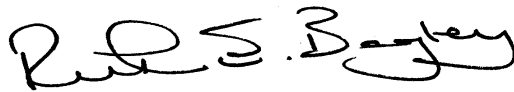


Date of issue: 25<sup>th</sup> February 2011

<b>MEETING</b>	<b>STANDARDS (DETERMINATION) SUB-COMMITTEE</b>
	CO-OPTED/INDEPENDENT MEMBERS The Reverend Paul Lipscomb (Chair), Fred Ashmore and Dr Henna Khan
	ELECTED MEMBERS:- Councillors P K Mann and Munkley
<b>DATE AND TIME:</b>	MONDAY, 7TH MARCH, 2011 AT 6.30 PM
<b>VENUE:</b>	COMMITTEE ROOM 1, TOWN HALL, BATH ROAD, SLOUGH
<b>DEMOCRATIC SERVICES OFFICER: (for all enquiries)</b>	JUNE COOK  01753 875019

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



**RUTH BAGLEY**  
Chief Executive

# AGENDA

## PART 1

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
1.	Declarations of Interest  (Members are reminded of their duty to declare personal and personal prejudicial interests in matters coming before this meeting as set out in the Local Code of Conduct)		
2.	Alleged breach of Local Code of Conduct - Councillor Balvinder Bains (SBC 2010/17)	1 - 64	

### Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Special facilities may be made available for disabled or non-English speaking persons. Please contact the Democratic Services Officer shown above for further details.

Minicom Number for the hard of hearing – (01753) 875030

**SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Standards (Determination) Sub-Committee     **DATE:** 7<sup>th</sup> March 2011

**CONTACT OFFICER:** June Cook  
**(For all Enquiries)**     Member Services Manager (01753) 875019

**WARDS:**                     N/A

**PART I**

**FOR DECISION**

**ALLEGED BREACH OF LOCAL CODE OF CONDUCT – COUNCILLOR BALVINDER BAINS**

1.     **Purpose of Report**

1.1     The purpose of this report is to submit for consideration the Council's Investigating Officer's report on the results of her investigation into a complaint that Councillor Balvinder Bains has failed to comply with the Local Code of Conduct for Members (**Appendix A**) and Councillor Bains's response thereto.

2.     **Recommendation/Action Required**

2.1     The Sub-Committee is asked to consider the Investigating Officer's report and decide what further action, if any, is required.

3.     **Community Strategy Priorities**

3.1     It is important that the public have confidence in all Members of the Council who are duty bound to abide by the provisions contained in the Local Code of Conduct for Members and the Council's own Ethical Framework. Furthermore, it is for the benefit of all Members that complaints made against them are fully investigated and dealt with in accordance with the procedure laid down by Standards for England.

4.     **Other Implications**

4.1     There are no direct financial or staffing implications arising out of this report. The process of hearing and determining the allegation will be in accordance with the requirements of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (as amended) and guidance issued by the Standards Board for England. Any potential human rights issues which might arise are addressed and provided for in the hearing procedure.

## **5. Background Information**

- 5.1 On 28th April 2010 the Standards (Assessment) Sub-Committee referred to the Council's Monitoring Officer for investigation a complaint that Councillor Balvinder Bains had failed to comply with the Local Code of Conduct. In accordance with the arrangement agreed by the Standards Committee, the Monitoring Officer delegated the conduct of the investigation to Kuldip Channa, Assistant Solicitor (Litigation) i.e. the Investigating Officer.
- 5.2 The complaint has been made by Ms Fariba Ismat an officer of the Council. The general summary of the complaint is that the Subject Member's conduct at a planning pre-application meeting on the 23rd March 2010 with the applicant and his agent and other Councillors present was unacceptable as he was intimidating and insulting towards the Complainant. In summary the facts alleged are as follows:-
- (a) The Complainant's professional comments/opinions (as case officer) were ignored on at least two occasions at the meeting by the Subject Member who told the Complainant to "keep your comments aside and don't compare other streets to the subject street", and gave her no credit as a person with some authority within the Planning Department.
  - (b) The Complainant felt the Subject Member was indirectly telling her to shut up and let the rest of them concentrate on the application in hand, she felt the Subject Member felt less of her as he addressed the Complainant's line manager above her head.
  - (c) The Subject Member embarrassed the Complainant in front of her line manager, the applicant and the agent and she felt deeply insulted and offended by his attitude and the manner in which he spoke to her and that he created a sexist attitude/atmosphere by ignoring the complainant (she was the only female present at the meeting).
  - (d) The Subject Member was insistent on pushing the Complainant's Manager to compromise over an issue in discussion at the said meeting.
- 5.3 To simplify the hearing process Councillor Bains has been asked to complete and return the following pre-hearing forms and his completed forms are attached as **Appendix B**:
- Form A – Identification of any disputes of fact
  - Form B – Other Evidence to be taken into account at the hearing
  - Form D – Arrangements for the Standards (Determination) Sub-Committee Hearing
  - Form E – Details of any witnesses to be called. Councillor Bains has indicated that he will be calling Mr Taj Bansal as a witness.
- 5.4 Enclosed for your attention and/or information are the following documents:

<b><u>Appendix</u></b>	<b><u>Document</u></b>
<b>Appendix A</b>	Investigating Officer's Report

- Appendix B** Pre-hearing forms submitted by Councillor Bains
- Appendix C** Procedure for the hearing
- Appendix D** Standards Board advice on admission of press and public
- Appendix E** Categories of “exempt information”
- Appendix F** Sanctions available to the Sub-Committee

5.5 The procedure for the hearing will be as set out in **Appendix C** and any guidance and/or advice the Sub-Committee may require will be provided by the Monitoring Officer, Maria Memoli, Acting Borough Secretary and Solicitor.

**6. Conclusion**

6.1 The Sub-Committee is asked to consider the evidence presented and come to a decision as to what action, if any, should be taken in respect of this matter.

This page is intentionally left blank

**SLOUGH BOROUGH COUNCIL**

REPORT OF AN INVESTIGATION UNDER SECTION 66 OF THE LOCAL GOVERNMENT ACT 2000 AND REGULATION 5 OF THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) REGULATIONS 2003 (AS AMENDED) BY KULDIP CHANNA, (KC) (LITIGATION SOLICITOR) APPOINTED AS INVESTIGATION OFFICER, BY MARIA MEMOLI, THE MONITORING OFFICER INTO AN ALLEGATION CONCERNING COUNCILLOR BALVINDER SINGH BAINS.

## **1. Introduction**

- 1.1 Fariba Ismat, (FI) Planning Technician in the Green and Built Environment Section of Slough Borough Council (SBC) made a written complaint to the Monitoring Officer of SBC. The complaint is undated. (Document 1).
- 1.2 In summary FI alleged that on 23 March 2010, Councillor Balvinder Bains' (BB) conduct, at a meeting to discuss a planning application in respect of 17 Lascelles Road was unacceptable. The meeting was attended by Chris Smyth (CS), Development Control Team Leader, Mr Taj Bansal, (TB), the Applicant and his Architect Mr Mackroy. Briefly FI alleged that BB: a) was intimidating and insulting towards her in that; b) her professional comments were ignored on at least two occasions during one of which he said, "keep your comments aside and don't compare other streets to the subject street"; c) BB indirectly told her to shut up and let the others at meeting concentrate on the application and BB addressed her manager above her head; d) she felt embarrassed, and offended by BB's conduct and felt he created a sexist attitude and manner when he spoke to her; e) BB was insistent on pushing her Manager to compromise about the application.
- 1.3 On 28 April 2010, the Standards (Assessment) Sub-Committee, considered the complaint from FI and decided to refer the complaint for investigation. The Sub-Committee also noted that FI had not particularised the breaches of the Local Code of Conduct ("the Code") and as a consequence identified the following paragraphs which may apply to the alleged conduct:-
- (a) "You must treat others with respect", contrary to paragraph 3(1)
  - (b) "You must not bully any person", contrary to paragraph 3(2)(b)
  - (c) "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute", contrary to paragraph 5
- 1.4 The Decision Notice in respect of FI's complaint is at Document 2.

## **2. The Process**

- 2.1 As part of my investigation I conducted face to face interviews with the following witnesses:-
- (a) The Complainant Fariba Ismat (FI) – interview statement dated 17 September 2010, (Document 3),
  - (b) The Senior Officer, Chris Smyth, (CS) – interview statement dated 15 September 2010, (Document 4),
- 2.2 Also as part of my investigation I wrote to TB and Mr Mackroy on 13 August 2010. However I received no response from either of them within the deadline (by 23 August) set in my letter. On 6 October following my interview with BB during the general discussion about witnesses, he commented that perhaps they had not received my letters or had insufficient time since August was generally a holiday period. On 6 October I therefore, wrote again to TB and Mr Mackroy. TB and Mr Mackroy provided a response on this occasion.



- 2.3 I interviewed by telephone TB, the Applicant - interview statement dated 12 October 2010, (Document 5)
- 2.4 Mr Mackroy provided me with some comments over the telephone. A file note (dated 11 October 2010) of his voicemail message dated 8 October 2010 is at Document 6. However I did not pursue a formal interview with him as I believed that I had sufficient information about the meeting for the purposes of this investigation.
- 2.5 It may be noted that all the witness statements are signed except for TB's statement. In my covering email of 12 October to TB I requested that a response be provided within a certain time frame (by 22 October) and if no response was received by the deadline set then it would be deemed that he had no objection to the information as set out in the statement. I did not receive a response from TB.
- 2.6 I conducted a face to face interview with BB and his interview statement dated 6 October 2010, is at Document 7.
- 2.7 It also needs to be noted that I wrote to BB on 23 June 2010 advising him about FI's complaint. On 28 June 2010 BB responded by telephone to my initial contact letter. BB wished to apologise for any offence caused to FI as he believed she was a note taker at the meeting. He had not realised she was the Case Officer. BB further advised me that in his employment he represented four Trade Unions and he was very aware of being customer focused. BB did not feel he had been sexist at the meeting. BB said that he has loud voice and that can be misunderstood at times in meetings. He was very saddened that FI felt he had been or that he had inadvertently come across in this way to FI. He was willing to apologise to FI in front of CS but not anyone else at the meeting. My file note dated 28 June 2010 is at Document 8.
- 2.8 On 28 June 2010 I wrote to FI explaining BB's offer of an apology.
- 2.9 Following the clarification of the investigation process by me to FI, on 13 July 2010, she advised me that she wished to continue with the formal complaint and did not wish to accept BB's offer of an apology. She felt that the apology was insufficient as the damage had already been done to her and that she had been "belittled in front of three people and nothing would reverse the situation" for her. FI's email requesting that I proceed with the investigation is at Document 9.

### **Statutory Framework**

- 3.1 The Relevant Authorities (General Principles) Order 2001 sets out the principles which are to govern the conduct of Members and two appear relevant to the complaint in question. This is:-

**"Respect for Others**

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

- 3.2 The Council adopted its current Local Code of Conduct for Members (“the Code”) on 21<sup>st</sup> May 2007.
- 3.3 All Members who are elected to office must sign a “Declaration of Acceptance of Office” before they can officially act as a Councillor. In that declaration they undertake to observe the Code as to the conduct which is expected of Members of the Council.
- 3.4 BB was first elected to SBC Council in May 2003 for a period of one year. He was re-elected to SBC in 2006 and again for a further four year period in 2010. BB signed his declaration of acceptance of office on 12 May 2010.
- 3.5 During his membership of SBC BB has attended the following training sessions on the Code:

12 <sup>th</sup> May 2003	Local Code of Conduct & Data Protection
9 <sup>th</sup> May 2006	Local Code of Conduct & Member/Officer Relations Code
1 <sup>st</sup> October 2007	Revised Local Code of Conduct/Ethical Framework/Member Officer Relations Code
3 <sup>rd</sup> November 2008	Local Code of Conduct
12 <sup>th</sup> May 2010	Local Code of Conduct & Member/Officer Relations Code

- 3.6 The Code is split into three parts:-

Part 1 is relevant and entitled, “General Provisions” and “General Obligations” of which paragraphs 3 and 5 are relevant for the purposes of this investigation. Paragraphs 3 and 5 state:

**paragraph 3(1)**

“You must treat others with respect”

**paragraph 3(2)(b)**

“You must not, bully any person”,

**paragraph 5**

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

- 3.7 It is helpful to refer to the Code of Conduct, Guide for Members, May 2007, (“the Guidance”), from the Standards Board for England (“the Standards Board”) on treating others with respect, bullying and bringing the elected office or Council into disrepute.
- 3.8 It is against the Guidance and these General Principles and the provisions of the Code that I have investigated the complaints.

### 3.9 Information about the planning application meeting on 23 march 2010:

The purpose of the meeting was to discuss the planning application and recent planning guidelines. The application had been dealt with by FI. Generally at SBC, it is a usual process to have these types of planning meetings between Applicants, their Architects/ Agents, Case Officers and Senior Managers. The meeting was held at St Martin's Place. The meeting room was not a big room. It is not very clear how the meeting room was arranged but it appears that BB sat at the head of the table; Mr Mackroy and TB sat at one side opposite CS. FI sat at one end of the table possibly to the left of CS and possibly opposite TB and Mr Mackroy. The evidence about seating arrangements is understandably patchy and not consistent between the witnesses. Witnesses do agree there were no formal introductions at the beginning of the meeting. Evidence suggests that in view of the fact that the parties were familiar with each other no names were provided and no job titles indicated but a simple greeting with possibly hand shakes between the parties took place in the reception area of St Martin's Place. In the meeting room, it is unclear how or who started the meeting off. Although it may not be appropriate to do so in these types of meetings, I note no Chair was appointed to facilitate the meeting and there are no formal minutes of the meeting. However, there is some agreement between the witnesses that most of the discussion took place between BB and CS with others contributing as they felt necessary.

#### 4. (A) Material Findings – You must treat others with respect

##### 4.1. **BB's conduct towards FI: BB ignoring her professional comments on at least two occasions during one of which he said, "keep your comments aside and don't compare other streets to the subject street"; BB indirectly told FI to shut up and let the others at meeting concentrate on the application and BB addressed FI's manager above her head;**

- (a) In her statement, FI says that in these types of meetings she lets her Manager talk and generally only expresses her opinion "*if and when I need to supplement our argument in support of our decision.*" (p1, par4). FI further states that she concentrated on the discussion sometimes she looked "*at the person speaking, sometimes at the plans and sometimes at the table.*" (p2, par8). In paragraph 9, FI refers to part of the meeting when she first felt her point was ignored by BB. She felt he made no eye contact with her or make an effort to listen to her. She states that CS noticed this and elaborated her point to BB. FI states that at paragraph 12 that, BB held, "*his hand towards me indicating a stop gesture and said "keep my comments aside and that we should not compare other streets to the subject street and that we should only concentrate on number 17 Lascelles Road."* At this point I felt belittled and embarrassed. I felt that he was being dismissive of me and my point again". On the basis of this FI kept quiet for the remainder of the meeting. FI further states that she did not take notes at the meeting, (p1, par5). FI was "*upset*" about BB being "*dismissive*" towards her at the meeting and discussed it with CS after the meeting. She confirms that CS was "*supportive*" and "*disapproved*" of BB's attitude to her in the meeting. (p3, par15).

- (b) CS states that *“the majority of the discussion was directed”* at him. And that *“Fariba did not take part in the discussion for the majority of the time.”* (p1, par3). CS further confirms that towards the middle of the meeting, FI *“raised a relevant point”* but that BB *“responded immediately and was very abrupt and dismissive of her view”* (p1 par 4). CS notes that BB had *“elements of abrasiveness in his tone”*. (p1, par4). CS states that there was probably merit in what BB said about not comparing another case to the property which was the subject of this application, however, he did feel that *“the manner in which he responded to her was unacceptable.”* (p1, par5). CS felt sufficiently *“uncomfortable”* about BB’s manner towards FI to discuss it with her after the meeting and if she felt *“unhappy”* to complain about BB’s conduct at the meeting. CS felt that BB had *“belittled a member of staff in front of the Applicant, Architect”* and him, (p2 par6). CS only recalled one occasion at the meeting where BB spoke in this manner to FI, (p2, par6). CS states that from his experience of seeing BB at planning committee meetings, he is aware that BB *“can be quite abrupt with anyone and forthright in his views.”* (p1, par6). And that he has got used to *“his style and manner in which he puts his points across.”* (p1, par6).
- (c) TB states that *“Fariba talked about her site visit and the visual gap between the properties. Chris had not been to the site. He was relying on information from me and Fariba”*. Further that *“I think that both parties were able to put their case forward. There were different views and interpretations but everyone at the meeting were able to put their points forward.”*. And again *“I do not recall that Fariba was prevented from putting forward her points. No, I do not believe Councillor Bains prevented her from saying what she wanted to say. She was the Case Officer and she put the Council’s case.”* TB refers to his experience of meetings in his professional work where people have *“behaved very badly”* and states *“this was not the case here at all. There was nothing untoward about this meeting. There was nothing to suggest anything out of the ordinary except just two parties’ differences of opinion about the planning application.”* Further TB states that BB has *“a loud voice”* and *“is quiet animated when he speaks”*. TB suggests that some people may feel BB is *“brash”* but he believes that those are just his *“mannerisms”*. (p2,par14).
- (d) Mr Mackroy, in his brief telephone message, simply comments that, *“as to an incident, I can’t think of any incident at the meeting I was at; it was a perfectly normal planning meeting”*.
- (e) BB states that he had not met FI until this meeting and that he did not know she was the Case Officer. BB confirms that on one occasion at the meeting he did ask FI to let CS *“speak”* and deal with the case. BB states that he said this on the basis that his understanding was that FI was a *“note taker”* and CS was the Senior Officer with whom they had come to discuss the application

since the case had already been discussed with the Case Officer. *“I made the assumption she was the note taker”*. (p2, par8). BB further states that he has a *“strong and loud”* voice and that *“it may come across differently to people at meeting.”* (p2, par9).

**4.2. BB’s conduct towards FI: FI felt BB created a sexist attitude and manner when he spoke to her;**

- (a) FI believes that she was treated differently by BB. When he was dismissive of her, she believes that he was saying, *“be quiet woman”* and that BB’s attitude towards her was *“saying let the men do the talking”*.
- (b) CS recalls BB’s dismissive attitude towards FI. He recalls, FI being referred to as, *“Officer”*. CS does not recall any *“overt sexist language”* used by BB towards FI. (p2, par9).
- (c) TB comments in paragraph 13 that *“I do not think she was treated differently to anyone else at the meeting. Everyone was able to put their points, that’s what the meeting was for, it was an open discussion.”* (p2, par13). And further at paragraph 17 he states that he does not recall BB treating FI, *“differently or that he spoke to her in a different way to anyone else at the meeting. I did not come out of the meeting thinking that there was something wrong or someone was excluded from the meeting, absolutely not...I do not recall Councillor Bains saying to Fariba to let Chris speak. I do not recall Councillor Bains excluding Fariba from the discussion.”*
- (d) BB confirms that, he referred to FI as, *“Officer”*. (p2, par8). BB states at paragraph 11 of his statement that, he does not feel he treated FI, *“any differently because she was a woman”*. Further that in his employment and as an elected member and community leader he knows the importance of respecting an individual *“because I deal with so many different people of different gender, caste, creed, and religion”*. BB states that his Sikh faith has taught him *“to have the deepest respect for women and their rights as equals in all walks of life”*. (p2, par11).

**4.3. BB’s conduct towards CS about the planning application: BB was insistent on pushing CS to compromise about the application:-**

- (a) FI describes her experience of BB’s conduct at the meeting as being *“pushy”* with an attempt to *“persuade my Manager to compromise...”* about the application, (p2, par11).
- (b) CS confirms at paragraph 8 of his statement that BB’s general approach to planning meetings *“is to try and obtain a compromise.”* He further states that at the meeting he did not *“feel any more pressure than usual to change his views or relax the planning guidelines.”*
- (c) TB confirms at paragraph 10 of his statement that the aim of the meeting was to try and reach a compromise, *“This was the main thrust of the meeting.”* He further states that BB *“was asking the Officers to look at the case and reach a resolution”* (p2, par15). The principle they had in mind

was to avoid the case going to planning committee and causing him to await a decision for several more months. In the end TB states he was very frustrated with the meeting as it could have been *“more productive”* (p3, par16), and in the end the application was heard by the planning committee and it was granted, (p2, par15).

- (d) BB states that he was not asking CS *“to change his mind”* but to meet the applicant *“half way”*. He states that he appreciates CS has to make decisions within the planning guidelines and regulations. Furthermore BB states that he was trying to avoid the planning committee’s time being wasted if the application was a *“call-in”* and thus acting *“in the best interests of my constituent and the Council’s time.”* (p2, par9).

**4.(B). Reasoning – “You must treat others with respect”**

**1) BB’s conduct towards FI: –**

- a) It is accepted by BB that he did mostly refer to CS about the application as he believed he came to have a discussion with the Senior Officer. And further that he believed that FI was a note taker. He made an assumption about FI’s role at the meeting and he did not know she was the Case Officer. I do find that the lack of formal introductions at the meeting did not do much to help the situation. I do accept FI’s point that BB ought to have respect for the views of all SBC Officers regardless of their status, however at this meeting it is evident that in BB’s mind he had come to discuss the case with the Senior Officer and had not anticipated hearing any views from the Case Officer.
- b) BB does not accept that he was abrupt or sexist in his attitude when he asked FI to let CS speak and not refer to other streets but concentrate on the application road. However both CS and FI state that BB was *“dismissive”* of FI’s views at the meeting. CS does not refer to any sex discrimination against FI by BB. On the other hand TB states that he did not think there was any bad behaviour at the meeting but just a difference of opinion about planning issues. FI’s feelings about being treated differently are strong and have to be accepted as genuine. However my minor observation on this point is that it is possible that having felt *“belittled”* by BB, in her embarrassment she has read too much into the situation. At the same time it needs to be noted that there were no other women at the meeting and as such, whilst I fully acknowledge the awareness that most men working in an organisation such as SBC would have of sex discrimination, it is possible that any undercurrent of sex discrimination could have gone unnoticed by the men at the meeting. I also accept that because of BB’s Trade Union roles and his background that he would be more aware than most other people of ensuring that there was no discrimination against a woman. FI is the only one who refers to the raised hand gesture by BB indicating to her to stop when she was expressing her views. It is possible only she was aware of this movement of the hand as it was directed at her and no-one else noticed it. BB may be simply unaware of his

body language. However, it is notable that the evidence shows that BB referred to FI in neutral terms by calling her “Officer” and none of the witnesses recall any overt physical or verbal sexism by BB.

- c) Overall I believe the evidence shows and BB accepts that he may have inadvertently failed to acknowledge FI as the Case Officer and as such give due regard to her views. His view was that he came to discuss the application with the Senior Officer since the applicant and architect had already discussed it with the Case Officer.
- d) In view of the fact that I have found both BB and FI to be wholly genuine about their personal feelings about the meeting and the evidence from the witnesses being so evenly balanced I am unable to reach a conclusion on whether BB failed to treat FI with respect and whether BB had a sexist attitude towards FI.

#### **4.(B). 2) BD’s Conduct towards CS:**

CS’ own evidence shows that CS did not feel he was overly pressured by BB to reach a different conclusion on the planning application. CS accepts that BB’s approach is generally to try to reach a compromise. BB accepts that his purpose and that of the applicant for the meeting was to find some middle ground and avoid the application having to go to planning committee thereby saving time for both SBC and TB. BB accepts that CS has to work within the parameters of planning guidelines and regulations. CS did not overturn his original decision. I therefore do not find that BB failed to treat CS with respect.

#### **5(A). Material Findings – “you must not bully any person”**

- 5.1 Bullying can be a one off incident. Bullying can be offensive, intimidating, malicious, insulting or humiliating behaviour directed towards a weaker person.
- 5.2 CS dealt with the meeting without difficulty.
- 5.3 When BB spoke to her in the manner that he did FI did feel vulnerable as a woman but I am not entirely sure that in this situation she can be considered to be a weaker person. Witnesses do not refer to any words or actions which would indicate bullying at the meeting. BB’s own evidence suggests that his comment was based on his own unfounded assumption about FI’s role at the meeting. BB further asserts that he did not intend to cause offence and thus no intimidation, malice, insult or humiliation was intended by BB. FI did feel belittled and embarrassed but she does not describe any words or action which indicate she felt bullied by BB. FI did go quiet when BB asked her to let CS speak, however she remained in the meeting room and carried on with the meeting so I find that whilst she was upset she was able to cope reasonably well with BB’s comments. FI simply saw BB’s behaviour as rude and unacceptable.

5.4 I therefore make no significant material findings of bullying at the meeting since there is little evidence to indicate bullying.

**5(B). Reasoning - “you must not bully any person”**

5.5 I find no bullying conduct by BB as there is little evidence to show any bullying occurred at the meeting.

**6(A). Material Findings - “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”.**

6.1 I make no significant material findings that BB conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute. I do note that evidence shows and BB accepts that he did not pay attention to FI’s views as he believed she was a note taker and he did not appreciate she was the Case Officer. I further note that FI felt “belittled” in front of the applicant, architect and her manager.

**6(B). Reasoning – “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”.**

6.2 I do not find that BB conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute. BB was acting in his official capacity at the meeting but the evidence shows that there was a debate about the application of planning policies and guidelines to a particular case. Whilst BB accepts he did not pay attention to FI’s views because he believed she was a note taker and FI felt “belittled” there is no evidence that this was of a level to bring his authority or office into disrepute. CS noticed that FI was upset and provided appropriate support to her. The matter on the whole was unnoticed by the applicant and architect as they did not consider anything out of the ordinary happened at this meeting.

**7. Conclusions and Recommendations**

7.1 I do find that the evidence is inconclusive about whether BB failed to treat FI with respect.

7.2 I do find that the evidence is conclusive that BB did not fail to treat CS with respect.

7.3 I do not find that there was any bullying by BB at this meeting.

7.4 I do find that BB’s conduct has not brought his office and authority into disrepute.

7.5 I make one observation in that the evidence suggests that although this was a formal meeting, it was conducted with a degree of informality. I think that if there had been formal introductions at this meeting and the purpose of the meeting and roles outlined at the onset then this situation may not have arisen. Also in my view the meeting needed to identify a Chair or Facilitator at the onset.



Furthermore formal minutes ought to have been taken in accordance with SBC's Constitution, Part 5.5, paragraph 5.8, which states, that, *"In accordance with the resolutions of the Special Meeting of the Council on 28 April 1999 a note will be taken of all meetings dealing with matters of significance between Members and Officers, setting out where appropriate, advice given and decisions taken and this note will subsequently be circulated to those present."* The evidence points to the fact that BB believed the meeting was to discuss the application with CS as the Senior Officer whereas FI clearly had expectations that her views as the Case Officer would be heard by BB. Furthermore whilst BB may be forthright in his views it may be helpful for him as an elected representative, attending such meetings as a "middle person" between constituents and SBC Officers, that at the end of a meeting he himself ensures everyone has had an opportunity to express their views by simply asking that question and listening to any further comments. I do have the impression from the evidence that overall this situation has arisen out of misunderstanding, miscommunication and a lack of clear practical steps for the conduct of a formal meeting.

- 7.6 I make recommendations for support to be given to both BB and FI to reach a mutual understanding about this matter in the interests of future working relationships between a Member and Officer.
- 7.7 I would like to record my thanks to all parties for the co-operation I have received in investigating this complaint.
- 7.8 In summary I conclude that:-
- a. I do find that the evidence is finely balanced and inconclusive as to whether BB has breached paragraph 3 of the Code in that he has failed to show respect for FI at the meeting on 23 March 2010.
  - b. I find that BB has not breached paragraph 3 of the Code in that he has not failed to show respect for CS at the meeting on 23 March 2010.
  - c. I find that BB has not breached paragraph 3(1)(b) of the Code, in that he has not bullied CS at the meeting 23 March 2010.
  - d. I find that BB has not breached paragraph 5 of the Code in that he has not conducted himself in a manner which can reasonably be regarded as bringing his office and authority into disrepute at the meeting on 23 March 2010.

**Date: 21<sup>st</sup> December 2010**  
**Kuldip K Channa,**  
**(Litigation Solicitor)**  
**Standards Investigation Officer,**  
**For and on behalf of the Monitoring Officer**

## **LIST OF DOCUMENTS ANNEXED TO REPORT**

- 1) Fariba Ismat's Complaint undated
- 2) Decision Notice SBC 17 dated 6 May 2010
- 3) Fariba Ismat - interview statement dated 17 September 2010
- 4) Chris Smyth - interview statement dated 15 September 2010
- 5) Taj Bansal - interview statement dated 12 October 2010
- 6) Mr Mackroy – file note regarding telephone message dated 11 October 2010
- 7) Councillor Balvinder Bains - interview statement dated 6 October 2010
- 8) File note dated 28 June 2010, of telephone conversation regarding the offer of an apology by Councillor Bains
- 9) Email dated 13 July 2010 from Fariba Ismat to Investigating Officer, regarding the request to continue the investigation,

**Members' local code of conduct - complaints form**

**Important: Please read attached guidance notes before completing this form.**

Document 1

**1. Your details**

Title:\*  
First name:\*  
Last name:\*  
Address line 1:\*  
Address line 2:\*  
Town:\*  
County:\*  
Postcode:\*  
Daytime telephone:  
Evening telephone:  
Mobile number:

Ms
Fariba
Ismat
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
1753477360
[REDACTED]
[REDACTED]

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

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

- \* the Monitoring Officer of the authority
- \* the parish clerk (only if the complaint concerns a Parish Councillor)

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 to be able to deal with it.

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

An elected or co-opted member of an authority
-----------------------------------------------

**3. Equalities monitoring**

It would be helpful for us to know about your background so we can check that we are meeting the needs of the whole community. Please do complete the equalities monitoring section further down.

**4. Making your complaint**

Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their authority:

First name  
Last name  
Council or authority name  
First name  
Last name  
Council or authority name  
First name  
Last name  
Council or authority name  
First name  
Last name  
Council or authority name

Balvinder
Bains
Councillor

5. Please explain in this section what the Member has done that you believe breaches the 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 the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Standards (Assessment) Sub-Committee 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 it was they said
- \* 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 are any witnesses to the alleged conduct and provide their names and contact details if possible
- \* You should provide any relevant background information

Please provide us with the details of your complaint:\*

This formal complaint is filed against Cllr. Balvinder Bains behaviour/attitude towards me on a pre-application meeting held on Tuesday 23/03/2010.  Present at the meeting were, Chris Smyth,
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Cllr. Bains, Mr. Bansal (the applicant) and his agent Mr. Mackrory and of course myself.

The meeting was in relation to a planning application for no. 17 Lascelles Road which we were going to refuse it. Cllr Bains came to the meeting by the of request of the applicant to support his application which was consequently called in to the planning committee.

Chris Smyth (my line manager) was leading the meeting and I as the case officer was giving my opinion as and when I thought was necessary and appropriate. However; Cllr. Bains did not appreciate my comments/opinions and ignored me fist time round after which Chris elaborated on my comments and tried to get my point across to them. The second time I raised an issue which was very relevant to the argument they were making, Cllr. Bains actually told me keep my comments aside and that we should not compare other streets to the subject street and that we should only concentrate on no. 17 Lascelles Road.

I felt that in an indirect way he was telling me shut up and let the rest of them to concentrate on the application in hand. I also got the feeling that he thought of me as a less important person and only pushed Chris to think again and again and make a compromise.

He embarrassed me in front of Chris, the applicant and his agent. I felt deeply insulted and offended by his attitude and the manner he spoke to me.

I felt he created a sexist attitude/atmosphere in the room by ignoring me the only female in the meeting room and by just getting the men involved in the discussions.

He did not give me any credit as a case officer or someone with some authority in the planning department.

I also got the feeling that he thought he was above the planning system and that he could push Chris to think again and again over an issue that he knew we were not going to compromise as the issue was totally against the recently adopted guidelines - something he himself voted for approval.

I am not sure what the next step is; however I would like to make it clear that I expect a full written apology from Cllr. Bains for his insulting attitude towards me in that meeting.

Kind regards

Fariba Ismat

**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 help in completing this form, please contact June Cook, Member Services Manager, 01753 875019 or email: [CouncillorComplaints@slough.gov.uk](mailto:CouncillorComplaints@slough.gov.uk).**

**Equalities monitoring form**

**It would be helpful for us to know about your background so we can check that we are meeting the needs of the whole community. If you feel that the group you identify with is not listed, please feel free to write this in.**

Gender:

Age:

Do you consider yourself to have a disability?:

Religion and Belief:

If other, please specify:

Your ethnic background/origin

White:

If other, please specify:

Mixed:

If other, please specify:

Asian or British Asian:

If other, please specify:

Black or Black British:

If other, please specify:

Chinese or other ethnic group:

If other, please specify:

I do not wish to give this information:



Document 2

**SLOUGH BOROUGH COUNCIL**  
**STANDARDS (ASSESSMENT) SUB-COMMITTEE**

**DECISION NOTICE**

Reference: 2010/SBC17

**1. Complaint**

On 28<sup>th</sup> April 2010 the Standards Committee of this Council considered a complaint from Fariba Ismat concerning the alleged conduct of Cllr Balvinder Bains, a Member of this Authority.

A general summary of the complaint is set out below:

The Complainant alleges that the Subject Member's conduct at a pre-application meeting with the applicant and his agent and other Councillors present on the 23<sup>rd</sup> March 2010 was unacceptable as he was intimidating and insulting towards her. In summary the facts alleged are as follows:-

- (a) The Complainant's professional comments/opinions (as case officer) were ignored on at least two occasions at the meeting by the Subject Member who told the Complainant to "keep your comments aside and don't compare other streets to the subject street", and gave her no credit as a person with some authority within the Planning Department.
- (b) The Complainant felt the Subject Member was indirectly telling her to shut up and let the rest of them to concentrate on the application in hand, she felt the Subject Member felt less of her as he addressed the Complainant's line manager above her head.
- (c) The Subject Member embarrassed the Complainant in front of her line manager, the applicant and the agent; thereby feeling deeply insulted and offended by the Subject Member's attitude and the manner in which he spoke to the Complainant and he created a sexist attitude and manner when he spoke to the Complainant (she was the only female present at the meeting).
- (d) The Subject Member was insistent on pushing the Complainant's Manager to compromise over an issue in discussion at the said meeting.

**2. Decision**

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

I identify below the paragraphs of the Local Code of Conduct which may apply to the alleged conduct. The investigator will determine which paragraphs are relevant during the course of the investigation:-

- (a) failing to treat others with respect,
- (b) bullying, and
- (c) bringing an office or authority into disrepute.

3. **Reasons for Decision**

Please see the attached guide on the investigations process.

4. **Terms of Reference/Right of Review**


The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of authority members and requirements for dealing with this.

The regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committee) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

5. **Additional Help**

If you need additional support in relation to this or future contact with us, please let us know as soon as possible by contacting June Cook, Member Services Manager on (01753) 875019 or by e-mail at [june.cook@slough.gov.uk](mailto:june.cook@slough.gov.uk). If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

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

Signed:  Date: 6<sup>th</sup> May 2010  
Maria Memoli, Monitoring Officer, for and on behalf of the Sub-Committee





**STATEMENT OF WITNESS**

**STATEMENT OF: Fariba Ismat**

**AGE OF WITNESS: Over 21**  
(if over 21, enter "over 21")

**POSITION HELD: Planning Technician, Green and Built Environment, Slough Borough Council,**


This witness statement is in respect of the Standards Investigation regarding a Code of Conduct matter in the case of Councillor Bains - Compliant reference SBC17 in relation to his conduct at a pre-application planning meeting on 23 March 2010.

1. On the 23 March 2010, a meeting took place between myself, Chris Smyth, the Applicant, the Agent and Councillor Bains. It was to discuss the possibility of finding a compromise or a middle ground to enable approval of the planning application in respect of 17 Lascelles Road. It is normal procedure for me to discuss the application with Chris in order to get his view and inform him about the planning issues prior to the meeting.
2. The meeting was at St Martin's Place. I met the Applicant, Agent and Councillor Bains in the reception area. Chris was with me as well. I had met the Applicant before but I cannot remember if there were any formal introductions. It is normal practice for Applicants to request the support of their Ward Councillor and therefore prior to the meeting I was made aware that Councillor Bains was going to attend the meeting. I had not met Councillor Bains before 23 March.
3. In the meeting room I sat next to Chris in order to assist him with the discussions and papers. I sat to the left of Chris. Councillor Bains was directly opposite Chris. The Applicant and Agent sat next to each other on the right side of Chris and directly opposite to me. I cannot recall if there were any formal introductions at this stage but generally Chris does introductions at the start of a meeting. I had not met the Agent before but I had met the Applicant when I went to a site visit.
4. The meeting began with me opening the file and unfolding the plan. Chris started the discussion. He is my Manager and I always let him talk and I only express my opinion if and when I need to supplement our argument in support of our decision. Chris referred to policies and guidelines in support of our decision.
5. When Chris started the discussion I listened to the points being made. I did not make any notes at this meeting. I am aware that Chris makes notes of the meeting at the end and these are the notes which are relied on I do not therefore usually make notes in these meetings unless I am attending the meeting without Chris. At the interview at the request of the Standards Investigator I have checked the Planning file and there are no notes of the meeting of 23 March on the file. I am therefore sure that I did not take any notes at the meeting.

6. The Applicant and Councillor Bains made most of the points. Chris was responding to them and referring them to the policies and especially the guidelines adopted in January 2010. This new guideline in relation to the "set in" of the first floor side extension by one metre from the boundary line was proving to be quite controversial and had never been applied before and Applicants were having difficulty in accepting it.
7. The Agent did not really join the discussion much and only talked about the technical issues as when they arose.
8. During the discussion sometimes I looked at the person speaking, sometimes at the plans and sometimes at the table but continuing to concentrate on the discussion.
9. The first time I tried to make a point in the meeting Councillor Bains ignored me. I was sitting on his right and he made no eye contact with me and no effort to listen to what I had to say about the application. I think Chris noticed Councillor Bains' dismissive attitude towards me as he continued to elaborate my point in the discussion and support my argument.
10. Then during the middle of the discussion, I made another point about another application in a nearby street which was going through the same issues based on the January 2010 guidelines. I wanted to make this point because Councillor Bains and the Applicant had spent a long time resisting the new guidelines to this application. I wanted to make them aware that we were applying these guidelines on other applications as well and the fact that the nearby street character was similar as the Lascelles Road.
11. In my view as a Councillor, he should encourage people to have more consideration to the planning authorities' policies and guidelines as well as giving the Applicant a fair chance to have the extension they want. Having experienced Councillor Bains "pushy" attitude to try and persuade my Manager to compromise, that is basically to allow the larger first floor side extension despite the policy guidelines made me wonder what was his motivation.
12. After I had just finished making this point Councillor Bains put his hand towards me indicating a stop gesture and said "*keep my comments aside and that we should not compare other streets to the subject street and that we should only concentrate on number 17 Lascelles Road.*" At this point I felt belittled and embarrassed. I felt that he was being dismissive of me and my point again. Whatever I said was not important and that he only needed to persuade Chris to make a compromise. I felt Councillor Bains was telling me to "be quiet woman". There were four men in the room and although I felt Chris was supportive of me I did however feel that Councillor Bains' attitude towards me was saying let the men do the talking.
13. Councillor Bains did not know my name and did not make an effort to know who I was. He did not know I was the Case Officer for this application. I feel that as an elected Member who attends planning meetings like this one regularly, he should have known that I was the Case Officer as it is normal practice for the Case Officer and the Manager to attend these types of meetings.
14. After this second comment by Councillor Bains, I decided to keep quiet for the rest of the meeting. The meeting finished with Chris giving the Applicant the various options to progress the case as no compromise could be made on this application. Chris made some notes in his notebook for his record of the case. The meeting finished and we saw them out to the reception area.
15. Chris and I came back to the office and Chris noticed that I was upset by the way in which Councillor Bains had been dismissive of me at the meeting. He was

- supportive of me and disapproved of Councillor Bains' attitude towards me in the meeting and said that if I felt I needed to I could make a formal complaint.
16. Following this meeting, I had another meeting arranged with Councillor Bains and an Applicant and my Manager on the nearby street planning application which was the example I was trying to give at the meeting on 23 March. I went to meet Councillor Bains in the reception of St Martin's Place. The Applicant had made a mistake and gone to the Town Hall for the meeting and arrived a few minutes late. From my observations Councillor Bains was very rude to the Applicant about just being five minutes late. The fact that it was similar planning issues as before and due to his attitude to the Applicant and my previous experience during the meeting of 23 March, I felt that it was best that I did not attend this meeting with Councillor Bains. I discussed this with my Manager and he agreed for me not to attend the meeting as he had sufficient information and decision making powers to attend the meeting on his own. It is not unusual for a Manager to attend the meeting without the Case Officer.
17. When my complaint was made known to Councillor Bains by the Investigator, I was contacted by her to advise me that Councillor Bains had made an offer of an apology to me in front of my manager. She advised me that he said that he thought I was the note taker at the meeting. I thought about the offer of an apology but the more I thought about it the more I was offended by the fact that Councillor Bains was trying to justify his attitude towards me because he thought I was a note taker. My point is that as an elected Member he should have equal respect for any Officer of the Council regardless of their status.

**I hereby declare that this a true and accurate record of the interview on 17 September 2010 and this is an agreed record of that interview. There are 3 pages. I consent for any details to be used for this investigation. I confirm that I have been advised that the investigation is subject to rules of confidentiality and disclosure under the provisions of the Local Government Act 2000. The record is being provided to me solely to confirm the accuracy of the interview and it will not be disclosed or used for any other purpose.**

Signed: 

Date: 22/09/2010

NAME: Fariba Ismat





Document 4

**STATEMENT OF WITNESS**

**STATEMENT OF:** Chris Smyth

**AGE OF WITNESS:** Over 21  
(if over 21, enter "over 21")

**POSITION HELD:** Development Control Team Leader (East Side), Green and Built Environment, Slough Borough Council,

This witness statement is in respect of the Standards Investigation regarding a Code of Conduct matter in the case of Councillor Bains - Compliant reference SBC17 in relation to his conduct at a pre-planning meeting on 23 March 2010.

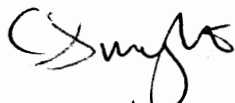
1. A meeting to discuss the planning application in respect of 17 Lascelles Road was requested by Applicant. I am unsure if the request was made to Fariba Ismat, (Planning Case Officer), or myself however either way there is little difference as the meeting was arranged for 23 March 2010 at the Council Offices at St Martins Place. Both Fariba and myself were aware that Councillor Balvinder Bains would be attending the meeting with the Applicant.
2. At the meeting as I recall, I was seated opposite the Applicant, the Architect and Councillor Bains. Fariba was sitting at the end of the table to the left. There were probably no formal introductions at the start of the meeting other than the usual introductions when we met them at the reception area.
3. From the start of the meeting the majority of the discussion was directed at me and I responded as well. Fariba did not take part in the discussion for the majority of the time. Fariba and I had already discussed the case prior to the meeting and as her Line Manager I was aware of all the relevant issues in the case. Fariba was listening and taking notes. My view is that Fariba was happy with the way the discussion was going but would have contributed more had the need arisen.
4. About half through the meeting, Fariba's contribution to the discussion was when she raised a relevant point because it was about a similar case relating to another property. Councillor Bains responded immediately to her and was very abrupt and dismissive of her view. His tone was quite aggressive in that it was not threatening but had an elements of abrasiveness in his tone. Fariba went quiet. I think I pursued the point further.
5. I think that Councillor Bains' point to Fariba was about sticking to the merits of the case rather than comparing it with another case relating to a property in different street. I think that there was perhaps some validity to his point however that the manner in which he responded to her was unacceptable.
6. I have been in meetings with Councillor Bains on various occasions and I am aware of his style and the manner in which he puts his points across. From my experience of attending Planning Committee I am aware that he can be quite abrupt with anyone and forthright in his views. At the meeting on 23 March, I think

he belittled a member of staff in front of Applicant, Architect and myself. I was uncomfortable with the way in which Councillor Bains spoke to Fariba, however it was not appropriate to challenge him in front of the people. I only recall this one exchange during the course of the meeting.

7. After the meeting I spoke to Fariba about how she felt about the way Councillor Bains spoke to her in the meeting and that if she was unhappy she should make a formal complaint.
8. Generally Councillor Bains' approach to these types of planning meetings is to try to obtain a compromise but this is not always possible. At the meeting I did not feel any more pressure than usual to change my views or relax the planning guidelines.
9. At the meeting I recall that Councillor Bains referred to Fariba as "Officer". He called me "Chris" as he knows me from previous meetings and Committee meetings. I do not recall any overt sexist language used by Councillor Bains in any references to Fariba.
10. It is not unusual for me as the Line Manager to take the lead in these types of meetings. This was a difficult case and I was familiar with the issues so was leading this discussion.

**I hereby declare that this a true and accurate record of the interview on 15 September 2010 and this is an agreed record of that interview. There are 2 pages. I consent for any details to be used for this investigation. I confirm that I have been advised that the investigation is subject to rules of confidentiality and disclosure under the provisions of the Local Government Act 2000. The record is being provided to me solely to confirm the accuracy of the interview and it will not be disclosed or used for any other purpose.**

Signed:



Date:

16/9/2010

NAME:

Christopher Smyth



**STATEMENT OF WITNESS**

*Document 5*

**STATEMENT OF: Mr Taj Bansal**

**AGE OF WITNESS: Over 21**  
(if over 21, enter "over 21")

**POSITION HELD: Planning Applicant, (17 Lascelles Road, Slough)**

This witness statement is in respect of the Standards Investigation regarding a Code of Conduct matter in the case of Councillor Bains - Compliant reference SBC17 in relation to his conduct at a pre-application planning meeting on 23 March 2010.

1. On the 23 March 2010, I attended a meeting with Chris Smyth and Fariba Ismat. Councillor Bains came to the meeting with me as well as my Architect Pat MacKroy.
2. I knew Fariba Ismat as the planning case officer. I had spoken to Chris Smyth on the telephone before the meeting.
3. When we came to the reception area at the Council I asked for Mr Smyth. He came out to meet us with Fariba.
4. At the reception I think that we all shook hands but I am not sure if there were any formal introductions. It is a long time ago now and I cannot remember all the information in detail. I remember that there was some confusion about which room the meeting was going to be held.
5. When we got to the meeting room, I think that Pat, sat on my right. It was a "squarish" table. Councillor Bains sat to my left. I think that Fariba and Chris sat opposite us.
6. I had taken some plans and photographs to support my arguments about my planning application and how it was suitable to be approved. I had evidence to put forward in my case.
7. I introduced why we were at the meeting, about what I could or could not do. I had already had some feedback from Fariba about the planning application, some of the objections that there were to it by the Officers. I brought along the planning guidelines as well.
8. I think that everyone contributed to the meeting. There was no one person talking more than the other. It was an open discussion. Pat, spoke and said the application of the rules were not appropriate to my application.

9. Councillor Bains gave some reasons as to why my application should be granted. When I engaged his help I had already spoken to him about the Officers' objections. He had agreed that the guidelines were not that clear and that they did not seem to apply to my case. There were other developments on the same road and I was not asking for anything more or above and beyond what others had done on the road. Councillor Bains supported my application as I had asked for his help.
10. I remember that Councillor Bains did say lets use the meeting to see if we could reach a compromise between the parties, to find a way forward. This was his main thrust at the meeting. There was no need to be poles apart and then have to take the case to the planning committee.
11. Fariba talked about her site visit and the visual gap between the properties. Chris had not been to the site. He was relying on information from me and Fariba. This was why I had brought lots of photographs to the meeting. On the road there is not much visual gap between the houses, other properties are developed. My application was more or less in scale to what was already on the road.
12. I think that both parties were able to put their case forward. There were different views and interpretations but everyone at the meeting were able to put their points forward.
13. I do not recall that Fariba was prevented from putting forward her points. No, I do not believe Councillor Bains prevented her from saying what she wanted to say. She was the Case Officer and she put the Council's case. I do not think she was treated differently to anyone else at the meeting. Everyone was able to put their points, that's what the meeting was for, it was an open discussion.
14. Generally I think that Councillor Bains has a loud voice. He is quite animated when he speaks. I have met him during the elections and his mannerisms are always the same. Some people may think he is brash but that's just him. I think that he spoke at the meeting in the same way as I have seen him do at other times. It was no different.
15. From what I remember, Councillor Bains wanted to use the meeting to get a resolution. Reference was made to other properties. He wanted the Officers to consider the other properties and the guidelines, that is the merits of my planning application. He was asking the Officers to look at the case and reach a resolution. I felt that we were going around in circles for a lot of the meeting. I think we could have sat there all day. The Officers were saying that the rules had changed and they did not want to set a precedent. We were saying that precedents had already been set on the road. I had put in my planning application only a few days after the rules had changed. I felt I had been disadvantaged and the goal posts had been changed. I think that even with the new planning guidelines I felt that they were



being applied to my case more harshly. In the end I had to take the case to the Planning Committee. I used the same evidence at the Planning Committee as I brought to this meeting and I made the same points. The Planning Committee agreed with me as my case was unique and this is what we were trying to say to the Officers at the meeting.

16. The meeting with the Officers was frustrating for me as the meeting was not moving on. I thought it could have been more productive and we could have reached a middle ground. It was very frustrating for me to go to the Planning Committee and have to wait another four or five months for a decision. The decision could have been made at the meeting with the Officers. I feel my case was not treated on its merits but the Officers were too worried about safeguarding not setting a precedent and protecting a policy. I think they could have acted a lot better about my planning application.
17. I do not think Councillor Bains treated Fariba differently or that he spoke to her in a different way to anyone else at the meeting. I did not come out of the meeting thinking that there was something wrong or someone was excluded from the meeting, absolutely not. There were differences of opinion about the policy guidelines and how they applied to my case. I do not recall Councillor Bains saying to Fariba to let Chris speak. I do not recall Councillor Bains excluding Fariba from the discussion.
18. I did not respond to the first letter the Investigation Officer sent to me because due to work commitments, the time given in the letter to respond had passed. I have not spoken to Councillor Bains about this investigation. The last time I saw Councillor Bains was sometime during the elections.
19. I am really surprised about the complaint. In my professional work I have been to meetings where people have behaved very badly, this was not the case here at all. There was nothing untoward about this meeting. There was nothing to suggest anything out of the ordinary about this meeting except just the two parties' differences of opinion about the planning application.

**I hereby declare that this a true and accurate record of the interview on 12 October 2010 and this is an agreed record of that interview. There are 3 pages. I consent for any details to be used for this investigation. I confirm that I have been advised that the investigation is subject to rules of confidentiality and disclosure under the provisions of the Local Government Act 2000. The record is being provided to me solely to confirm the accuracy of the interview and it will not be disclosed or used by me for any other purpose.**

**Signed:**

**Date:**

**NAME:**



Slough Borough Council

Iken Quicknote

Document 6

**Date:** 11 October 2010

**Client:** SBD Resources Directorate

**Matter:** 013091-COR-288 - Standards Investigation SBC17 Councillor Bains 23 March 2010

**Name:** Kuldip K Channa (T: 01753 875189 E: kuldip.channa@slough.gov.uk )

---

tele message recieved on  
8/10/10 at 4:30pm  
from Mr MacKroy  
[REDACTED]

re incident of 23 March  
he did not respond to letter as he did not recieve letter until after 23 August, the date by  
which a response was expected.

And

"as to an incident, I can't think of any incident at the meeting I was at; it was a perfectly  
normal planning meeting;  
you are welcome to contact me if you want;  
telephone number supplied - [REDACTED]."  
KKC.

Tele call to Mr MacKroy, voicemail – left message for him to contact me.  
KKC.





**STATEMENT OF WITNESS**

*Document 7*

**STATEMENT OF:** Councillor Balvinder Singh Bains

**AGE OF WITNESS:** Over 21  
(if over 21, enter "over 21")

**POSITION HELD:** Elected Member, Slough Borough Council,

This witness statement is in respect of the Standards Investigation regarding a Code of Conduct matter in the case of Councillor Bains - Compliant reference SBC17 in relation to his conduct at a pre-application planning meeting on 23 March 2010.

1. On the 23 March 2010, I attended a meeting with Chris Smyth, another Council Officer (who I now know was Fariba Ismat), the Applicant, and the Agent regarding the planning application in respect of 17 Lascelles Road. If requested to do so it is normal for me to represent constituents at these types of meetings with Officers at the Council.
2. I am not hundred percent sure but I think that both the Officers met us at the reception. I certainly remember Chris guiding us to the room. I do not remember formal introductions. I knew Chris from my previous planning meetings and also that he was a Senior Planning Officer. I did not know Fariba. I am not sure if Chris introduced her as the Case Officer as I cannot remember because it was too long ago. I had not met Fariba before this meeting.
3. I am not sure if there were any formal introductions in the meeting room. It was a long time ago and I do not remember all the details.
4. It was not a big room. I cannot recall who sat where at the meeting.
5. I think that I or the Agent or Mr Bansal may have started the meeting. I am not sure as it was so long ago now. At these sorts of meetings I am not the spokesperson but just there to facilitate the meeting to see if the Applicant and the Council can come to some mutually agreed solution instead of wasting the Planning Committee's time by putting a "call in". This means that the Planning Committee would need to consider the application.
6. I think that I said to Chris he should visit the property and see the different properties on that road as they were all individually extended to the maximum. I think Chris may have said this was long time ago and some of the properties were overlooked. There were some

photographs which Mr Bansal brought to the meeting. I think I said to Chris to look at the photographs and that all the properties were extended differently. I was not asking Chris to override anything. I was just asking him to look at the example of different properties and then make a decision.

7. I am not sure but I think that Fabira may have said something about the extension.
8. I said to her "Officer, please let Chris speak." I said this on the understanding that Chris was the Senior Officer. My view is that the Agent and Applicant had already discussed the Planning Application with a Case Officer so this was an opportunity to discuss it with the Senior Manager. However I would like to stress that I did not realise she was the Case Officer. I thought that we were at the meeting to discuss the case with the Senior Manager and that she was the note taker. I knew Chris as the Senior Officer and the meeting was with the Senior Manager. I made the assumption that she was the note taker. I did not realise that she was the Case Officer as I had not met her before as part of the planning meetings at any time.
9. I only remember one occasion as described above in paragraph 8 that I asked her to let Chris speak. I do not remember any other occasion at the meeting. I was not abrupt and I did not raise my voice. However generally my voice is strong and loud and it may have come across differently to people at meeting. I did not mean to offend her by asking her to let Chris speak. I was not asking Chris to change his mind but to take another look at the application again and meet the Applicant half way. I know that Chris has to act under the planning guidelines and regulations. At no time was I putting any pressure on Chris to change his mind. I was just trying to avoid wasting the full planning committee's time with the "call-in". I feel that I was trying to act in the best interests of my constituent and the Council's time.
10. Finally, the planning application had to be "called in" by me and the Planning Committee decided the application in favour of the Applicant.
11. I would like to say that in my full time employment I am a full time Trade Union side Secretary for four Unions at Heathrow. I do not feel I treated Fariba any differently because she was a woman because I deal with so many different people of different gender, caste, creed, and religion. I know how important it is to respect an individual. We all have to respect each other. Also being a public figure in the community as an elected Member, Trustee of Sikh Temple (Singh Sabha) and being a member of the Thames Valley Police Authority I have to represent so many different types of individuals. As a Sikh by faith I have been brought up to have the deepest respect for women and their rights as equals in all walks of life. I feel "gutted" that this allegation of sex discrimination has been made against me as this is

the first time this has happened to me in my entire working life and I pride myself in being so careful to treat everyone with respect.

12. As soon as I received the complaint papers I was so concerned that Fariba felt I had treated her differently that I immediately contacted the Investigation Officer and made an offer of a face to face apology. I understand that the Investigation Officer did inform Fabira about this but that she did not accept my offer.

I hereby declare that this a true and accurate record of the interview on 6 October 2010 and this is an agreed record of that interview. There are 3 pages. I consent for any details to be used for this investigation.

I confirm that I have been advised that the investigation is subject to rules of confidentiality and disclosure under the provisions of the Local Government Act 2000. The record is being provided to me solely to confirm the accuracy of the interview and it will not be disclosed or used for any other purpose.

Signed:



Date:

13/10/10

NAME:

B. S. BAINES





Slough Borough Council  
Iken Quicknote

*Document 8*

**Date:** 28 June 2010

**Client:** SBD Resources Directorate

**Matter:** 013091-COR-288 - Standards Investigation SBC17 Councillor Bains 23 March 2010

**Name:** Kuldip K Channa (T: 01753 875189 E: kuldip.channa@slough.gov.uk )

---

**Councillor Bains, trade union rep at Heathrow airport and very customer focused;**

**[REDACTED]**

**I am not a person like this; she was only female in the room and I would not treat her like this;**

**she kept on coming in and I said let the officer deal with it; it was Chris Smyth**

**I did not mean it like that - sexist or anything like that; I just was keen to get on with the case;**

**I am not person like this and I work in a place where is very customer focus;**

**I represent hundreds of people and do have to be fair; I am not a person like this at all.**

**Will she accept an apology?;**

**asking if he will apologise in front of all the people at the meeting; he did not think this was reasonable;**

**he would apologise in front of Chris Smyth, and happy to have investigator present;**

**saying I had made an approach to her but she had been unwilling but since he has called**

**I will ask her again as I think that is only fair that I should relay his views to her about an apology;**

**he said if I could do this and if it can be dealt with like this it will be fine; otherwise he will need to defend himself and if he has to then he will do so; he is not a person like this at all and she has misunderstood he has a loud voice and this can sometimes make him come across a bit different and sometimes people take offence by it; he is willing to apologise and she has simply misunderstood.**

**Saying that I will write to her and let him know her answer in a few days.**

**KKC.**

**willing to apologise;**

**Evening meeting with Councillor Bains on another matter and he referred to the investigation and advised me of the following:**

**He asked if I had contacted Fariba; I said I had not had the chance yet but will be emailing today if possible.**

**He said this was ok. He then went on to say he thought she was the note taking assistant and he does accept that on this basis he did refer to Chris Smyth. Although there were introductions at the beginning of the meeting he did not appreciate her role in this application and he thought that Chris Smyth was the main person dealing with it. He is not a person who would want to cause offence in this way. He feels sorry that he has offended her. He did not know she felt this way. He is customer focused. He asked me to ask her and I said I will email her before I go home tonight. He was fine with this.**

**KKC.**



## Channa Kuldip

Document 9

**From:** Channa Kuldip  
**Sent:** 13 July 2010 13:28  
**To:** Ismat Fariba  
**Subject:** RE: re Standards Investigation - cllor Bains - decision to accept apology

Dear Fariba,  
Many thanks and I will contact you to start the formal process rolling.  
Kind regards

*Kuldip*

Kuldip K Channa  
Litigation Solicitor  
For the Borough Secretary & Solicitor  
Legal Services (SMP 1st East)  
Town Hall, Bath Road, Slough  
Berkshire, SL1 3UQ

DX 42270 Slough (West)

Direct Tel: 01753 875189  
Legal Tel: 01753 875031  
Reception: 01753 475111  
Legal Fax: 01753 875183

---

**From:** Ismat Fariba  
**Sent:** 13 July 2010 11:43  
**To:** Channa Kuldip  
**Subject:** RE: re Standards Investigation - cllor Bains - decision to accept apology

Dear Kuldip

Sorry for not getting back to you yesterday; it was a rather chaotic day and I had to finish early too. I have thought about Cllr. Bains offer of an apology and must admit I am half hearted whether to go for it or the other way round.

However; I still believe that taking the issue all the way through the formal channel would be more appropriate. I know the consequences that I may not get the satisfactory result, still the fact that I make myself heard and that in future the Councillors would be more cautious and mindful as to how they treat a woman or a third party in the meeting apart from the manager would be enough for me.

Frankly speaking his apology would not mean much to me, the damaged is already done. He belittled me in front of three people and no matter what he does would not reverse the situation. In a way he belittled himself too by showing his true nature and his respect for a woman in the meeting. Despite that I think he needs to learn a lesson.

Therefore; I would like to inform you that I wish to proceed with the formal complaint and would like to see it all the way to the end. Please do inform me of my rights and when and for how long I could speak in front of the subcommittee about my views of the Cllr.

Many thanks

Kind regards

Fariba Ismat

This page is intentionally left blank

**APPENDIX B**

**Slough Borough Council - Local Determination of Complaints**

**FORM A Councillor B Bains**

**SBC 2010/17**

Please enter the number of any paragraph where you disagree with the findings of fact in the MO's report, and give your reasons and your suggested alternative

**Member's response to the evidence set out in the Monitoring Officer's or his Nominee's (MO) report**

Paragraph number from the MO's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

**Continued overleaf**

**Slough Borough Council - Local Determination of Complaints**

Paragraph number from the MO's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Please attach additional sheets if necessary

Signed.....*JH Band*.....

Dated.....*24/1/11*.....

**Slough Borough Council - Local Determination of Complaints**

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you

**SBC 2010/17**

**Councillor B Bains**

**FORM B**

**Other evidence relevant to the allegation**

Paragraph number	Details of the evidence

**Continued overleaf**

Slough Borough Council - Local Determination of Complaints

Paragraph number	Details of the evidence

Please attach separate sheets if necessary

Signed .....  


Dated .....  
 24/02/11



**Form D Councillor B Bains SBC 2010/17**

**Arrangements for the Standards (Local Determination) Sub-Committee hearing**

Please circle correct answer

<p><b>1</b></p>	<p>The proposed date for the Standards Sub-Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If "No", please explain why.</p>	<p>YES <input checked="" type="radio"/></p> <p>NO <input type="radio"/></p>	<p>Reason:</p>
<p><b>2</b></p>	<p>Are you going to present your own case?</p>	<p>YES <input checked="" type="radio"/></p> <p>NO <input type="radio"/></p>	
<p><b>3</b></p>	<p>If you are not presenting your own case, will a representative present it for you?</p> <p>If "Yes", please state the name of your representative.</p>	<p>YES <input type="radio"/></p> <p>NO <input checked="" type="radio"/></p>	<p>Name:</p> <p><i>M/PA</i></p>
<p><b>4</b></p>	<p>Is your representative a practising solicitor or barrister?</p> <p>If "Yes", please give his or her legal qualifications. Then go to question 6.</p>	<p>YES <input type="radio"/></p> <p>NO <input type="radio"/></p>	<p>Qualifications:</p> <p><i>M/PA</i></p>

5	<p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p>	<p>YES ↑</p> <p>NO ↑</p>	<p>Details:</p> <p><i>MLN</i></p>
6	<p>Are you going to call any witnesses?</p> <p>If "Yes", please fill in Form E.</p>	<p>YES ✓ ↑</p> <p>NO ↑</p>	<p><i>1</i></p>
7	<p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed?)</p> <p>If "Yes", please give details</p>	<p>YES ↑</p> <p>NO ↑</p>	<p>Details:</p> <p><i>HA</i></p>
8	<p>Do you, your representative or your witnesses have any special needs (for example, is an interpreter needed?)</p> <p>If "Yes", please give details</p>	<p>YES ↑</p> <p>NO ↑</p>	<p>Details:</p> <p><i>HA</i></p>
9	<p>Do you want any part of the hearing to be held in private?</p> <p>If "Yes", please give reasons.</p>	<p>YES ↑</p> <p>NO ✓ ↑</p>	<p>Reasons:</p>

<p><b>10</b></p>	<p>Do you want any part of the documents to be withheld from public inspection?</p> <p>If "Yes", please give reasons.</p>	<p>YES  <input type="checkbox"/></p> <p>NO  <input checked="" type="checkbox"/></p>	<p>Reasons:</p>
------------------	---------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------	-----------------

Please attach separate sheets if necessary.

Signed                     *B. Bains*                    

Dated                     24/1/11



Slough Borough Council - Local Determination of Complaints  
**FORM E**      Details of proposed witnesses to be called      Councillor B Bains      SBC 2010/17

<b>Name of witness or witnesses</b>	1	<i>TAJ BANSAL</i>
	2	
	3	
<b>WITNESS 1</b>		
<b>a</b> Will the witness give evidence about the allegation?  If "Yes", please give an outline of the evidence the witness will give	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence: <i>HE CAN TALK TO THE COMMITTEE FACE TO FACE REF TO THE CASE</i>
<b>b</b> Will the witness give evidence about what action the Standards Sub-Committee should take if it finds that the Code of Conduct has not been followed?  If "Yes", please provide an outline of the evidence which the witness will give.	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Outline of evidence:

Slough Borough Council - Local Determination of Complaints

**FORM E**

	<p><b>WITNESS 2</b></p>		<p>Outline of evidence:</p>
<p><b>a</b></p> <p>Will the witness give evidence about the allegation? If "Yes", please give an outline of the evidence the witness will give</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>		<p>Outline of evidence:</p>
<p><b>b</b></p> <p>Will the witness give evidence about what action the Standards Sub-Committee should take if it finds that the Code of Conduct has not been followed? If "Yes", please provide an outline of the evidence which the witness will give.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>		<p>Outline of evidence:</p>

Slough Borough Council - Local Determination of Complaints

**FORM E**

<b>WITNESS 3</b>		<b>Outline of evidence:</b>
<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If "Yes", please give an outline of the evidence the witness will give</p>	<p>YES <input checked="" type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<b>b</b>	<p>Will the witness give evidence about what action the Standards Sub-Committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If "Yes", please provide an outline of the evidence which the witness will give.</p>	<p>YES <input checked="" type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

Please attach separate sheets if necessary

Signed.....

Dated.....

*Alan*

24/1/11

This page is intentionally left blank



## SLOUGH BOROUGH COUNCIL

### Standards (Local Determination) Sub-Committee

#### Local Hearing Procedure

#### Interpretation:

**“Member”** means the Member of the Council who is the subject of the allegation(s) being considered by the Sub-Committee, unless stated otherwise. It also includes the Member’s nominated representative (if any).

**“Investigator”** means the Ethical Standards Officer (ESO) who referred the report to this Council or the Monitoring Officer and includes his or her nominated representative.

#### 1. Preliminaries

##### 1.1 The Chair will:-

- (a) ask the Members/Officers present to introduce themselves.
- (b) ask the Member Services Manager (or her representative) to confirm that the Sub-Committee is quorate.
- (c) ask the Investigator and the Member if they are to call any witnesses and if so who.
- (d) ask all present to confirm they know the procedure which the Sub-Committee will follow.
- (e) ask the Member, the Investigator and the Monitoring Officer (or his representative) whether there are any reasons to exclude the press and public from the meeting and if so on what grounds
- (f) advise the Sub-Committee that the determination process is in two stages:-
  - (i) whether or not the Member has failed to comply with the Local Code of Conduct as set out in the Investigator’s report and
  - (ii) if the Sub-Committee consider that a breach of the Local Code of Conduct has occurred what action (if any) the Sub-Committee should take.

- 1.2 The Chair will explain how the Sub-Committee is going to run the hearing and remind everyone that the Sub-Committee have received and read all of the witness statements and supporting documentation which form part of the agenda papers. Thus the Investigator and the Member should confine themselves to exploring any inconsistencies within the evidence and draw that to the attention of the Sub-Committee.
- 1.3 The Chair will emphasise that the proceedings are inquisitorial in nature not adversarial so cross-examination is not permitted.

## **2. Making Findings of Fact/Has there been a Breach? – Stage 1**

- 2.1 The Monitoring Officer (or his representative) shall present the report submitted to the Sub-Committee together with the supporting documentation. Confirmation will then be sought from the Member as to whether there are any other additional points i.e. new ones which are not contained in the documentation.
- 2.2 The Investigator will present his case in the presence of the Member and may call witnesses to support the relevant findings of fact in the report.
- 2.3 The Member, will have the opportunity to ask questions of any witnesses the Investigator may call.
- 2.4 The Sub-Committee may ask questions of the Investigator and witnesses.
- 2.5 The Member will present his case in the presence of the Investigator and call such witnesses as he wishes to support his version of the facts.
- 2.6 The Investigator will have the opportunity to ask questions of the Member and his witnesses.
- 2.7 The Sub-Committee may ask questions of the Member and his witnesses.
- 2.8 The Chair shall then seek confirmation from the Members of the Sub-Committee that sufficient information is now available to determine whether there has been a breach of the Code.
- 2.9 At the discretion of the Chair the Investigator and the Member shall be given an opportunity to sum up their case (no more than five minutes each).

- 2.10 The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.
- 2.11 The Sub-Committee shall then in private identify the material findings of fact and decide whether the Member did fail to comply with the Local Code of Conduct (All parties to leave room except Member Services Manager (or her representative) who will minute). The standard of proof is the balance of probabilities.
- 2.12 Once the Members of the Sub-Committee have come to a decision then all parties shall return to hear the material findings of fact, whether the allegation has been proven and what recommendations they have for the Council to promote high standards of conduct. Reasons will be given for the decision.
- 2.13 If the Sub-Committee find that the case is not proven the meeting must ask the Member whether he wishes the Council not to publish a statement of its findings in a local newspaper. Then the meeting is closed.
- 2.14 If the case has been proven then the Sub-Committee will proceed to Stage 2.

### **3. What Sanction should be Imposed? – Stage 2**

- 3.1 If the Sub-Committee decide that the Member **has** failed to follow the Local Code of Conduct, then it will consider:-
  - (i) whether or not the Sub-Committee should set a penalty; and
  - (ii) what form any penalty should take (see attached)
- 3.2 The Sub-Committee may question the Investigator and Member and take legal advice if appropriate.
- 3.3 The Sub-Committee will then retire to consider whether or not to impose a penalty on the Member, and if so, what the penalty should be.
- 3.4 The Sub-Committee will return and the Chair will announce the Sub-Committee's decision and will provide a short written decision on the day.
- 3.5 The Chair will inform the Member of his right of appeal to the First-Tier Tribunal.

### **4. Post Hearing Procedure**

- 4.1 A full written decision will be issued within 14 days of the end of the hearing which will include full reasons for its decision.

- 4.2 The Sub-Committee will arrange to publish a summary of its findings, the decision reached and where appropriate the penalty set in one or more newspapers (independent of the Council).

**Notes**

- A. All Members of the Sub-Committee have the right to ask questions/seek clarification once the Investigator and the Member have presented their respective cases.
- B. The Complainant has no right to speak.

## APPENDIX D

### Admission of Press and Public to Standards (Local Determination) Sub-Committee Hearings

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the Sub-Committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the Local Government Act 1972 (as modified in relation to local determinations by Standards Committees). If the Sub-Committee considers that 'confidential information' is likely to be revealed during the hearing, the Sub-Committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- 2 The Sub-Committee also has the discretion to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of 'exempt information' are set out in Document 4. The Sub-Committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The Sub-Committee also has a duty to act fairly and in line with the rules of natural justice.
- 3 Article 6 says that the public may be excluded from all or part of the hearing if it is in the interest of:
  - (a) Morals;
  - (b) public order;
  - (c) justice;
  - (d) natural security in a democratic society; or
  - (e) protecting young people under 18 and the private lives of anyone involved.
- 4 There should be a public hearing unless the Sub-Committee decides that there is a good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
- 5 The Sub-Committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to 'receive and impart information and ideas without interference by public authority'. Any restrictions on this right must be 'prescribed by law and.....necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the

reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary’.

- 6 Conflicting rights often have to be balanced against each other. The Sub-Committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Sub-Committee) may interfere with this right unless it is:-
- (a) in line with the law; and
  - (b) necessary in a democratic society in the interests of:
    - (i) national security;
    - (ii) public safety;
    - (iii) the economic well-being of the country;
    - (iv) preventing crime or disorder;
    - (v) protecting people’s health and morals (which would include protecting standards of behaviour in public life); or
    - (vi) protecting people’s rights and freedoms.

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the Sub-Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

- 7 In relation to people’s rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be ‘necessary’ if it meets ‘a pressing social need’, and any restriction on people’s rights must be ‘proportionate’.
- 8 The Standards Board for England recommends that a Standards Committee/Sub-Committee should move to a private room when considering its decisions. It is not considered that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

## APPENDIX E

### Categories of “Exempt Information” under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by Standards Committees)

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 7A Information which is subject to any obligation of confidentiality
- 7B Information which relates in any way to matters concerning national security
- 7C The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

This page is intentionally left blank



## SLOUGH BOROUGH COUNCIL

### Standards (Local Determination) Sub-Committee

#### The Local Authority (Code of Conduct) (Local Determination) (Amendment)

##### Penalties

Under these Regulations, Standards Committees/Sub-Committees can impose one, or any combination, of the following:-

- censure the Member;
- restrict the Member's access to the premises and resources of the relevant authority for up to three months, ensuring that any restrictions are proportionate to the nature of the breach and do not unduly restrict the Member's ability to perform his or her duties as a Member;
- order the Member to submit a written apology in a form satisfactory to the Sub-Committee;
- order the Member to participate in a conciliation process\* specified by the Sub-Committee;
- suspend, or partially suspend, the Member for up to three months;
- suspend, or partially suspend the Member for up to three months, or until such time as the Member submits a written apology that is accepted by the Sub-Committee;
- suspend, or partially suspend, the Member for up to three months, or until such time as the Member undertakes any training or conciliation ordered by the Sub-Committee.

\* **Any conciliation process should have an agreed time frame for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the Member concerned, and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.**

This page is intentionally left blank