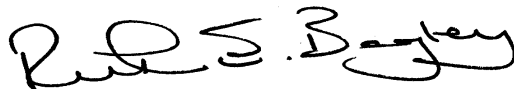


Date of issue: 22nd July 2013

| | |
|---|--|
| MEETING | STANDARDS (DETERMINATION) SUB-COMMITTEE |
| | CO-OPTED/INDEPENDENT MEMBERS Alan Sunderland and Ronald Roberts |
| | ELECTED MEMBERS:- Councillors A S Dhaliwal, M S Mann and Minhas |
| | INDEPENDENT PERSON Fred Ashmore |
| DATE AND TIME: | TUESDAY, 30TH JULY, 2013 AT 6.30 PM |
| VENUE: | RUBY SUITE 4, THE CENTRE, FARNHAM ROAD, SLOUGH, SL1 4UT |
| DEMOCRATIC SERVICES OFFICER: (for all enquiries) | GREG O'BRIEN 01753 875013 |

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



AGENDA
ITEM

REPORT TITLE

PAGE

WARD

Apologies for absence.

1. Declarations of Interest

All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest.

All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

2. Appointment of Chair

To appoint a Chair from the elected members.

3. Minutes of the last Meeting of the Sub-Committee held on 19th April 2012 1 - 4

4. Complaint of Failure to Observe the Councillors' Code of Conduct - Councillor Balvinder Bains 5 - 22

To consider report.

Appendix A – Investigating Officer's report 7 – 18
Appendix B – Procedure 19 - 22

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



Standards (Determination) Sub-Committee – Meeting held on Thursday, 19th April, 2012.

Present:-

Co-opted Independent Members:-

Mr Mike Field, Mr Fred Ashmore and Mr Alan Sunderland

Elected Members:-

Councillors Minhas and Plenty

Also present:-

Councillors P Choudhry and Rasib, Mr Bal and Mr Zarait (former Councillors), Kuldip Channa (Investigating Officer), Teresa Clark and Catherine Meek (Democratic Services Officers) and Kevin Gordon (Monitoring Officer)

Witnesses:- Councillors Dodds and Swindlehurst (for Councillor Rasib)

PART I

16. Declarations of Interest

Mike Field declared a personal interest in that in a former occupation he was a property consultant and was involved with discussions around the Aspire Site for some years.

Alan Sunderland declared that in his role employment as a Bank Manager he had met Mr Koser, (the applicant in the subject planning application) occasionally in a business capacity but had not seen him for over a year and did not view this as detrimental in his role as a member of the Sub-Committee.

Councillor Plenty declared that he is an Auditor for the Labour Party accounts in Slough and therefore has sight of all donations received.

17. Minutes of the previous Meeting of the Sub-Committee held on 28th February 2012

The Minutes of the previous meeting of the Sub-Committee held on 28th February, 2012 were approved as a correct record.

18. Alleged Breach of Local Code of Conduct - Councillors P Choudhry, Rasib and former Councillors Bal and Zarait (SBC 2010/25)

The Sub-Committee met to determine an allegation made by former Councillor Maclsaac that Councillors P Choudhry, Rasib and former Councillors Bal and Zarait had failed to comply with the Local Code of Conduct. At its meeting on 10th January, 2011, the Standards (Assessment) Sub-Committee considered the complaint and decided to refer the matter to the Standards (Determination) Sub-Committee for investigation. In

Standards (Determination) Sub-Committee - 19.04.12

accordance with the arrangement agreed by the Standards Committee the Monitoring Officer appointed Kuldip Channa, Principal Lawyer as the Investigating Officer.

At the Chair's invitation introductions were made by all participants following which the Chair drew attention to the procedure that would be following during the hearing and all parties confirmed that they were aware of it. The Investigation Officer, the subject members and former members indicated that there were no grounds for the exclusion of the press and public from the meeting.

The Investigating Officer's final report detailing the outcome of the investigation and the conclusions reached were submitted along with the subject members written responses thereto. Prior to the commencement of the hearing of evidence Mr Bal and Mr Zarait requested that the Sub-Committee adjourn the hearing so that they could instruct a legal representative to present their case. Councillor P Choudhry also requested an adjournment of hearing and stated that he had not yet had an opportunity to be interviewed by the Investigating Officer and would also seek to appoint legal representation and call witnesses.

(The meeting of the Sub-Committee adjourned at 6.45pm to consider the requests for adjournment and reconvened at 7.20pm).

The Sub-Committee considered the requests for adjournment and decided unanimously that the respective individuals had had ample opportunity to appoint legal representation if required (and call witnesses) and had all received an invitation to discuss their case with the Investigation Officer. The Sub-Committee decided that it would proceed to determine the complaint. In response to a question as to whether a Member could have his case considered individually, the Sub-Committee was advised by their Legal Advisor, Ms Healy that whilst the complaint had been raised against the four Members/ former Members as a group, the Sub-Committee should also have regard to the circumstances relating to those Members individually.

The Investigating Officer's final report detailing the outcome of the investigation and the conclusions reached were considered together with the subject members written responses thereto. Ms Channa placed on record her sincere apologies for the time it had taken to bring the case to the Sub-Committee and she thanked all those who had fully co-operated with the investigation. The general summary of the complaint and alleged breach of the Code identified by the Investigating Officer was that Paragraph 5 of the Code had been breached in that the four subject members had conducted themselves in a manner which could reasonably be regarded as bringing their office and authority into disrepute. Ms Channa presented the case and all parties and their witnesses were given the opportunity to address the Sub-Committee and ask questions. The Sub-Committee was given the opportunity to ask questions to clarify the evidence submitted.

Standards (Determination) Sub-Committee - 19.04.12

On completion of the presentation, the Sub-Committee confirmed that they had sufficient information to determine whether or not there had been a breach of the Local Code of Conduct. All parties withdrew from the room to enable the Sub-Committee to consider its decision.

(The meeting adjourned at 10.15 pm and reconvened at 10.35 pm)

(Councillor P Choudhry left the meeting at 10.15 pm)

On reconvening the hearing, the Chair advised that the Sub-Committee had carefully considered all of the evidence presented and the Investigating Officer's report. Whilst there were some serious areas of concern, on the balance of probability, having given Members the benefit of the doubt, the Sub-Committee determined that the requirement under Paragraph 5 of the Local Code of Conduct that, "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office into disrepute", had not been breached and that the case against the subject members had not been proven.

The Sub-Committee recommended that the Local Authority review its Planning processes and Member training procedures.

The subject Members/ former Members were asked whether they wished the decision of the Sub-Committee to be published formally in the local press and they confirmed that that they did not wish the decision of the Sub-Committee to be formally published in this manner.

Resolved –

- (a) That no further action be taken with regard to the complaint.
- (b) That Officers take action to review the Authority's planning processes and member training procedures.

(Note: The Meeting opened at 6.35 pm and closed at 10.40 pm)

Chair

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SLOUGH BOROUGH COUNCIL

REPORT TO: Standards (Determination) Sub Committee **DATE:** 30th July 2013

CONTACT OFFICER: Catherine Meek
(For all Enquiries) Head of Democratic Services (01753) 875011

WARDS: N/A

PART I
FOR DECISION

COMPLAINT OF FAILURE TO OBSERVE THE COUNCILLORS' CODE OF CONDUCT
- COUNCILLOR BALVINDER BAINS

1. **Purpose of Report**

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 failed to comply with the Councillors' Code of Conduct (**Appendix A**).

2. **Recommendation/Action Required**

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

3. **Wellbeing Strategy Priorities**

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 Councillors' Code of Conduct and the Council's own Ethical Framework. Furthermore, it is a prime function of the Standards Advisory Committee to promote and maintain high standards of conduct by Members.

4. **Other Implications**

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 procedure for conduct of a Sub-Committee hearing set out in the Council's constitution. Any potential human rights issues which might arise are addressed and provided for in the hearing procedure.

5. **Background Information**

- 5.1 On 23rd April 2013 a complaint was referred to the Council's Monitoring Officer alleging that Councillor Bains had failed to make an accurate notification of his Disclosable Pecuniary Interests (DPI), as showing on the Council's Register of Interests, and had consequently breached the Councillors' Code of Conduct. The complaint was submitted by Councillor Strutton.

- 5.2 The Monitoring Officer, having consulted the Council's Independent Person as required in the Complaints Process, referred the complaint for investigation. He appointed Mrs Amardip Healy, Head of Legal Services, as Investigating Officer to conduct the investigation into the complaint. The Monitoring Officer considered the Investigating Officer's final report and decided that it should be sent for determination by the Standards (Determination) Sub-Committee.
- 5.3 To assist the hearing process, Councillor Bains was asked to complete some pre-hearing enquiries. He has confirmed that he does not disagree with the findings of fact contained in the Investigating Officer's report.
- 5.4 Councillor Bains has made the following representation to be brought to the attention of the Committee:

"I would like to offer apologies for the genuine oversight in completing the new disclosure form. This was a genuine error, which I corrected. I received no gain and had no intention of committing any breach to the code of conduct. I have always in the past completed my declarations which are available to view".

- 5.4 Enclosed for consideration of the Sub-Committee are the following documents:

| <u>Appendix</u> | <u>Document</u> |
|-------------------|--|
| Appendix A | Investigating Officer's Report |
| Appendix B | Investigation and Determination of Complaints (including Procedure for conduct of a Sub-Committee hearing) |

- 5.5 The procedure for the hearing will be as set out in **Appendix B** and any guidance and/or advice the Sub-Committee may require will be provided by the Monitoring Officer, Kevin Gordon, Assistant Director, Professional Services.

6. Conclusion

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. The Procedure for the Sub-Committee (**Appendix B**) sets out what conclusions the Sub-Committee may come to (paragraph 6.13) and what action it may take (paragraph 6.14).

7. Background Papers

None.

STRICTLY PRIVATE AND CONFIDENTIAL

Case Reference: 2013/09

Members Code of Conduct Investigation

Investigation Report

Subject Member: Cllr Balvinder Bains

Date: 11.6.2013

Investigator appointed by Monitoring Officer:

**Mrs Amardip Healy (Solicitor)
Head of Legal Services
Slough Borough Council
St Martins Place
51 Bath Road
Slough SL1 3UF**

Contents

- 1 Introduction**
- 2 Executive summary**
- 3 Subject Member's official details**
- 4 The relevant legislation and protocols**
- 5 The evidence gathered**
- 6 Summary of the material facts**
- 7 Subject Member's submissions**
- 8 Reasoning as to whether there have been failures to comply with the Code of Conduct**
- 9 Comments on draft Report**
- 10 Finding**

Appendix

- 1 Schedule of evidence taken into account**
 - 1. Council's Code of Conduct as at June 2012**
 - 2. Extracts of Localism Act 2011**
 - 3. Extract of relevant 2012 Regulations**
 - 4. Complaints from Cllr Strutton**
 - 5. Cllr Bains Notification Form 2006**
 - 6. Cllr Bains Notification Form 2013**
 - 7. Letter dated 26.11.2012 from Deputy Borough Secretary with enclosures**
- 2 Schedule of unused material**
 - 1. Comments on draft Report from Complainant**

1. Introduction

- 1.1 I have been appointed by the Council's Monitoring Officer, Kevin Gordon, Assistant Director, Professional Services, to investigate an alleged breach of the Council's Members Code of Conduct.
- 1.2 I am the Council's Head of Legal Services and a solicitor. I am also the Council's Deputy Monitoring Officer, although this report has not been produced by me in that capacity.
- 1.3 I confirm I have investigated this allegation both objectively and impartially.

2 Executive summary

- 2.1 The alleged breach concerns whether the Subject Member, Cllr Balvinder Bains failed to disclose pecuniary interest/s on his Notification of Disclosure Form dated 9.1.2013.
- 2.2 The outcome of my investigation is that the subject member did fail to disclose his pecuniary interests on his 2013 Notification Form, and as such did breach the interests' notification provisions imposed on members.

3 Cllr Balvinder Bains' official details

- 3.1 Cllr Bains was first elected to office in 2003. After a gap of 3 years he was re-elected in 2006 and has served as a member since then.
- 3.2 Prior to Full Council meeting, Cllr Bains served on the following committees: Admissions Forum, Agreed Syllabus Conference, Employment Appeals Sub Committee, Licensing Sub Committee, Neighbourhoods & Community Services Scrutiny Panel, Standing Advisory Council on Religious Education. He also serves on a number of outside bodies.
- 3.3 Cllr Bains has given a written undertaking to observe the Code of Conduct.
- 3.4 Cllr Bains has attended Member training sessions as required by the Council.

4 Legislative requirements on Interests

- 4.1 The Localism Act 2011 introduced a fundamental change to regulation of conduct of elected members. The old Standards Board regime was abolished and a new more locally based scheme was adopted. The legislation however set out certain minimal standards for all new local codes of conduct to comply with.
- 4.2 I believe it would be useful to set out the new requirements and how Slough has adopted them in this report, to enable a clear understanding of the issues raised by the allegation.

- 4.3 A local authority's code of conduct for members is required to contain appropriate provisions for registering and disclosing pecuniary interests and interests other than pecuniary interests. In relation to interests, the Localism Act has set up an entirely new process and procedures.¹
- 4.4 There is a requirement for monitoring officers to establish and maintain a register of members and co-opted members interests, make the register available for inspection and have the register on the Council's website.²
- 4.5 The Localism Act provided for regulations to set out what discloseable pecuniary interests would be. These Regulations were made and came into effect on the 1st July 2012.³
- 4.6 The Regulations specified the pecuniary interests that members are required to include in the register of interests maintained by an Authority. These include any:
- 4.6.1 Employment, office, trade, profession or vocation that the member carries on for profit or gain
 - 4.6.2 Contract between the member and the member's local authority under which goods or services are provided or works are to be executed and that has not been fully discharged.
 - 4.6.3 Beneficial interest in land that is within the authority's area
- 4.7 In short, a Councillor's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).
- 4.8 Pecuniary interests become disclosable if they fall within a set nature of interests.
- 4.9 Namely a member has a **disclosable** pecuniary interest if he, his spouse or civil partner has a **pecuniary interest listed in the national rules**. Wider party interests are included to ensure that the public can have confidence that Councillors are putting the public interest first and not benefitting the financial affairs of themselves or their spouse, civil partner from which the Councillor could gain.
- 4.10 The register of disclosable pecuniary interests is published to ensure policies of transparency and accountability are complied with by allowing the public to have easy access to publically available information.

¹ Sc 28 of the Localism Act 2011

² Sc 29 of the Localism Act 2011

³ Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012 (SI 2012/1464)

- 4.11 The purpose behind having disclosable pecuniary interests registered is designed to stop participation in any discussion (business at a meeting) or to vote at such meeting, where such an interest exists.

The Council's Code of Conduct for Members

Route to adoption

- 4.12 The Council adopted a Code of Conduct on the 26th June 2012.⁴ The Code sets out the Rules of Conduct, the Complaints Process and the Investigation and Determination of Complaints. However, the Interests Section of the Code was not included as it was felt that the Government may yet make further amendments to the legislation and regulations on the definition of pecuniary interests.
- 4.13 However, no further changes were made. On the 19th February 2013 the Council amended its Code of Conduct with the addition of further changes and the insertion of an Interests Section in the Code.⁵
- 4.14 Further changes to the Code were proposed at the 16th May 2013 Council meeting.⁶ These have been adopted.

Requirements of the Code of Conduct

- 4.15 The Council's Code of Conduct requires members to act in conformity with the Principles of Public Life (para 1.4 and 1.5). The Principles are set out at para 1.6 of the Code.
- 4.16 There are 7 principles: Selflessness, Integrity, Objectivity, Accountability, Openness, Honest, Leadership
- 4.17 These principles form the core driver for conduct for those in public office when acting on Council business or acting as a representative of the Council. The Code makes it clear that the principles will be taken into account when considering the investigation and determination of breaches of the Rules of Conduct and further that any breach of any of the 7 Principles will be seen as a breach of the Rules of Conduct.
- 4.18 Section 3 of revised Rules of Conduct sets out the requirements on "Interests". The provisions make it clear that Members "shall fulfil conscientiously the requirements in respect of registration and declaration of interests" (para 3.2 of the Code). However, these provisions were not

⁴ Councillor's Code of Conduct
<http://www.slough.gov.uk/moderngov/ieListDocuments.aspx?CId=168&MId=4611&Ver=4>

⁵ <http://www.slough.gov.uk/moderngov/ieListDocuments.aspx?CId=168&MId=4697&Ver=4>

⁶ <http://www.slough.gov.uk/moderngov/ieListDocuments.aspx?CId=168&MId=4870&Ver=4>

included in the Code until February 2013, when the first round of amendments were made to the adopted Code (adopted in June 2012).

- 4.19 The amended Code provides at paras 3.4 to para 3.7 the requirements in relation to registering and declaring interests. They require notification to the Monitoring Officer “of any discloseable pecuniary interests (DPI) as defined by regulations made by the Secretary of State. Appendix 3 to the Code sets out a Guidance Note on DPIs.
- 4.20 Although the “Interests” section of the Code was not adopted until after Members completed and returned their notification forms, the requirements of the Localism Act and the Regulations had come into effect from the 1st July 2012.
- 4.21 On the 26th November, the Deputy Borough Secretary wrote to all elected and Co-opted Members of the Council bringing to their attention the changes introduced by the Localism Act to the Standards regime. In particular, attention was drawn to the changes to the members’ interests’ obligations. The letter included a copy of the Code of Conduct as it stood in June 2012, a copy of the new declarations form, and a copy of the a guide produced for councillors entitled “Openness & Transparent on Interests” dated August 2012.
- 4.22 Irrespective of the Council’s Code of Conduct not having the “Interests” Section at the time the Subject Member completed his form, the registration of personal interests was expected to be guided by the duties contained within the 7 Principles, this was both known and drawn to members’ attention when the new forms were dispatched for completion in November 2012. Members are required to give the Monitoring Officer any information he requests in order to keep the Register up to date and any other information which a member considers should be entered in the register.
- 4.23 If a member has disclosable pecuniary interests which is not shown in the Register and it relates to any business on which a Councillor is acting, a member must, within 28 days of becoming aware of this, inform the Council’s Monitoring Officer and have the interest added to the Register.

The effect of failure to disclose a Disclosable Pecuniary Interest

- 4.24 A criminal sanction has now been introduced where a Local Authority Member fails to disclose, without reasonable cause, a disclosable pecuniary interest. The section empowers a Magistrates’ Court, upon conviction to impose a fine of up to level 5, make an order disqualifying the individual from being a member of a relevant authority for up to five years.⁷
- 4.25 It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of the authority where that business involves a disclosable pecuniary interest.

⁷ Sc34 Localism Act 2011

5 The evidence

- 5.1 I have taken account of oral evidence from the subject member, Cllr Bains, and Ben Taylor, who is employed within Democratic Services as a Labour Group Political Officer. I have not interviewed the Complainant as the complaint is a factual matter of what is included in a public register.
- 5.2 I have also taken account of documentary evidence, namely:
- 5.2.1 Notification by member of a relevant authority of disclosable pecuniary interests dated 9.1.2013
 - 5.2.2 Register of Members Interests Notice of Financial and other interests dated 9.5.2006
 - 5.2.3 Letter dated 26.11.2012 from the Deputy Borough Secretary to all Elected and Co-opted Members entitled "Declaration of Interests"
 - 5.2.4 DCLG leaflet dated August 2012 entitled "Openness and transparency on personal interests. A guide for councillors"
 - 5.2.5 I have also asked for review on what matters Cllr Bains has spoken on at any Committee of the Council since November 2012 to date.

6 Summary of the material facts

- 6.1 The Subject Member has accepted the 2013 Notification Form, as a form he completed, signed and submitted.
- 6.2 The Subject Member has accepted that the 2013 Notification is materially inaccurate in relation to both his employment and membership of a Trade Union.
- 6.3 The Subject Member has confirmed he is not aware of any other inaccuracy in relation to his disclosable pecuniary interests.

7 Subject Members submissions

- 7.1 The Subject Member was asked that up to January 2013 what paid positions did or had he held. This covered both main employments and any membership that required payment for activities.
- 7.2 He confirmed that he had been with his current employer for around 23 years as a member of the security staff. It was a full time job. He was a member of a trade union and paid them a subscription. Although he was a shop steward,

he was not paid for such by the Union. He could claim expenses, but had not done so for some time.

- 7.3 The Subject Member was presented with his 2006 Notification Form. He confirmed it was his form and the information contained therein was accurate.
- 7.4 The Subject Member was then presented with his 2013 Notification Form. He was asked to read Box 1 on the form. On reading it, he confirmed that the information contained in the box was inaccurate.
- 7.5 The Subject Member explained that he must have read the 2013 form wrongly and had made a mistake. He confirmed he still worked for the same employer and that he was still member of a trade union. However, he was no longer a member of the Sikh Trust, referred to in his 2006 Form. He reiterated it was a genuine mistake, he confirmed that he had always worked for his current employer.
- 7.6 He confirmed that he did not receive any payment from his Trade Union, but that his employer, funded trade union time. He said that it is likely that he completed the form at the Council offices, possibly in a rush, and suggests that had he taken it home, as he had done in previous years, he would have read it with greater care. He confirmed that he did not seek any assistance with the completion of the form from officers. This was confirmed by Ben Taylor.

8 Reasoning as to whether there have been failures to comply with the Code of Conduct

- 8.1 The Subject Member accepted that he had failed to complete the 2013 notification accurately in relation to his discloseable pecuniary interests, by:
 - 8.1.1 not declaring his employment at BAA,
 - 8.1.2 by not declaring his allowances/payments by BAA towards his trade union activities,
 - 8.1.3 by not declaring his trade union membership and
 - 8.1.4 by not declaring his Labour party membership.

9 Comments on Draft Report

- 9.1 The Councillor's Code of Conduct sets out the procedure for the investigation and determination of complaints. Part 3 of the Code sets out the procedures and processes. Para 6.5 of the Code sets out the process to be followed at the end of an investigation.
- 9.2 Para 6.5 provides as follows:

“At the end of his/her investigation, the Investigating office will produce a draft report. This draft will be sent in confidence to the Complainant and the Subject Member, to give them an opportunity to identify any matter in that draft report which is either factually incorrect or which may require further consideration. Having received and taken into account any comments on the

Draft Report, the Investigating Officer will send the Final Report to the Monitoring Officer”

- 9.3 Para 6.6 sets out the actions the Monitoring Officer will take following the submission of the Report.
- 9.4 Para 6.18 makes it clear that there is no right of appeal against a decision of the Monitoring Officer or of the Standards Determination Sub Committee.
- 9.5 Appendix 9 to the Code sets out the Complaint Flowchart.
- 9.6 Both the Subject Member and the Complainant were sent the draft report in line with para 6.5 of the Code.
- 9.7 The Complainant replied with an email addressed to me, but which was copied into a number of other parties.
- 9.8 The Complainant has not challenged the factual matters covered by the report. He has however raised an additional complaint:

“..He (*the Subject Member*) has declared he owns 3 houses in Slough on the Bath Road he also own other residential properties as well so we are told. He has not declared an interest relating to an income from these!”
- 9.9 Although this allegation was not part of the original complaint, I have added it to the other allegations and investigated it.

Second Complaint

- 9.10 The Subject Member’s Notification Form dated 9.1.2013, is the form against which the complaint of non disclosure of pecuniary interests has been made. My report addresses the breaches that have been accepted. The new issue that has been raised is whether the Notification Form failed to declare any beneficial interests in land which is within the area of the Authority.
- 9.11 Having checked the Subject Member’s 2013 Notification form there is a declaration made in the Land box. The declaration relates to three properties that within the Borough, in which the Subject Member has a beneficial interest.
- 9.12 Much of the new allegations are conjecture, the comment being made “so we are told”, no evidence has been provided to support other properties with a beneficial interest, not being declared as required by the Notification requirements.
- 9.13 The contents of the Notification Form which lead the Complainant to make the Complaint are known to the Complainant.
- 9.14 I have conducted a further interview with the Subject Member, who has confirmed that the only properties he has within the Borough are those as

listed on his 2013 Notification form. He confirmed that he does have any interest in any properties in Bath Road in Slough. He confirmed he owns premises outside the Borough. He sought advice from the Council as to the need to declare and was advised that he did not need. The advice is correct in that Members are only required to declare properties within the Borough boundary. This is because of the potential for conflict of interests.

- 9.15 In terms of the reference to income, there is no requirement for income from rental property to be disclosed on the Notification Form. The Guidance Notes to the Disclosable Pecuniary Interests – Definition & Guidance Note, advises at the Land Section – “You should include any land and buildings in the area of the Borough in which you or your spouse/partner have a beneficial interest. You should give the address or a brief description to identify it....You should also include any property from which you receive rent, or of which you are a mortgagee”.
- 9.16 This makes it clear what should be declared. The Subject Member has whole time employment. There is no evidence to suggest that is running a trade by owning or renting out houses.
- 9.17 My finding on the second new complaint is that the Subject Member has made the required declaration and as such the second new complaint is not upheld.

10 Finding

- 10.1 The duty to complete a Notification Form accurately rests with a Member. The duty rests with Members to ensure they notify the Monitoring Officer of all relevant interests.
- 10.2 The system of notification requires the public to place its trust in the Register.
- 10.3 The complaints that have been made can be summarised as follows:
- 10.3.1 Failed to declare employment
 - 10.3.2 Failed to declare Trade Union member
 - 10.3.3 Failed to declare properties in which beneficial interest held
- 10.4 The issue of what breach has occurred turns on what is meant by disclosable pecuniary interests.
- 10.5 The advice to Councillors from dclg provides:
- “What are pecuniary interests?
A person’s pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are

associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).⁸

- 10.6 I have found that the subject member, Cllr Balvinder Bains did fail to disclose some of his discloseable pecuniary interests on his Notification Form for 2013. This relates to his employment. Any allowances paid for any trade union activities were provided by his employer and not another body, therefore it is arguable whether there is a requirement for a separate disclosure.
- 10.7 The form does not require declaration of his trade union membership. Being a trade union member is not a discloseable pecuniary interest as it is not carried out for profit or gain.
- 10.8 In the present case, the explanation for not completing the form fully has been a lack of due diligence when reading the form. I would suggest that such a lack of care around the completion of this document is of concern. The system is designed to ensure trust and confidence by being open and transparent.
- 10.9 I believe it is important to note that there is no evidence to suggest that the non disclosure of the Subject Member's interests has in any way compromised his position since November 2012 to date on any Committee where he was present.
- 10.10 The Subject Member did accept the allegation straight away and he offered to complete a new form straight away. Which I understand he has done.
- 10.11 Having reviewed the declaration of Members interests, it does appear that the recent changes have created some confusion. As such I would recommend a review of training needs, the forms and guidance.

⁸ **Openness and transparency on personal interests: guidance for councillors**
[Department for Communities and Local Government](#)

Appendix

1. **Schedule of evidence taken into account**

1. **Council's Code of Conduct as at June 2012**
2. **Extracts of Localism Act 2011**
3. **Extract of relevant 2012 Regulations**
4. **Complaints from Cllr Strutton**
5. **Cllr Bains Notification Form 2006**
6. **Cllr Bains Notification Form 2013**
7. **Letter dated 26.11.2012 from Deputy Borough Secretary with enclosures**

CONFIDENTIAL

INVESTIGATION & DETERMINATION OF COMPLAINTS

- 6.1 If the Monitoring Officer decides that a complaint merits formal investigation, he will appoint an Investigating Officer to investigate the complaint that has been referred on for investigation.
- 6.2 The Investigating Officer would normally write to the Subject Member.
- 6.3 The Subject Member will be provided with a copy of the complaint. The Subject Member will be requested to provide any relevant information the Investigating Officer needs to investigate the Complaint.
- 6.4 In exceptional cases, where it is appropriate to keep the identity of the Complainant confidential or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer withhold the Complainant's details or delay notifying the Subject Member until the investigation has progressed sufficiently.
- 6.5 At the end of his/her investigation, the Investigating Officer will produce a draft report. This draft will be sent in confidence to the Complainant and the Subject Member, to give them an opportunity to identify any matter in that draft report which is either factually incorrect or which may require further consideration. Having received and taken account of any comments on the Draft Report, the Investigating Officer will send the Final Report to the Monitoring Officer.
- 6.6 The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Subject Member and the Complainant notifying them of either:
- (a) he is satisfied that no further action is required, and provide them both a copy of the Investigating Officer's final report, or
 - (b) following review of the Investigating Officer's report that either the complaint will be
 - (i) sent for determination before a Standards Determination Sub Committee or,
 - (ii) after consulting the Independent Person, seek a local resolution.

Local Resolution

- 6.7 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and the Complainant and seek to agree fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Advisory Committee for information, but will take no further action.

Process for the Determination of Complaints

- 6.8 If the Monitoring Officer considers that local resolution is not appropriate, then the Monitoring Officer will convene a Standards Determination Sub Committee to determine the complaint. It will conduct a hearing which will decide whether the member has failed to comply with the Code of Conduct and if so, whether to take any action in respect of the member.
- 6.9 The set up and structure of the Standards Determination Committee is provided for by the Council's Constitution.
- 6.10 The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and may issue directions as to the manner in which the hearing will be conducted.

Conduct of a Sub Committee hearing

- 6.11 The Monitoring Officer will present the Investigating Officer's report to the Sub-Committee.
- 6.12 The Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Subject Member has failed to comply with the Code of Conduct. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
- 6.13 If the Sub Committee, with the benefit of any advice from the Independent Person, concludes
- (a) that the Subject Member did not fail to comply with the Code of Conduct, then they can dismiss the complaint
 - (b) that the Subject Member did fail to comply with the Code of Conduct, the Chair will inform the Subject Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Subject Member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.
- 6.14 The Council has delegated to the Sub Committee powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub Committee may authorise the Monitoring Officer to –
- (a) Publish any findings in respect of the Subject Member's conduct;

- (b) Report the findings to the Standards Advisory Committee for information;
 - (c) Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - (d) Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - (e) Arrange training for the Subject Member;
 - (f) Remove from all outside appointments to which the Subject Member has been appointed or nominated by the Council;
 - (g) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - (h) Exclude the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 6.15 The Sub Committee has no power to suspend or disqualify the Sub Member or to withdraw members' or special responsibility allowances.
- 6.16 At the end of the hearing, the Chairman will state the decision of the Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
- 6.17 The Monitoring Officer will issue a decision notice, in consultation with the Chairman of the Sub Committee. The decision notice will be sent to the Complainant and the Subject Member. Thereafter a summary of the decision may be available for public inspection and the decision will be reported to the next convenient meeting of the Standards Advisory Committee.

Appeals

- 6.18 There is no right of appeal against a decision of the Monitoring Officer or of the Standards Determination Sub-Committee to the Council.

Independent Person

- 6.19 The Independent Person is invited to attend all meetings of the Sub Committee and his/her views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

Revision of these arrangements

- 6.20 In the interests of fairness, the Monitoring Officer may vary any of these arrangements as appropriate. The Chair of the Standards Sub Committee may

depart from the arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.