 1.3.5.2** a person with whom that Councillor is living as husband and wife;
or

1.3.5.3 a person with whom that Councillor is living as if they were civil partners.

1.3.6 an interest is "subject to a pending notification" if the interest has been notified to the Council's Monitoring Officer under paragraph 5 but has not been entered in the Council's register in consequence of that notification.

2 SCOPE

2.1 Councillors must comply with this Code whenever they:

2.1.1 conduct the business of the Council (which, in this Code, includes the business of the office to which they are elected or appointed); or

2.1.2 act as a representative of the Council,

and references to their official capacity are construed accordingly.

2.2 This Code only has effect in relation to the conduct of a Councillor when they are acting in their official capacity.

2.3 Where a Councillor acts as a representative of the Council:

2.3.1 on another relevant authority which has a code of conduct, they must, when acting for that other authority, comply with that other authority's code of conduct; or

2.3.2 on any other body, they must, when acting for that other body, comply with the Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3 GENERAL OBLIGATIONS

RESPECT ETC.

3.1 Councillors must treat others with respect.

3.2 Councillors must comply with their statutory obligations.

3.3 Councillors must not do anything which may cause the Council to breach any of the equality enactments.

3.4 Councillors must not bully any person.

3.5 Councillors must not intimidate nor attempt to intimidate any person who is or is likely to be:

Constitution: Part 5A

- 3.5.1 a complainant;
- 3.5.2 a witness; or
- 3.5.3 involved in the administration of any investigation or proceedings,
in relation to an allegation that a Councillor (including that Councillor) has failed to comply with their authority's code of conduct.

3.6 Councillors must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

CONFIDENTIAL INFORMATION ETC.

3.7 Councillors must not disclose Information given to them in confidence by anyone, or information acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, except where:

- 3.7.1 they have the consent of a person authorised to give it;
- 3.7.2 they are required by law to do so;
- 3.7.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- 3.7.4 the disclosure is:
 - 3.7.4.1 reasonable and in the public interest; and
 - 3.7.4.2 made in good faith and in compliance with the reasonable requirements of the Council.

3.8 Councillors must not prevent another person from gaining access to information to which that person is entitled by law.

DISREPUTE

3.9 Councillors must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

IMPROPER ADVANTAGE ETC

3.10 Councillors must not use or attempt to use their position as a councillor improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

- 3.11 Councillors must, when using or authorising the use by others of the resources of the Council:
- 3.11.1 act in accordance with the Council's reasonable requirements;
 - 3.11.2 ensure that such resources are not used improperly for political purposes (including party political purposes).
- 3.12 Councillors must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

DECISION MAKING

- 3.13 When reaching decisions on any matter, Councillors must have regard to any relevant advice provided to them by:
- 3.13.1 the Council's Chief Finance Officer; and
 - 3.13.2 the Council's Monitoring Officer,
- where that officer is acting pursuant to their statutory duties.
- 3.14 Councillors must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

INVESTIGATIONS

- 3.15 Councillors must co-operate with any investigations or other procedures in relation to an alleged breach of this Code of Conduct.

4 DISCLOSABLE PECUNIARY INTERESTS

- 4.1 A Councillor has a Disclosable Pecuniary Interest in any business of the Council if the interest is of a description set out in paragraph 4.2 below and is an interest of a Relevant Person and, if the Relevant Person is not the Councillor, the Councillor is aware that that other person has the interest.
- 4.2 "Disclosable Pecuniary Interests" are as defined from time to time by the Secretary of State in Regulations. The Regulations current at the time of adoption of this Code are The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are set out in Appendix 2.

5 REGISTRATION OF DISCLOSABLE PECUNIARY INTERESTS

- 5.1 Subject to paragraph 7, Councillors must, within 28 days of this Code being adopted by the Council or their election or appointment to office (whichever is the later), register in the Council's Register of Councillors' Interests (maintained under section 29(1) of the Localism Act 2011) details of their Disclosable Pecuniary Interests (as referred to in paragraph 4 above) by completing the appropriate form and delivering this to the Council's Monitoring Officer.
- 5.2 Subject to paragraph 7, Councillors must, within 28 days of becoming aware of any Disclosable Pecuniary Interests (as referred to in paragraph 4 above) which they have not registered, or any change to such an interest which they have registered under paragraph 5.1, register details of that unregistered interest or change by completing the appropriate form and delivering this to the Council's Monitoring Officer.

6 ORDINARY INTERESTS

- 6.1 A Councillor has an "Ordinary Interest" in any business of the Council where it is not a Disclosable Pecuniary Interest but either:
- 6.1.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:
- 6.1.1.1 the Councillor;
 - 6.1.1.2 a member of the Councillor's family; or
 - 6.1.1.3 any person with whom they have a close association
- to a greater extent than it would affect the majority of other council tax payers, ratepayers or inhabitants of the electoral ward for which the Councillor has been elected; or
- 6.1.2 it relates to or is likely to affect any of the interests listed in the table of Disclosable Pecuniary Interests set out in Appendix 2 but in respect of a member of the Councillor's family (other than a Relevant Person) or of any person with whom they have a close association.

7 SENSITIVE INFORMATION

- 7.1 Paragraphs 7.2 and 7.3 apply where:

- 7.1.1 a Councillor has an interest (whether or not a Disclosable Pecuniary Interest), and
 - 7.1.2 the nature of the interest is such that the Councillor, and the Council's Monitoring Officer, decide in writing that disclosure of the details of the interest could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
- 7.2 If the interest is entered in the Council's register, copies of the register that are made available for inspection, and any published version of the register, will not include details of the interest (but may state that the Councillor has an interest the details of which are withheld under subsection 32(2) Localism Act 2011).
- 7.3 If paragraph 8.2 or paragraph 10.4 applies in relation to the interest, that paragraph is to be read as requiring the Councillor to disclose not the interest but merely the fact that the Councillor has an interest in the matter concerned.
- 7.4 If a Councillor becomes aware of any change of circumstances which means that information excluded from the register under paragraph 7.2 is no longer sensitive information, they must notify the Council's Monitoring Officer so that the register can be amended.

8 DISCLOSURE OF INTERESTS AT MEETINGS

- 8.1 Paragraphs 8.2 and 8.3 apply if a Councillor:
- 8.1.1 is present at a meeting;
 - 8.1.2 has a Disclosable Pecuniary Interest or an Ordinary Interest in any matter to be considered, or being considered, at the meeting; and
 - 8.1.3 is aware or ought reasonably to be aware that the condition in paragraph 8.1.2 is met.
- 8.2 Subject to paragraph 7.3, the Councillor must disclose the existence and the nature of the interest to the meeting.
- 8.3 If the interest is a Disclosable Pecuniary Interest which is not entered in the Council's register and is not the subject of a pending notification, the Councillor must notify the Council's Monitoring Officer of the interest as soon as possible and in any event before the end of 28 days beginning with the date of the disclosure.

9 PARTICIPATION AT MEETINGS

- 9.1 Paragraph 9.2 applies if a Councillor:
- 9.1.1 is present at a meeting;
 - 9.1.2 has either:
 - 9.1.2.1 a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting; or
 - 9.1.2.2 an Ordinary Interest in any matter to be considered, or being considered, at the meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest; and
 - 9.1.3 in the case of an Ordinary Interest, is aware or ought reasonably to be aware that the condition in paragraph 9.1.2.2 is met.
- 9.2 Subject to paragraph 11, the Councillor:
- 9.2.1 must not participate, or participate further, in any discussion of the matter at the meeting,
 - 9.2.2 must not participate in any vote, or further vote, taken on the matter at the meeting; and
 - 9.2.3 must withdraw from the room where the meeting considering the business is being held.

10 MATTERS CONSIDERED BY A SINGLE COUNCILLOR

- 10.1 This paragraph applies if:
- 10.1.1 a function of the Council may be discharged by a Councillor acting alone;
 - 10.1.2 a Councillor has either a Disclosable Pecuniary Interest or an Ordinary Interest in any matter to be dealt with, or being dealt with, by that Councillor in the course of discharging that function; and
 - 10.1.3 in the case of an Ordinary Interest, the Councillor is aware, or ought reasonably to be aware, of that interest.
- 10.2 If the interest is a Disclosable Pecuniary Interest which is not entered in the Council's register and is not the subject of a pending notification, the Councillor

must notify the Council's Monitoring Officer of the interest as soon as possible and in any event before the end of 28 days beginning with the date when the Councillor becomes aware, or ought reasonably to be aware, of that interest in relation to that matter.

10.3 If the interest is either:

10.3.1 a Disclosable Pecuniary Interest; or

10.3.2 an Ordinary Interest where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest

the Councillor must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the Councillor).

10.4 Subject to paragraph 7.3, the Councillor must ensure that any written statement of any decision taken by them in relation to that business records the existence and nature of that interest.

11 DISPENSATIONS

11.1 The Council may, on a written request made to the Council's Monitoring Officer by a Councillor, grant a dispensation relieving the Councillor from all or any of the restrictions in paragraph 9.2 in cases described in the dispensation.

11.2 The Council may grant a dispensation under paragraph 11.1 only if, after having had regard to all relevant circumstances, the Council considers that:

11.2.1 without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

11.2.2 without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

11.2.3 granting the dispensation is in the interests of persons living in the authority's area,

Constitution: Part 5A

11.2.4 without the dispensation each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive, or

11.2.5 it is otherwise appropriate to grant a dispensation.

11.3 A dispensation under paragraph 11.1 must specify the period for which it has effect, and the period specified may not exceed four years.

11.4 Paragraph 9.2 does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under paragraph 11.1.

THE GENERAL PRINCIPLES

Selflessness

1. Councillors should act solely in terms of the public interest.

Integrity

2. Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

3. Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

4. Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

5. Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

6. Councillors should be truthful;

Leadership

7. Councillors should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

DISCLOSABLE PECUNIARY INTERESTS

In this Appendix:

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses

incurred by M in carrying out duties as a member, or towards the election expenses of M.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <ul style="list-style-type: none">(a) under which goods or services are to be provided or works are to be executed; and(b) which has not been fully discharged.
Land	<p>Any beneficial interest in land which is within the area of the relevant authority.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</p>
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <ul style="list-style-type: none">(a) the landlord is the relevant authority; and(b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where—</p> <ul style="list-style-type: none">(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and(b) either— <ul style="list-style-type: none">(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or(ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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SG2



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STANDARDS COMMITTEE COMPLAINTS PROCEDURES

1 INTRODUCTION

- 1.1 These procedures set out how a complainant ("Complainant") may make a complaint ("Complaint") that an elected Councillor or co-opted member of this Council, or of a parish or town council within its area, ("Councillor") has failed to comply with their council's Code of Conduct for Councillors ("Code").
- 1.2 The procedures also set out how the Council will deal with a Complaint.

2 THE CODES OF CONDUCT

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available on the Council's website and on request from Democratic Services (see contact details below).
- 2.2 Each parish or town council is also required to adopt a Code of Conduct for Councillors. The parish or town councils' Codes are available:
 - 2.2.1 on any website operated by the respective parish or town council;
 - 2.2.2 on the Borough Council's website (if we have been given a copy); or
 - 2.2.3 on request from the respective parish or town clerk ("Clerk").

3 MAKING A COMPLAINT

- 3.1 In order to ensure that we have all the information which we need to be able to process a complaint, Complaints must be submitted on the Standard Complaint Form, which can be downloaded from the Council's website and is available on request from Democratic Services (see contact details below).
- 3.2 Complaints must be sent to the Monitoring Officer (see contact details below).
- 3.3 If a Complaint is received other than on the Standard Complaint Form, we will not consider it but we will send the Complainant a copy of the form for completion. If

Constitution: Part 4L

anyone needs assistance completing the form, they can contact Democratic Services (see contact details below).

- 3.4 Complainants should give us their name and a contact address or email address, so that we can acknowledge receipt of the Complaint and keep them informed of its progress. If a Complainant wants to keep their name and address confidential, they should indicate this on the Standard Complaint Form. In this case we would not disclose their name and address to the Councillor without the Complainant's prior consent. However, the Council does not normally investigate anonymous Complaints or complaints where the Complainant wishes to remain confidential, unless there is a clear public interest in doing so.
- 3.5 Within 5 working days of receiving a Complaint, the Monitoring Officer will usually:
- 3.5.1 acknowledge receipt to the Complainant;
 - 3.5.2 send a copy of the Complaint to the Councillor, unless the Monitoring Officer considers that this may prejudice any investigation;
 - 3.5.3 send a copy of the Complaint to the Clerk (if appropriate).
- 3.6 The Monitoring Officer will also notify the Complainant and the Councillor that they have the right to seek the views of the Independent Person (see paragraph 11 below). The Independent Person's contact details can be obtained from Democratic Services (see contact details below).
- 3.7 The Monitoring Officer will keep the Complainant, the Councillor and the Clerk (if appropriate) informed of the progress of the Complaint, unless the Monitoring Officer considers that this may prejudice any investigation.

4 WILL THE COMPLAINT BE INVESTIGATED?

- 4.1 Where possible and appropriate, the Monitoring Officer will seek to resolve the Complaint informally, without the need for a formal Investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Council or the respective parish or town council.
- 4.2 The Monitoring Officer will review every Complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. They will have regard to, but are not bound to follow, the guidelines set out in Appendix 1. This decision will normally be taken within 15 working days of receipt of the Complaint. When the Monitoring Officer has taken a decision, they

will inform the Complainant, the Councillor and the Clerk (if appropriate) of their decision and the reasons for that decision.

- 4.3 Where the Monitoring Officer requires additional information in order to come to a decision, they may ask the Complainant, the Councillor or the Clerk (if appropriate) for such information. Where a Complaint relates to a parish or town councillor, the Monitoring Officer may also seek the views of the respective parish or town council before deciding whether the Complaint merits formal investigation.
- 4.4 If the Complaint alleges criminal conduct or breach of a regulation by any person, the Monitoring Officer has the power to call in the Police and/or other regulatory agencies. In such cases it may be necessary to postpone consideration of the Complaint until the Police or other action has been concluded.
- 4.5 If the Monitoring Officer decides not to investigate a Complaint, they will nevertheless report this to the next ordinary meeting of the Standards Committee and the relevant parish or town council (if appropriate) for information.

5 HOW IS AN INVESTIGATION CONDUCTED?

- 5.1 If the Monitoring Officer decides that a Complaint merits formal investigation, they will, where appropriate after consultation with the Independent Person, appoint an Investigating Officer who may be another senior officer of the Council, an officer of another Council or an appropriately experienced external investigator.
- 5.2 The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the Complaint and so that the Complainant can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who they need to interview.
- 5.3 The Investigating Officer would normally write to the Councillor and ask them to provide their explanation of events, and to identify what documents the Investigating Officer needs to see and who they need to interview. In exceptional cases, the Investigating Officer may delay notifying the Councillor until the investigation has progressed sufficiently.
- 5.4 At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Councillor, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they believe requires more consideration.
- 5.5 Having received and taken account of any comments on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

6 WHAT HAPPENS IF THE INVESTIGATING OFFICER CONCLUDES THAT THERE IS NO EVIDENCE OF A FAILURE TO COMPLY WITH THE CODE OF CONDUCT?

- 6.1 The Monitoring Officer will review the Investigating Officer's report. If they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will send a copy of the Investigating Officer's final report to the Complainant, the Councillor, the Independent Person and the clerk of the parish or town council (if appropriate) and notify them that they are satisfied that no further action is required. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider their report.
- 6.2 The outcome of such investigations will be reported to the next ordinary meeting of the Standards Committee and the relevant parish or town council (if appropriate) for information.

7 WHAT HAPPENS IF THE INVESTIGATING OFFICER CONCLUDES THAT THERE IS EVIDENCE OF A FAILURE TO COMPLY WITH THE CODE OF CONDUCT?

- 7.1 The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing by the Standards Committee or, after consulting the Independent Person, seek Summary Resolution (see below).

SUMMARY RESOLUTION

- 7.2 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with the Complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such a resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council or the relevant parish or town council (if appropriate).
- 7.3 If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the relevant parish or town council (if appropriate) for information, but will take no further action.

REFERRAL FOR HEARING

- 7.4 If the Monitoring Officer considers that Summary Resolution is not appropriate, or the Councillor does not comply with any suggested resolution, then the Monitoring Officer will refer the Investigating Officer's report to the Standards Committee for a hearing to decide whether or not the Councillor has failed to comply with the respective Code of Conduct and, if so, whether to take any action in respect of the Councillor.

HEARING PROCEDURE

- 7.5 The Monitoring Officer will conduct a "pre-hearing process", requiring the Councillor to give their written response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing.
- 7.6 The Chairman of the Standards Committee may issue directions as to the manner in which the hearing will be conducted.
- 7.7 The procedure for hearings is set out in Appendix 2: Hearing Procedure.
- 7.8 The Investigating Officer may ask the Complainant to attend the hearing to give evidence. The Complainant does not otherwise have the right to speak at the hearing but they may usually attend as a member of the public.

8 WHAT ACTION CAN THE STANDARDS COMMITTEE TAKE WHERE A COUNCILLOR HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT?

- 8.1 The Council has delegated to the Standards Committee such of its powers to take action in respect of individual councillors as may be necessary to promote and maintain high standards of conduct.
- 8.2 The sanctions available to the Standards Committee are set out in Appendix 2: Hearing Procedure.

9 WHAT HAPPENS AFTER A HEARING?

- 9.1 As soon as reasonably practicable, the Monitoring Officer will prepare a formal decision notice, in consultation with the Chairman, and send a copy to the

Complainant, the Councillor and the clerk of the parish or town council (if appropriate). They will also make that decision notice available for public inspection on the Council's website for at least 12 months after the hearing;

10 WHO ARE THE STANDARDS COMMITTEE?

- 10.1 The Standards Committee is a committee of the Borough Council. It is appointed by the Council and comprises:
- 10.1.1 5 Councillors of whom no more than 1 may be a member of the Cabinet and which must not include the Leader of the Council and which shall reflect the political make-up of the council;
 - 10.1.2 2 Independent Members (non-voting) who are not Councillors or officers of the Council or of any parish or town council within East Staffordshire;
 - 10.1.3 2 Parish Council Representatives (non-voting) who shall be serving members of a parish or town council within East Staffordshire.

11 WHO IS THE INDEPENDENT PERSON?

- 11.1 The Independent Person is a person who has been appointed by a majority of all the Councillors on the Borough Council.
- 11.2 A person cannot be the Independent Person if they:
- 11.2.1 are, or have been within the past 5 years, a Councillor, co-opted member or officer of the Borough Council;
 - 11.2.2 are or have been within the past 5 years, a Councillor, co-opted member or officer of a parish or town council within the Council's area, or
 - 11.2.3 are a relative, or close friend, of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose, "relative" means:
 - 11.2.3.1 a spouse or civil partner;
 - 11.2.3.2 someone living with the other person as husband and wife or as if they were civil partners;
 - 11.2.3.3 a grandparent of the other person;
 - 11.2.3.4 a lineal descendent of a grandparent of the other person;

- 11.2.3.5 a parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2;
 - 11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or
 - 11.2.3.7 Someone living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.
- 11.3 The Independent Person is invited to attend all meetings of the Standards Committee. Their views are sought and taken into consideration:
- 11.3.1 before the Monitoring Officer decides whether to investigate a Complaint;
 - 11.3.2 before the Monitoring Officer decides whether to refer an investigated Complaint for hearing or for Summary Resolution;
 - 11.3.3 before the Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the respective Code of Conduct; and
 - 11.3.4 as to any action to be taken following a finding of failure to comply with the respective Code of Conduct.
- 11.4 The Independent Person can also be consulted by either the Complainant or the Subject Member.

12 APPEALS

- 12.1 There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer or of the Standards Committee.
- 12.2 If someone feels that the Council has failed to deal with a Complaint properly, they may make a complaint through the Council's ordinary complaints process. This process would not re-consider the original complaint but would consider the way in which that complaint had been handled.

13 REVISION OF THESE ARRANGEMENTS

- 13.1 The Standards Committee may amend these arrangements, and has delegated to the Chairman of the Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

14 CONTACT DETAILS

14.1 The Council's Monitoring Officer is:

Angela Wakefield
East Staffordshire Borough Council
The Maltsters
Wetmore Road
Burton upon Trent
Staffordshire
DE14 1LS
Tel: (01283) 508512
Email: monitoring.officer@eaststaffsbc.gov.uk

14.2 The Democratic Services Team can be contacted at:

Democratic Services
East Staffordshire Borough Council
The Maltsters
Wetmore Road
Burton upon Trent
Staffordshire
DE14 1LS
Tel: (01283) 508306
Email: andrea.davies@eaststaffsbc.gov.uk

ASSESSMENT GUIDELINES

THE MONITORING OFFICER WILL HAVE REGARD TO THESE GUIDELINES WHEN DECIDING WHETHER OR NOT A COMPLAINT SHOULD BE INVESTIGATED BUT THEY ARE NOT BOUND TO FOLLOW THEM.

1 CIRCUMSTANCES WHERE THE MONITORING OFFICER MAY DECIDE TO ARRANGE A FORMAL INVESTIGATION

- 1.1 Where the allegation discloses a potential breach of the Code that the Monitoring Officer considers sufficiently serious to justify the time and cost of an investigation.

2 CIRCUMSTANCES WHERE THE MONITORING OFFICER MAY DECIDE THAT A COMPLAINT SHOULD NOT BE FORMALLY INVESTIGATED

- 2.1 Where it is possible and appropriate to resolve the Complaint informally, without the need for a formal investigation.
- 2.2 Where the Complaint is about someone who is no longer a Councillor.
- 2.3 Where the Complaint does not disclose a potential breach of the Code.
- 2.4 Where the information provided by the Complainant is insufficient to enable the Monitoring Officer to make a decision as to whether the Complaint should be referred for investigation or other action. In this case, the Complainant will be advised that it is possible to resubmit the Complaint with further information.
- 2.5 Where a substantially similar allegation has previously been made by the Complainant, or the Complaint has been the subject of an investigation by another regulatory organisation. In this case, the Monitoring Officer will only refer the Complaint for investigation or other action if they consider that there is a compelling reason to do so.
- 2.6 Where the Complaint is about something that happened more than 6 months ago, or where the lapse of time means there would be little benefit or point in taking action now. It is acknowledged, however, that where a delay has arisen as a result of criminal or other legal proceedings, or there are other good reasons for the

Constitution: Part 4L – Appendix 1

delay, it may still be appropriate to refer the Complaint for investigation or other action.

- 2.7 Where the Complaint is anonymous or where the Complainant wishes to remain confidential unless the Monitoring Officer considers that there is a compelling reason to do so.
- 2.8 Where the Complaint discloses a potential breach of the Code of Conduct, but the Monitoring Officer considers that the Complaint is not serious enough to warrant further action.
- 2.9 Where the Complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the Complaint.

HEARING PROCEDURE

1 BACKGROUND

- 1.1 This document sets out the procedure which the Standards Committee will follow in hearing and determining allegations that a Councillor or co-opted member of the Council, or of a parish or town council within East Staffordshire, has breached the respective council's Code of Conduct for Councillors.
- 1.2 The purpose of the hearing is to decide whether or not a Councillor has failed to follow the respective Code and, if so, to decide whether or not any sanction should be imposed and what form any sanction should take.
- 1.3 The purpose of this document is to provide an efficient and effective hearing process that will help the Committee to deal with all the issues that need to be resolved in a way that is appropriate and fair to the Complainant and the Councillor. It will thereby promote public confidence in the Council's ability to deal fairly and properly with alleged breaches of the Codes of Conduct.
- 1.4 The procedure has been prepared with regard to relevant legislation, including the Localism Act 2011.
- 1.5 If there is any inconsistency between this procedure and the requirements of legislation the latter will prevail. Any matter not covered in this procedure will be determined by the Committee with regard to the relevant legislation.

2 INTERPRETATION

- 2.1 "Code" means the Code of Conduct for Councillors/Members of the respective Council.
- 2.2 "Councillor" means the councillor who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Councillor's nominated representative (if any).
- 2.3 "Independent Person" means the Independent Person appointed by the Council for this purpose (see paragraph 11 of the Complaint Procedures).

- 2.4 "Investigating Officer" means the person appointed by the Monitoring Officer to carry out the investigation. It also includes the Investigating Officer's nominated representative (if any).
- 2.5 "Legal Adviser" means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.

3 REPRESENTATION

- 3.1 The Councillor and/or the Investigating Officer may be represented or accompanied during the meeting by a solicitor, a barrister or, with the permission of the Committee, another person.

4 LEGAL ADVICE

- 4.1 The Committee may take legal advice, in private if necessary, from its Legal Adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Councillor and the Investigating Officer if they are present.

5 INTRODUCTIONS

- 5.1 The Chairman will formally introduce all the members of the Standards Committee and everyone else involved in the hearing.

6 PRELIMINARY MATTERS

- 6.1 The Legal Adviser will explain how the Committee is going to run the hearing and how witnesses will be dealt with (if any).
- 6.2 The Legal Adviser will also seek to resolve any preliminary issues before the hearing starts. If these cannot be agreed, the Committee shall decide them.

7 THE INVESTIGATING OFFICER'S CASE

- 7.1 The Investigating Officer will briefly describe the essence of the Complaint by reference to their report (including exactly what was alleged to have been said or done) and point out any significant disagreement as to the facts. The Investigating Officer may only introduce new matters with the agreement of the Committee.
- 7.2 With the Committee's permission, the Investigating Officer may then call such witnesses as are necessary to substantiate their conclusion that the Councillor has failed to comply with the respective Code.
- 7.3 The procedure for each witness shall be:
- 7.3.1 The Investigating Officer shall ask them questions;
 - 7.3.2 The Councillor may ask them questions;
 - 7.3.3 The Committee may ask them questions;
 - 7.3.4 The Investigating Officer may ask them further questions to clarify matters raised by the Councillor and/or the Committee during their questioning.
- 7.4 The Committee may ask the Investigating Officer questions.

8 THE COUNCILLOR'S CASE

- 8.1 The Councillor will then have the opportunity to state their case by reference to their written response to the Investigating Officer's report. The Councillor may only introduce new matters with the agreement of the Committee.
- 8.2 With the Committee's permission, the Councillor may then call such witnesses as are necessary to substantiate their case.
- 8.3 The procedure for each witness shall be:
- 8.3.1 The Councillor shall ask them questions;
 - 8.3.2 The Investigating Officer may ask them questions;
 - 8.3.3 The Committee may ask them questions;
 - 8.3.4 The Councillor may ask them further questions to clarify matters raised by the Investigating Officer and/or the Committee during their questioning.
- 8.4 The Committee may ask the Councillor questions.

9 SUMMING UP THE CASES

- 9.1 The Investigating Officer will then sum up their case,
- 9.2 The Councillor will then sum up their case.

10 THE INDEPENDENT PERSON'S VIEW ABOUT BREACH OF THE CODE

- 10.1 The Committee must take advice (orally or in writing) from the Independent Person before making a decision about whether or not the Councillor has breached the respective Code.

11 DECISION?

- 11.1 The Committee will then decide whether or not they believe that the Councillor has failed to follow the respective Code.
- 11.2 The decision of the Committee will be announced in public and short reasons for the decision given.

12 IF THE COUNCILLOR HAS NOT FAILED TO FOLLOW THE CODE

- 12.1 If the Committee decides that the Councillor has not failed to follow the Code, the Committee may then consider whether to make any recommendations to the respective Council with a view to promoting high standards of conduct among councillors.

13 IF THE COUNCILLOR HAS FAILED TO FOLLOW THE CODE

- 13.1 If the Committee decides that the Councillor has failed to follow the Code, the Investigating Officer will be asked to make any representations about:
 - 13.1.1 whether the Committee should apply a sanction; and, if so,
 - 13.1.2 what form any sanction should take.

- 13.2 The Councillor will then be asked to make any representations about these matters.
- 13.3 The Committee may question the Investigating Officer and the Councillor to make sure that they have the Information they need in order to make an informed decision.
- 13.4 The Committee must take advice (orally or in writing) from the Independent Person before making a decision about any sanction.
- 13.5 The Committee may impose one or more of the following sanctions:
- 13.5.1 Publish its findings in respect of the Councillor's conduct;
 - 13.5.2 Report its findings to the Council or to the respective parish or town council (if appropriate) for information;
 - 13.5.3 Recommend to the Councillor's political group leader (or in the case of councillors who are not part of a political group, recommend to the respective Council or Committees) that they be removed from any or all Committees or Sub-Committees of the respective Council;
 - 13.5.4 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular portfolio responsibilities;
 - 13.5.5 Recommend to the Council that the Leader of the Council should be removed as Leader;
 - 13.5.6 Instruct the Monitoring Officer, or recommend the respective parish or town council (if appropriate), to arrange training for the Councillor &/or other councillors;
 - 13.5.7 Remove, or recommend to the respective parish or town council that the Councillor be removed, from all outside appointments to which they have been appointed or nominated by the Council or by the respective parish or town council;
 - 13.5.8 Withdraw, or recommend to the respective parish or town council that it withdraws, facilities provided to the Councillor by the relevant Council, such as a computer, website and/or email and internet access; or
 - 13.5.9 Exclude, or recommend to the respective parish or town council that it excludes, the Councillor from the relevant Council's offices or other premises, with the exception of meeting rooms which are necessary for attending Council, Committee and Sub-Committee meetings.
- 13.6 The Council has no power to suspend or disqualify the Councillor nor to withdraw councillors' ordinary or special responsibility allowances.

Constitution: Part 4L Appendix 2

- 13.7 The Sub-Committee may impose a sanction to begin immediately or within a period of six months after the imposition of the sanction.**

East Staffordshire Borough Council

Weightmans reference: SG/893911/1

Schedule of evidence

SG3

The logo for Weightmans, featuring the word "Weightmans" in a white, sans-serif font centered within a black, rounded rectangular background.

**Simon Goacher, Partner
Weightmans LLP
100 Old Hall Street
Liverpool L3 9QJ**

Ref: 893911/1

Complaint against Councillor Faulkner – East Staffordshire Borough Council


Note of interview with Everton Burke, 6 April 2016

- 1 The interview was conducted by Simon Goacher, Weightmans LLP (SG).
- 2 SG outlined the process that would follow and explained that, although ultimately if the matter reached the Standards Committee it could decide to hear the evidence in public, the investigation should be treated as confidential.
- 3 Everton Burke (EB) explained that he is the Chair of Corporation of Burton and South Derbyshire College ("the college"). He confirmed that he had submitted a complaint to East Staffordshire Borough Council ("the Council"). He explained that the complaint was that Councillor Faulkner (RF) had failed to comply with the Council's code of conduct. He confirmed that the contents of the complaint were accurate.
- 4 EB explained that he has held several different public offices including his role as chair of the college and as a magistrate. He stated that as a result he understood the need to be careful about what you say when you are wearing different hats. EB stated that RF should have known better than make the statement which he did.
- 5 EB explained that the comment which he objected to was made by RF in an email to Deborah Price the deputy Chair of the shadow board of the Burton and South Derbyshire University Technical College ("the UTC"). In the email RF stated, "Please be aware that the Post 16 Area Review is underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most definitely is. Therefore, it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team."
- 6 EB stated that he could accept the first sentence of that paragraph of the email but the second part referring to the college and its management was way too much. EB explained that as chair of the college he is a member of the Area Review Team along with his principal. RF is also the Chair of South Staffordshire College and, as such, is also part of the Area Review Team. He stated that he believes that South Staffordshire College is more at risk than any of the other colleges in the review, save for possibly one other. He stated that RF could have simply brought the fact that the Area Review was taking place to the attention of the UTC Board. He stated that to make specific reference to the possibility that the college and its management may not exist in the future was unnecessary mischief making.
- 7 EB stated that South Staffordshire had produced a document about the review. He stated that it had not consulted with any other stakeholders before producing it. EB provided SG with a copy of the document. EB stated that the preferred outcome proposed in the document is for one college for the whole of Staffordshire and Stoke on Trent.
- 8 EB stated that two other colleges have proposed a merger and South Staffordshire College are not happy about this because it undermines their position, so they have objected to it.

- 9 EB stated that he believes that RF is seeking to influence others and promote South Staffordshire College's position by making these comments. EB stated that by raising these suspicions with partners it creates a ripple effect as partners talk to others and this could undermine the college to the benefit of South Staffordshire College.
- 10 EB stated that he had not had any involvement in the UTC. He explained that the college was just one of five or six partners in the UTC. He stated that he did not believe that the college had any greater weight on the UTC than the other stakeholders.
- 11 EB stated that he did not know RF prior to making this complaint.
- 12 SG outlined the process that would follow including the possibility that the agreed note of the interview would be made public by the Council's Standards Committee.

Simon Goacher, Weightmans LLP
13 April 2016

I agree that this is a true and accurate record of the interview.

Signed: 
Everton Burke

Dated: 17 April 2016

East Staffordshire Borough Council

Weightmans reference: SG/893911/1

Schedule of evidence

SG4

Weightmans

**Simon Goacher, Partner
Weightmans LLP
100 Old Hall Street
Liverpool L3 9QJ**

Ref: 893911/1

Complaint against Councillor Faulkner – East Staffordshire Borough Council

Note of interview with John Beaty, 1 April 2016

- 1 The Interview was conducted by Simon Goacher, Weightmans LLP (SG).
- 2 SG outlined the process that would follow and explained that, although ultimately if the matter reached the Standards Committee it could decide to hear the evidence in public, the investigation should be treated as confidential.
- 3 John Beaty (JB) explained that he is Vice Principal of Burton and South Derbyshire College ("the college"). He stated that he is also the Chair of the shadow board of governors of the Burton and South Derbyshire University Technical College ("the UTC"). He explained that the college is one of the sponsors of the UTC.
- 4 JB explained that UTCs are similar but different to academies with some small differences. He stated that academies focus on education of young people aged 11–16 and 16–18 with a focus on the national curriculum. He stated that UTCs educate young people aged 14–19 with a focus on a particular skill set and specialist subjects.
- 5 JB explained that the UTC is due to open in September 2016 and the Shadow Board of Governors is managing the process of preparing the UTC for the opening. JB stated that there are nine governors on the Shadow Board. He stated that some have been appointed by stakeholders and others have been selected for a particular skill set such as financial or legal knowledge. JB explained that Councillor Faulkner (RF) is the only representative appointed to the shadow board appointed by East Staffordshire Borough Council ("the Council").
- 6 JB stated that RF's appointment had been confirmed by the shadow board in August 2015 but that he had been nominated by the Council some months prior to that. JB stated that RF was appointed to replace the previous council nominee, Councillor Julian Mott.
- 7 JB confirmed that he had made a complaint to the Council that RF had failed to comply with the Code of Conduct for councillors. JB confirmed that the contents of his complaint were accurate.
- 8 JB stated that he had met with RF when he was appointed to talk to him about the role of governor. He explained that he talked to RF about the structure of the governing body, the role of the governors and the frequency of the meetings. JB explained that he knew that RF was a governor of another local college (South Staffordshire College). He stated that although the responsibilities of RF's role as a governor of another college and this organisation were slightly different they were similar to this role of Governor and this gave them confidence that he would understand the role.
- 9 JB stated that he knew of RF before his appointment to the shadow board but he could not recall having met him prior to that happening. JB stated that he welcomed RF's appointment to the shadow board as he thought that he would bring experience and expertise to the role.

- 10 JB explained that the shadow board meets monthly currently. He stated that the board meeting referred to in the complaint had taken place on 26 January 2016.
- 11 JB explained that there is currently an Area Review of Further Education (FE) being undertaken in Stoke on Trent and Staffordshire. He said that the aim of the review is to see if the FE system is fit for purpose. He explained that there are a number of such reviews being carried out in England and these are taking place in waves. He stated that wave one has been completed and the Stoke on Trent and Staffordshire review is in wave two. JB explained that the reviews are prioritised on a risk assessed basis. He explained that one or two of the colleges in the area have had financial difficulties and that is why the area is being reviewed in one of the early waves.
- 12 JB explained that the UTC does not form part of the review. He stated that the college (which he is employed by) and the college of which RF is chair do both form part of the review. JB explained that at the meeting on 26 January 2016 RF began talking about the review. He stated that a possible outcome of the review could be that there would just be one college for the whole of Stoke and Trent and Staffordshire or at best two covering the entire area.
- 13 JB stated that he took issue with these comments by RF because they were not relevant to the UTC and RF was pre-empting the outcome of the review which had only just begun. JB stated that he had seen a document which had been produced by South Staffordshire College which suggested that it believed that one college for the entire area would be the best outcome. JB stated that he believed that RF was confusing his role as governor of the UTC with that as Chair of South Staffordshire College.
- 14 JB explained that there are currently six FE colleges in the Stoke upon Trent and Staffordshire area. He stated that all six colleges want to do what is right for the locality. He stated that there are nuances with all of the areas in which the colleges are based which makes the issues complex. He said that all of the colleges are happy to have an open discussion about the future based on facts, data and substance. He stated that he felt that RF's comments at the meeting were incredibly premature. He explained that the review process would take approximately three to four months.
- 15 JB stated that not all of the people on the board have a background in education so they would not necessarily have appreciated the background to RF's comments.
- 16 JB stated that he believed that any conflict of interests that RF may have as a result of his two roles were not insurmountable and he should be able to manage between them.
- 17 JB stated that his complaint also concerned an email which RF subsequently sent to the deputy chair of the board Deborah Price (DP). He stated that RF was raising issues about the minutes of board meetings. JB stated that DP responded to RF confirming that the minutes were being put together. JB stated that the UTC has experienced some "bumps" on the journey. He stated that this meant that some of the discussions at meetings in respect of matters that had been very confidential and as a result not much of the detail would be minuted. He stated that DP had been a company secretary and she was very happy that the minutes were sufficient.
- 18 JB stated that the comments by RF in his email that "it is conceivable in the near future, the college may not exist in its present format, nor with its existing

management team," were not relevant, were premature and assumed that JB would not be around after the review. He stated that the comments did not seem to be linked to RF's role on the UTC Board but were written by RF in the context of his role as Chair of South Staffordshire College. JB stated that RF appeared to be confusing his hats.

- 19 JB stated that he would send SG a copy of the minutes of the meeting of the Shadow Board on 26 January 2016 and a copy of the document produced by South Staffordshire College regarding the area review.
- 20 SG outlined the process that would follow including the possibility that the agreed note of the interview would be made public by the Council's Standards Committee.

Simon Goacher, Weightmans LLP
12 April 2016

I agree that this is a true and accurate record of the interview.

Signed.....
John Beatty

Dated 14/4/16.....

East Staffordshire Borough Council

Weightmans reference: SG/893911/1

Schedule of evidence

SG5

The logo for Weightmans, featuring the word "Weightmans" in a white, sans-serif font centered within a black, horizontally-oriented rectangle with wavy top and bottom edges.

**Simon Goacher, Partner
Weightmans LLP
100 Old Hall Street
Liverpool L3 9QJ**

Ref: 893911/1

Complaint against Councillor Faulkner – East Staffordshire Borough Council

Note of interview with Deborah Price, 6 April 2016

- 1 The Interview was conducted by Simon Goacher, Weightmans LLP (SG).
- 2 SG outlined the process that would follow and explained that, although ultimately if the matter reached the Standards Committee it could decide to hear the evidence in public, the investigation should be treated as confidential.
- 3 Deborah Price (DP) explained that she is the vice chair of the shadow board of the Burton and South Derbyshire University Technical College ("the UTC"). She explained that her employers, Burton Hospitals NHS Foundation Trust ("the Trust"), had been approached a couple of years previously to be part of the UTC, as the UTC was going to focus on health science. She stated that she believed that the Royal Derby Hospital was also approached. She stated that the Trust became a partner of the UTC and she became the vice chair of the shadow board of the UTC as a result.
- 4 DP stated that Councillor Faulkner (RF) was nominated by East Staffordshire Borough Council ("the Council") to be a member of the UTC shadow board. She explained that he replaced Councillor Julian Mott (JM) who had previously been a board member. She explained that JM had stood down from the board after he had made a comment in the public domain about the UTC which had caused issues.
- 5 DP explained the UTC has had a tricky period of time. She stated that she believed that it would become public knowledge very shortly that the UTC would not open in September 2016.
- 6 DP stated that there were on-going issues between the Department for Education and the governing body which had caused there to be a series of urgent meetings of the shadow board. She stated that some of these meetings had been conducted by telephone conference due to the last minute requirement for them. She stated that these were purposely not minuted because of the highly confidential nature of the discussions involved.
- 7 DP stated that RF raised issues of governance because of the fact that some of the meetings had not been minuted. DP stated that this in itself had not been an issue but that RF had raised issues about the future of Burton and South Derbyshire College which was out of context and therefore out of order.
- 8 DP confirmed that she had submitted a complaint to the Council about RF. She confirmed that the contents of the complaint were accurate.
- 9 DP explained that normally the PA to the Principal Designate of the UTC [REDACTED] minutes the shadow board meetings. DP re-stated that where there were deliberately no taking of minutes then [REDACTED] would not attend.
- 10 DP stated that there was a shadow board meeting on 26 January 2016. A meeting had been due to take place on 4 February 2016 but had been cancelled; instead there was a conference call involving members of the shadow board on 5 February 2016.

- 11 DP stated that at these meetings confidential discussions took place. She explained, for example, that the last thing they wanted was a leak to the Burton Mail that they were talking to [REDACTED] when they had been very clearly told that this could jeopardize future relationships with [REDACTED]. This came on the back of the Burton Mail article following the comment that JM had made some months previously.
- 12 DP stated that following the meetings RF sent her an email which stated, "Please be aware that the Post 16 Area Review is underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most definitely is. Therefore, it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team."
- 13 DP stated that she believed that the comments were uncalled for, were effectively "criticising John" [referring to John Beaty (JB) the chair of the shadow board]. She said they were speculative. DP stated that there was no need for RF to make those comments if he was unhappy about her response regarding the minutes he should have come back to her about that. DP stated that she has been a company secretary and she is happy with the approach which has been taken by the shadow board of the UTC to recording decisions. She explained that minutes are drafted and shared with her and JB, and they are then submitted to the next scheduled meeting of the shadow board for approval.
- 14 DP stated that the email was trying to suggest that the UTC was reliant on the management of the Burton and South Derbyshire College but there were a number of partners in the UTC.
- 15 DP stated that she had received no further emails from RF.
- 16 SG outlined the process that would follow including the possibility that the agreed note of the interview would be made public by the Council's Standards Committee.

Simon Goacher, Weightmans LLP

13 April 2016

I agree that this is a true and accurate record of the interview.

Signed [REDACTED]
Deborah Price

Dated 20-4-2016

East Staffordshire Borough Council

Weightmans reference: SG/893911/1

Schedule of evidence

SG6

Weightmans

**Simon Goacher, Partner
Weightmans LLP
100 Old Hall Street
Liverpool L3 9QJ**

Ref: 893911/1

Complaint against Councillor Faulkner – East Staffordshire Borough Council

Note of interview with Sal Khan, 27 April 2016

- 1 The interview was conducted by Simon Goacher, Weightmans LLP (SG).
- 2 SG outlined the process that would follow and explained that, although ultimately if the matter reached the Standards Committee it could decide to hear the evidence in public, the investigation should be treated as confidential.
- 3 Sal Khan (SK) confirmed that he is a Head of Service and the section 151 officer for East Staffordshire Borough Council ("the Council"). He confirmed that he has been employed by the Council as a Head of Service since 2007, though he has had responsibilities for different services at different times. He explained that he currently has responsibility for finance and IT amongst other services.
- 4 SK confirmed that he had produced a report following an investigation into Councillor Faulkner's (RF) use of the Council's email system. He confirmed that the Council's Protocol on Members' IT Usage enables officers to access a councillor's emails if there are grounds for doing so. He explained that he had accessed RF's emails as a result of the complaint which had been made to the Council's Monitoring Officer alleging that RF had failed to comply with the Council's Code of Conduct. SK stated that as the complaint referred to an email which RF had sent from his Council email account it was decided that a review of his use of emails should be carried out.
- 5 SK explained that the review was very limited in scope. He stated that a search was carried out of RF's Inbox and sent items for emails in connection with the Burton and South Derbyshire University Technical College ("the UTC").
- 6 SK confirmed that he had produced a report following his review which identified a number of issues which could possibly amount to a breach of the Council's Member Protocol for IT Usage and/or the code of conduct. This related to the fact that RF had;
 - a Sent potentially confidential material to his personal email address and to South Staffordshire College;
 - b He had sent information to his personal email address which was not a secure environment;
 - c He had expressed personal views in the email which could be considered to have brought the council into disrepute; and
 - d His actions might be seen as seeking to secure an advantage for South Staffordshire college.
- 7 SK provided SG with a copy of the report and copies of the relevant emails.
- 8 SK stated that the report had been produced to assist with SG's investigation in respect of the Code of Conduct complaint and no separate action would be taken in respect of any potential breaches of the Protocol on Members' IT Usage.
- 9 SG outlined the process that would follow including the possibility that the agreed note of the interview would be made public by the Council's Standards Committee.

Simon Goacher, Weightmans LLP
28 April 2016

I agree that this is a true and accurate record of the interview.

Signed.....
Sal Khan

Dated.....

East Staffordshire Borough Council

Weightmans reference: SG/893911/1

Schedule of evidence

SG7

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**Simon Goacher, Partner
Weightmans LLP
100 Old Hall Street
Liverpool L3 9QJ**

Ref: 893911/1

Complaint against Councillor Faulkner – East Staffordshire Borough Council

Note of interview with Councillor Faulkner, 1 April 2016

- 1 The interview was conducted by Simon Goacher, Weightmans LLP (SG).
- 2 SG outlined the process that would follow and explained that, although ultimately if the matter reached the Standards Committee it could decide to hear the evidence in public, the investigation should be treated as confidential.
- 3 Councillor Faulkner (RF) confirmed that he is an elected member of East Staffordshire Borough Council ("the Council"). He confirmed that he has been a member of the Council since May 2015.
- 4 RF confirmed that he received induction training when he became a councillor which included training on the Code of Conduct for Members (the Code). He confirmed that he was aware of the requirement that he must comply with the Code at all times whilst acting as a councillor.
- 5 RF stated that he is a member of the shadow board of governors of the Burton and South Derbyshire University Technical College ("the UTC"). He explained that he was nominated to this position by the Council. RF explained that he was also the Chair of the board of governors of South Staffordshire College. He explained that he had held this role since January 2009 before he was elected as a councillor.
- 6 RF explained that when it was suggested that he be nominated for the role on the UTC board in June 2015 he spoke to the clerk at South Staffordshire College to ask whether there might be any conflict of interests. He stated that he was advised that there should not be any conflict.
- 7 RF stated that he received no training from the UTC or the Council about the role of governor of the UTC. He stated that he did have a meeting with the Chair of the shadow board of governors of the UTC about what was happening with the UTC as it had supposed to have opened the previous year. He stated the meeting was also attended by the [REDACTED] and [REDACTED]. He explained that there were

rumours that the UTC was not viable and he wanted to understand what the position was. RF stated that he was comfortable in the role of governor. He stated that he had been a rural enterprise academy governor and whilst there were differences the role of a UTC governor was similar.

- 8 RF stated that there was no suggestion or comment at the time he was appointed by the Council or the UTC that he might have any conflict of interest.
- 9 RF explained that he is very passionate about education and improving the life chances of young people. He stated that he saw the UTC as a great opportunity to assist the learners within the Borough and he thought he had the skills to assist with that.
- 10 RF stated that his first task as a board member was to write on behalf of the UTC to the Director of Education and Children's Services at Staffordshire County Council, Anna Halliday, asking her to write to all senior schools in the Council area informing them of the new educational offering and asking head teachers to make pupils aware of it. He stated that although he exchanged a number of emails with the Director she did not write to the schools in the end.
- 11 He stated that he was committed to the UTC and had delivered leaflets promoting it to doctors' surgeries and other similar places. He stated that he had done everything he could to support the UTC and get it established. He stated that he would not do anything to damage the UTC or the life chances of young people in the Borough.
- 12 RF explained that there had been an extraordinary meeting of the UTC shadow board on 21 January 2016 to consider an offer of a joint venture with the [REDACTED]. RF stated that he was aware of the stance of [REDACTED] to such joint ventures as a result of a similar application. He stated that he could not refer to this at the meeting for reasons of confidentiality so he did not.
- 13 RF stated that he listened to a presentation which raised issues of due diligence. These related to the risk that [REDACTED] may say no, the reputation of the UTC, the views of the people of Staffordshire about the UTC etc. RF stated that the representative of [REDACTED] had said that it had not done anything to develop the curriculum on biomedical science and it did not have the resource to do so before the school was due to open. RF explained that biomedical science was intended to be the second area of expertise of the UTC after engineering project management.

- 14 RF stated that he was extremely concerned that the UTC was due to open in September 2016 but with no curriculum. He stated that options were discussed including deferring the opening or not opening at all.
- 15 RF stated that he was also concerned that the contract of the [REDACTED] had been terminated in November 2015 but no one (other than UTC Shadow Board and B&SDC) had been told about this. He stated that he asked what he should say if he was asked about this. He stated that he was told to say that [REDACTED] was ill. He stated that he did not believe that was very satisfactory as it was three months since the [REDACTED] left.
- 16 RF stated that there was a further meeting on 4 February 2016 to feedback on the approach to [REDACTED]. RF stated that the offer put by [REDACTED] had been that there would be [REDACTED] students and one apprentice group using [REDACTED] curriculum and with staff provided by [REDACTED]. RF stated that (in the words of the Chair) [REDACTED] had been vehemently opposed to any joining together with the UTC. RF stated that it was suggested that despite this the UTC might work informally with [REDACTED]. RF stated that he felt that this was not ethical given that the official response by the owner of the [REDACTED] to the proposal had been to reject it.
- 17 RF stated that the Chair relayed a telephone conversation he had with another member of the UTC Board called [REDACTED] who was from the [REDACTED]. He had suggested that they approach another UTC Trust [REDACTED], as it had a lot of partners and may like to work with the UTC. This would mean the opening would be delayed to 2017 with the possibility to have some learners commence in 2016.
- 18 RF stated that the chair of the UTC discussed UTC related scenarios and costs at the meeting. RF stated that he (the Chair) had said that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 19 RF stated that there was a [REDACTED]. He stated that it was proposed that [REDACTED]. RF stated that he had been content with this arrangement

as a short term measure but not as a long term plan. He stated that he suggested that there needed to be some form of service level agreement ("SLA") between the college and the UTC so each knew exactly where they stood. RF stated that he had been told that there was an SLA but he had never seen it. He stated that he was unsure whether any Shadow Board Member had seen the SLA either.

- 20 RF stated that the Chair stated that the Department for Education had spent £10 million on the building for the UTC and as a result would not turn down requests for further funding as it would lose face seeing no tangible asset in return for the funding. RF stated that he did not believe that this was an ethical approach.
- 21 RF stated that he was concerned that there was no note of the attendees at this meeting and no minutes of the previous meeting (of 26 January 2016). He said that when he raised this, later by email, he was told that the chair said what had happened and that was the record of the meeting. He said that this raised alarm bells with him as they had discussed complicated issues and made decisions but none of that had been recorded. RF stated that he was very unhappy, he felt as a matter of good governance a record needed to be kept.
- 22 RF explained that an area review of post 16 education in Stoke on Trent and Staffordshire is currently taking place. He stated that this review had begun before the meeting of 26 January had taken place. He stated that he had raised the review at the meeting of the 4th February and in his subsequent email to the deputy chair. He stated that in his email he had said that the management of Burton and South Derbyshire College "may" change as a result of the review not that it would. He stated that he referred to this to emphasise the need to ensure that records were kept as the decisions were likely to come under scrutiny.
- 23 RF stated that, as the chair and deputy chair of the UTC shadow board were going off and implementing decisions which had not been recorded, he would be negligent if he had not raised his concerns about the lack of recording of those decisions. He stated that is why he wrote to them raising his concerns. He stated that the response from the deputy chair was that the chair updated the meeting so a record was kept.
- 24 RF stated that he felt that his reputation would be damaged if something went wrong and he had been a party to meetings which had not been minuted. He stated that no minutes had been produced for the meetings of 26 January or 4 February.
- 25 RF stated that in referring to the review he was merely highlighting the fact that there could be change and as a result it was important that decisions were minuted. He said

that he was trying to get the chair and deputy chair to focus on the need to record decisions.

26 RF stated that he was simply saying what might be the outcome. He explained that he had subsequently received an email from the chief executive of the Council which referred to an email from the portfolio holder for Staffordshire County Council which stated that there could be takeovers, mergers and federations of F E Colleges as a result of the review.

27 RF stated that he put forward his views as a member of the area review team who was aware of what was going on. He stated that in doing so he was trying to protect those people who were carrying out actions on behalf of the board but which had not been recorded.

28 RF indicated that the complaints had taken his comments out of context in an email sent only to the Deputy Chair in which it clearly states his desire to ensure the Chair and Deputy Chair are protected by recording decisions properly. He stated that he had sent two emails, the first to the entire Board requesting good governance principals be followed and a subsequent email to the Deputy Chair only. He stated that this email was sent to the Deputy Chair as he was concerned that she was not recognising the need for records to be kept.

29 SG outlined the process that would follow including the possibility that the agreed note of the Interview would be made public by the Council's Standards Committee.

Simon Goacher, Weightmans LLP

12 April 2016

I agree that this is a true and accurate record of the interview.

Signed.....R A Faulkner.....

Councillor Ray Faulkner

Dated.....27/06/2016.....

Ref: 893911/1

Complaint against Councillor Faulkner – East Staffordshire Borough Council

Note of interview with Councillor Faulkner, 16 May 2016

- 1 The interview was conducted by Simon Goacher, Weightmans LLP (SG).
- 2 SG outlined the process that would follow and explained that, although ultimately if the matter reached the Standards Committee it could decide to hear the evidence in public, the investigation should be treated as confidential.
- 3 This was the second interview with Councillor Faulkner (RF). SG explained that following their meeting on 1 April 2016 the Council had supplied SG with emails from RF's council account.
- 4 SG stated that two of the emails had been received by RF in his capacity as a shadow board member of the of the Burton and South Derbyshire University Technical College ("the UTC"). SG stated that these had been forwarded to South Staffordshire College ("SSC"). SG had provided RF with copies of these emails.
- 5 RF explained that the emails were blank and that he would have sent them with a narrative explaining why. RF stated that he could not explain why he had sent them without seeing that narrative. SG stated that he would check this with the Council but he understood that the Council officers had simply sent the emails as they were in RF's sent items.
- 6 RF stated that as far as he could recall he had sent the documents (a DBS check and skills audit and a declaration of interests form) to South Staffordshire college because he had completed similar forms as Chair of South Staffordshire college and rather than start from scratch he wanted to use the information which had been used in the forms he had already completed.
- 7 RF stated that there was no suggestion in the emails that the contents were confidential and they were simply blank forms.
- 8 SG asked RF about an email which RF had sent from his council email address to his personal email address on 24 February 2016. The email related to issues which had been raised at the UTC shadow board meeting. The email was subsequently forwarded to Councillor Ackroyd, copied to Councillor Grosvenor. RF explained that he had sent the email because Councillor Ackroyd was taking over as the nominated council representative on the Board and he had copied Councillor Grosvenor in as leader of the council.
- 9 RF explained that he had taken a long time to draft the email (over two and a half hours). RF stated that he had a new laptop and did not know how to save it as a draft. He stated that he did not want to lose all that work so he emailed it from his council address to his personal address to finish it later. RF stated that he did not think about sending it from his council email address to his council email address. RF accepted that an email address is less secure than a council email address but did not accept that it was insecure. RF stated that he did not forward the email to anyone other than Councillors Ackroyd and Grosvenor because it contained confidential information

- 10 RF strongly denied that in sending his email to Deborah Price (DP) of 10 February 2016 he was not seeking to exert any improper influence over the FE review process. He stated it was sent only to DP and not to anyone else. He stated that the comments were factually accurate and he was merely trying to make DP and John Beaty, the Chair of the UTC shadow board, aware of the position they were putting themselves in by undertaking work which had not been formally minuted as being approved by the shadow board.
- 11 RF stated that he was beginning to feel that there was an agenda against him from certain people at Burton and South Derbyshire College. RF stated that he believed that certain people were trying to blacken his name.
- 12 RF stated that it was not true that he was pushing for a single college for Stoke and Staffordshire as the outcome of the FE review process. He stated that the document produced by SSC, "A proposition for a Sustainable FE Infrastructure in Stoke on Trent and Staffordshire" had analysed a number of different outcomes of the review and whilst the preferred option identified was a single college for Stoke and Staffordshire this was totally unconnected to the email which he had sent to DP.
- 13 SG outlined the process that would follow including the possibility that the agreed note of the interview would be made public by the Council's Standards Committee.

Simon Goacher, Weightmans LLP
23 May 2016

I agree that this is a true and accurate record of the Interview.

Signed...R A Faulkner.....
Councillor Ray Faulkner

Dated.....27/06/2016.....

East Staffordshire Borough Council

Weightmans reference: SG/893911/1

Schedule of evidence

SG8



**Simon Goacher, Partner
Weightmans LLP
100 Old Hall Street
Liverpool L3 9QJ**



MEMBER CONDUCT COMPLAINT FORM

Please refer to our "Information for Complainants" document for more information before completing this form. This is available on our website or from the Council's Monitoring Officer.

Your details

1. Please tell us your name and contact details:

Title:	Mr
First name:	John
Last name:	Beaty
Address:	Burton and South Derbyshire College Lichfield Street, Burton on Trent, Staffordshire, DE14 3RL
Daytime telephone:	[REDACTED]
Evening telephone:	
Mobile telephone:	[REDACTED]
Email address:	[REDACTED]

We will usually tell the following people that you have made this complaint:

- the Member(s) you are complaining about;
- the Council's Monitoring Officer; and
- the parish or town clerk (if your complaint is about a parish or town council Member).

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate. Your address and/or contact details will not usually be released unless this is necessary to deal with your complaint. If you have serious concerns about your name or details of your complaint being released, please complete Section 5 of this form. **Anonymous complaints will not be considered.**

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

- Member of the public
- Elected or co-opted Member of an authority
- Independent Member of the Standards Committee
- Member of Parliament
- Local authority Monitoring Officer
- Other council officer or authority employee
- Other (please state: **Chair of Burton and South Derbyshire UTC**)

Your complaint

3. Please provide us with the name of the Member(s) you believe have breached their Code of Conduct and the name of their authority (please use a separate sheet for additional Members):

Title	First name	Last name	Council or authority name
Mr	Ray	Faulkner	East Staffordshire Borough Council

4. Please explain in this section (or on separate sheets) what the Member has done that you believe breaches their Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches their Code of Conduct.

It is important that you provide all the information you wish the Council to take into account when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what they said to you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there were any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please give details of your complaint. Please also refer to any documents which you are submitting in support of your complaint. Continue on a separate sheet if there is not enough space on this form.

At a recent Burton and South Derbyshire UTC Board meeting, Councillor Faulkner preceded to inform the group of the likely outcome of the current Stoke and Staffordshire FE Area Review. This included Councillor Faulkner commenting upon a likely outcome being one college across the whole of Stoke and Staffordshire. This was concerning for two reasons, firstly, this was irrelevant to the business of the UTC and the role that Ray was undertaking on behalf of ESBC. Secondly, as the area review process had not started, was incredibly premature. Councillor Faulkner was challenged on this view by myself and I made it very clear to Councillor Faulkner that his views were unhelpful and misguided, and not relevant in any way to the meeting.

Following this on 10 February 2016, Councillor Faulkner made the following written comments to another member of the UTC Board. "Please be aware the post 16 area review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore is it conceivable in the near future, the College may not exist in its present format, nor with its existing management team."

Like Councillor Faulkner's previously spoken comments, his written communication is not based on any fact and his comments about the future shape of post 16 provision in Burton and associated comments on the College's management team are at best, misguided, and at worst, defamatory. Councillor Faulkner seems to be unable to separate his role as a member of the Board of the Burton and South Derbyshire UTC (representing ESBC) and that of Chair of South Staffordshire College.

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with details of the complaint. We are unlikely to withhold your identity or the details of your complaint unless there is a very good reason to do so. We will only withhold your identity or the details of your complaint if we think that it is in the public interest to do so.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider your request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action 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 the details of your complaint:

Additional Help

6. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

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

If you need any support in completing this form, please let us know as soon as possible.

When you have completed this form, please send it to The Chairman of the Standards Committee

c/o Angela Wakefield, Monitoring Officer, East Staffordshire Borough Council, Town Hall, Burton upon Trent, Staffordshire DE14 2EB or fax: 01283 508388 or email: monitoring.officer@eaststaffsbcc.gov.uk.

CODE OF CONDUCT FOR MEMBERS DECISION NOTICE: TO INVESTIGATE

Complaint Reference 2016/001

Complaint

A Complaint has been received from Mr John Beaty concerning the alleged conduct of Cllr Ray Faulkner, a Member of East Staffordshire Borough Council.

A general summary of the Complaint so far as it relates to the Code of Conduct is set out below:

At a recent Burton and South Derbyshire UTC Board meeting, Councillor Faulkner informed the group of the likely outcome of the current Stoke and Staffordshire FE Area Review. This included Councillor Faulkner commenting upon a likely outcome being one college across the whole of Stoke and Staffordshire. The complainant found this concerning for two reasons: first, this was irrelevant to the business of the UTC and the role that Cllr Faulkner was undertaking on behalf of ESBC. Secondly, the opinion expressed by Cllr Faulkner was premature, as the area review process had not yet started. Councillor Faulkner was challenged on this view by the complainant, who made it very clear to Councillor Faulkner that his views were unhelpful and misguided, and not relevant in any way to the meeting.

Following this on 10 February 2016, Councillor Faulkner made the following written comments to another member of the UTC Board. "Please be aware the post 16 area review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team."

The complainant states that Councillor Faulkner's spoken comments and his written communication are not based on any fact and his comments about the future shape of post 16 provision in Burton and associated comments on the College's management team are at best, misguided, and at worst, defamatory. The complainant also states that Councillor Faulkner seems to be unable to separate his role as a member of the Board of the Burton and South Derbyshire UTC (representing ESBC) and that of Chair of South Staffordshire College.

The Complaint has been considered in accordance with the Standards Committee Complaints Procedures.

Decision

Having consulted with the Independent Person, I have decided to investigate the complaint.

Summary of reasons for decision

If the allegation is proven, this could amount to an improper use of Cllr Faulkner's position as a councillor to confer on himself or another person, an advantage or disadvantage: in breach of paragraph 3.10 of the Council's Code of Conduct for Councillors.

Notice of decision

This decision notice will be sent to the person or persons making the allegation and the Member against whom the allegation was made. The decision will also be reported to the next ordinary meeting of the Standards Committee.

Appeal of decision

There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer.

If someone feels that the Council has failed to deal with a Complaint properly, they may make a complaint through the Council's ordinary complaints process. This process would not re-consider the original complaint but would consider the way in which the complaint had been handled.

Terms of reference and Complaints Procedures

The Terms of Reference of the Standards Committee and its Complaints Procedures are available on the Council's website (www.eaststaffsbc.gov.uk) and from the Monitoring Officer.

Additional Help

If you need additional support in relation to this decision notice or future contact with us, please let us know as soon as possible. If you have difficulty reading this decision 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: 14th March 2016

**Angela Wakefield
Monitoring Officer,
East Staffordshire Borough Council,
The Maltsters,
Wetmore Road,
Burton upon Trent,
Staffordshire DE14 1LS**

**Tel: 01283 508267
E-mail: angela.wakefield@eaststaffsbc.gov.uk**



MEMBER CONDUCT COMPLAINT FORM

Please refer to our "Information for Complainants" document for more information before completing this form. This is available on our website or from the Council's Monitoring Officer.

Your details

1. Please tell us your name and contact details:

Title:	Mr
First name:	Everton
Last name:	Burke
Address:	Chair of Corporation, Burton and South Derbyshire College Lichfield Street Burton on Trent Staffordshire DE15 0TZ
Daytime telephone:	[REDACTED]
Evening telephone:	
Mobile telephone:	
Email address:	[REDACTED]

We will usually tell the following people that you have made this complaint:

- the Member(s) you are complaining about;
- the Council's Monitoring Officer; and
- the parish or town clerk (if your complaint is about a parish or town council Member).

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate. Your address and/or contact details will not usually be released unless this is necessary to deal with your complaint. If you have serious concerns about your name or details of your complaint being released, please complete Section 5 of this form. **Anonymous complaints will not be considered.**

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

- Member of the public
- Elected or co-opted Member of an authority
- Independent Member of the Standards Committee
- Member of Parliament
- Local authority Monitoring Officer
- Other council officer or authority employee
- Other (please state): **Chair of Corporation, Burton and South Derbyshire College**

Your complaint

3. Please provide us with the name of the Member(s) you believe have breached their Code of Conduct and the name of their authority (please use a separate sheet for additional Members):

Title	First name	Last name	Council or authority name
Councillor	Ray	Faulkner	East Staffordshire Borough Council

4. Please explain in this section (or on separate sheets) what the Member has done that you believe breaches their Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches their Code of Conduct.

It is important that you provide all the information you wish the Council to take into account when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what they said to you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there were any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please give details of your complaint. Please also refer to any documents which you are submitting in support of your complaint. Continue on a separate sheet if there is not enough space on this form.

On Thursday 11 February 2016 I was forwarded an email from Dawn Ward CBE, Chief Executive of BSDC that she had received from John Beaty, Vice Principal at BSDC. The email had been sent to a strategic partner of the College (Burton Hospital NHS Trust) in their role as Vice Chair of Burton and South Derbyshire UTC. The statement in the email that caused me grave concern is cut and pasted below.

"Please be aware the post 16 area review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore, it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team"

The statement that Councillor Faulkner made is totally inappropriate as it has no bearing on his role as a Governor representing East Staffordshire Borough Council on the UTC. It is blatantly obvious that Councillor Faulkner is using his position as Chair of South Staffordshire College within this the UTC context.

Councillor Faulkner's statement is not based on any fact and is at best, misguided, and at worst, defamatory.

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with details of the complaint. We are unlikely to withhold your identity or the details of your complaint unless there is a very good reason to do so. We will only withhold your identity or the details of your complaint if we think that it is in the public interest to do so.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider your request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action 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 the details of your complaint:

Additional Help

6. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

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

If you need any support in completing this form, please let us know as soon as possible.

When you have completed this form, please send it to The Chairman of the Standards Committee c/o Angela Wakefield, Monitoring Officer, East Staffordshire Borough Council, Town Hall, Burton upon Trent, Staffordshire DE14 2EB or fax: 01283 508388 or email: monitoring.officer@eaststaffsbc.gov.uk.

Continuation Sheet

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Angela Wakefield

From: Dawn Ward [REDACTED]
Subject: FW: BSD UTC Shadow Governing Body Meeting - 11/02/16

From: john.beaty [REDACTED]
Date: 11 February 2016 at 13:46:28 GMT
To: Dawn Ward [REDACTED]
Subject: FW: BSD UTC Shadow Governing Body Meeting - 11/02/16

As discussed.

John

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

From: Price Deborah (RJF) BHFT [mailto:[REDACTED]]
Sent: 11 February 2016 08:17
To: john.beaty
Subject: FW: BSD UTC Shadow Governing Body Meeting - 11/02/16

Sit down then read :-)

Deb Price
Burton Hospitals NHS Foundation Trust
[REDACTED]
[REDACTED]

www.burtonhospitals.nhs.uk
@burtonhospitals

This e-mail, and any files transmitted with it, are confidential and intended solely for the use of the individual to whom it is addressed. If you are not the intended recipient please destroy this message, delete any copies held on your systems, and notify the sender immediately. You should not retain copy or use this e-mail for any purpose, nor disclose all or any part of its content to any other person.

If you have received this e-mail in error, please notify me on 01283 566333 Ext 5583.
Please consider the environment before printing this e-mail

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

From: Cllr R Faulkner [mailto:raymond.faulkner@eaststaffsbc.gov.uk]
Sent: 10 February 2016 17:48
To: Price Deborah (RJF) BHFT
Subject: Re: BSD UTC Shadow Governing Body Meeting - 11/02/16

Good afternoon Deborah,

I apologise if you believe I was being critical of yourself or John in my earlier email. Whilst I recognise the UTC is a Company registered as a Charitable Organisation and does have the authority to act as it is doing, I was trying to suggest some form of protection for yourself and John should the worst case scenario happen. As there were a number of board members missing at the latest meeting and the UTC is utilising significant funds from the taxpayer, I believe a written minute identifying in brief terms the decision taken and reasons would be prudent. This then ensures you are able to demonstrate you and John were acting under delegated powers.

Please be aware the Post 16 Area Review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore, it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team. As a consequence the decisions

within the UTC may come under intense scrutiny, hence my desire to protect you both from any criticism.

Best regards,

Ray



CODE OF CONDUCT FOR MEMBERS DECISION NOTICE: TO INVESTIGATE

Complaint Reference 2016/002

Complaint

A Complaint has been received from Mr Everton Burke concerning the alleged conduct of Cllr Ray Faulkner, a Member of East Staffordshire Borough Council.

A general summary of the Complaint so far as it relates to the Code of Conduct is set out below:

On Thursday 11 February 2016 the complainant was forwarded an email that had been sent by Cllr Faulkner to the Vice Chair of Burton and South Derbyshire UTC. The complainant was concerned about the following part statement in the email:

"Please be aware the post 16 area review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore, it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team"

The complainant considers Cllr Faulkner's statement to be inappropriate as it has no bearing on his role as a representative of East Staffordshire Borough Council on the UTC. The complainant also believes that Councillor Faulkner is using his position as Chair of South Staffordshire College within the UTC context. The complainant is of the view that Councillor Faulkner's statement is not based on any fact and is at best, misguided, and at worst, defamatory.

The Complaint has been considered in accordance with the Standards Committee Complaints Procedures.

Decision

Having consulted with the Independent Person, I have decided to investigate the complaint.

Summary of reasons for decision

If the allegation is proven, this could amount to an improper use of Cllr Faulkner's position as a councillor to confer on himself or another person, an advantage or disadvantage: in breach of paragraph 3.10 of the Council's Code of Conduct for Councillors.

Notice of decision

This decision notice will be sent to the person or persons making the allegation and the Member against whom the allegation was made. The decision will also be reported to the next ordinary meeting of the Standards Committee.

Appeal of decision

There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer.

If someone feels that the Council has failed to deal with a Complaint properly, they may make a complaint through the Council's ordinary complaints process. This process would not re-consider the original complaint but would consider the way in which the complaint had been handled.

Terms of reference and Complaints Procedures

The Terms of Reference of the Standards Committee and its Complaints Procedures are available on the Council's website (www.eaststaffsbc.gov.uk) and from the Monitoring Officer.

Additional Help

If you need additional support in relation to this decision notice or future contact with us, please let us know as soon as possible. If you have difficulty reading this decision 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: 14th March 2016

**Angela Wakefield
Monitoring Officer,
East Staffordshire Borough Council,
The Maltsters,
Wetmore Road,
Burton upon Trent,
Staffordshire DE14 1LS**

**Tel: 01283 508267
E-mail: angela.wakefield@eaststaffsbc.gov.uk**



MEMBER CONDUCT COMPLAINT FORM

Please refer to our "Information for Complainants" document for more information before completing this form. This is available on our website or from the Council's Monitoring Officer.

Your details

1. Please tell us your name and contact details:

Title:	Dr
First name:	Deborah
Last name:	Price
Address:	Burton Hospitals NHS Foundation Trust The House Belvedere Road Burton DE13 0RB
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

We will usually tell the following people that you have made this complaint:

- the Member(s) you are complaining about;
- the Council's Monitoring Officer; and
- the parish or town clerk (if your complaint is about a parish or town council Member).

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate. Your address and/or contact details will not usually be released unless this is necessary to deal with your complaint.

If you have serious concerns about your name or details of your complaint being released, please complete Section 5 of this form. **Anonymous complaints will not be considered.**

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

- Member of the public
- Elected or co-opted Member of an authority
- Independent Member of the Standards Committee
- Member of Parliament
- Local authority Monitoring Officer
- Other council officer or authority employee
- ✓ Other (please state: **Vice-chair of Burton and South Derbyshire UTC**)

Your complaint

3. Please provide us with the name of the Member(s) you believe have breached their Code of Conduct and the name of their authority (please use a separate sheet for additional Members):

Title	First name	Last name	Council or authority name
Mr	Ray	Faulkner	East Staffordshire Borough Council

4. Please explain in this section (or on separate sheets) what the Member has done that you believe breaches their Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches their Code of Conduct.

It is important that you provide all the information you wish the Council to take into account when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what they said to you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there were any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please give details of your complaint. Please also refer to any documents which you are submitting in support of your complaint. Continue on a separate sheet if there is not enough space on this form.

At a recent Burton and South Derbyshire UTC Board meeting, RF preceded to inform the group of the likely outcome of the current Stoke and Staffordshire FE Area Review. This included RF commenting upon a likely outcome being one college across the whole of Stoke and Staffordshire.

Following this on 10 February 2016, RF then made the following written comments to me as part of a wider e-mail around governance:

"Please be aware the post 16 area review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore is it conceivable in the near future, the College may not exist in its present format, nor with its existing management team."

These comments are not based on any fact and I find it difficult to comprehend how a Councillor is able to make remarks such as these with no basis whatsoever.

RF seems to struggle to separate his role as a member of the Governing Body of the Burton and South Derbyshire UTC (representing ESBC) and that of Chair of South Staffordshire College.

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with details of the complaint. We are unlikely to withhold your identity or the details of your complaint unless there is a very good reason to do so. We will only withhold your identity or the details of your complaint if we think that it is in the public interest to do so.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider your request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action 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 the details of your complaint:

Additional Help

6. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

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

If you need any support in completing this form, please let us know as soon as possible.

When you have completed this form, please send it to The Chairman of the Standards Committee

c/o Angela Wakefield, Monitoring Officer, East Staffordshire Borough Council, Town Hall, Burton upon Trent, Staffordshire DE14 2EB or fax: 01283 508388 or email: monitoring.officer@eaststaffsbc.gov.uk.



CODE OF CONDUCT FOR MEMBERS DECISION NOTICE: TO INVESTIGATE

Complaint Reference 2016/003

Complaint

A Complaint has been received from Dr Deborah Price concerning the alleged conduct of Cllr Ray Faulkner, a Member of East Staffordshire Borough Council.

A general summary of the Complaint so far as it relates to the Code of Conduct is set out below:

At a recent Burton and South Derbyshire UTC Board meeting, Councillor Faulkner informed the group of the likely outcome of the current Stoke and Staffordshire FE Area Review. This included Councillor Faulkner commenting upon a likely outcome being one college across the whole of Stoke and Staffordshire. Following this, on 10 February 2016, Councillor Faulkner made the following written comments in an email to the complainant: "Please be aware the post 16 area review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team."

The complainant states that Councillor Faulkner's spoken comments and his written communication are not based on any fact. The complainant also states that Councillor Faulkner seems to be unable to separate his role as a member of the Board of the Burton and South Derbyshire UTC (representing ESBC) and that of Chair of South Staffordshire College.

The Complaint has been considered in accordance with the Standards Committee Complaints Procedures.

Decision

Having consulted with the Independent Person, I have decided to investigate the complaint.

Summary of reasons for decision

If the allegation is proven, this could amount to an improper use of Cllr Faulkner's position as a councillor to confer on himself or another person, an advantage or disadvantage: in breach of paragraph 3.10 of the Council's Code of Conduct for Councillors.

Notice of decision

This decision notice will be sent to the person or persons making the allegation and the Member against whom the allegation was made. The decision will also be reported to the next ordinary meeting of the Standards Committee.

Appeal of decision

There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer.

If someone feels that the Council has failed to deal with a Complaint properly, they may make a complaint through the Council's ordinary complaints process. This process would not re-consider the original complaint but would consider the way in which the complaint had been handled.

Terms of reference and Complaints Procedures

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Additional Help

If you need additional support in relation to this decision notice or future contact with us, please let us know as soon as possible. If you have difficulty reading this decision 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: 14th March 2016

**Angela Wakefield
Monitoring Officer,
East Staffordshire Borough Council,
The Maltsters,
Watmore Road,
Burton upon Trent,
Staffordshire DE14 1LS**

Tel: 01283 508267

E-mail: angela.wakefield@eaststaffsbc.gov.uk

East Staffordshire Borough Council

Weightmans reference: SG/893911/1

Schedule of evidence

SG9

Weightmans

**Simon Goacher, Partner
Weightmans LLP
100 Old Hall Street
Liverpool L3 9QJ**

From: Cllr R Faulkner
Sent: 10 February 2016 05:48
To: Price Deborah (RJF) BHFT
Subject: Re: BSD UTC Shadow Governing Body Meeting - 11/02/16

Good afternoon Deborah,
I apologise if you believe I was being critical of yourself or John in my earlier email. Whilst I recognise the UTC is a Company registered as a Charitable Organisation and does have the authority to act as it is doing, I was trying to suggest some form of protection for yourself and John should the worst case scenario happen. As there were a number of board members missing at the latest meeting and the UTC is utilising significant funds from the taxpayer, I believe a written minute identifying in brief terms the decision taken and reasons would be prudent. This then ensures you are able to demonstrate you and John were acting under delegated powers.
Please be aware the Post 16 Area Review is now underway in Stoke/Staffs and although the UTC is not within the remit of the review team, Burton and South Derbyshire College most certainly is. Therefore, it is conceivable in the near future, the College may not exist in its present format, nor with its existing management team. As a consequence the decisions within the UTC may come under intense scrutiny, hence my desire to protect you both from any criticism.
Best regards,
Ray

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