



Meeting: **Member Conduct Panel**

Date/Time: **Tuesday, 26 June 2018 at 9.30 am**

Location: **Framland Committee Room, County Hall, Glenfield**

Contact: **Mrs Joanne Twomey**

Email: **joanne.twomey@leics.gov.uk**

Membership

Mr. D. Jennings CC Ms. Betty Newton CC
Mr. J. Kaufman CC Mrs. C. M. Radford CC
Mr. W. Liquorish JP CC

AGENDA

<u>Item</u>	<u>Report by</u>	
1. Election of Chairman for the meeting.		
2. Declarations of Interest.		
3. Investigation in respect of an alleged breach of the Members' Code of Conduct by Mr. M. H. Charlesworth CC	Director of Law and Governance and Monitoring Officer	(Pages 3 - 81)



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MEMBER CONDUCT PANEL - 26th JUNE 2018

REPORT OF THE MONITORING OFFICER

Introduction

- Name of member: Mr. M. H. Charlesworth CC
- Name of complainants: Mr. N. J. Rushton CC, Leader of the County Council, and Dr. T. Eynon CC, Leader of the Labour Group
- Name of investigator: Jonathan Goolden of Wilkin Chapman LLP
- Date of investigator's report: 14 May 2018
- Name of Independent Person: Natalie Ainscough of Hoey Ainscough Associates Ltd
- Name of legal adviser to the Panel: Mr Anthony Cross, Head of Law and Deputy Monitoring Officer
- Name of clerk of the hearing: Mrs Joanne Twomey, Democratic Services Team Leader (Governance)

Background

1. Complaints were received from Mr Rushton and Dr Eynon on 28th September 2017 regarding the conduct of Mr. Charlesworth CC at a meeting of the full County Council held in September 2017.
2. Following receipt of the complaints, an initial assessment and early assessment was undertaken by the Monitoring Officer in accordance with the Council's approved Procedure for dealing with allegations of a breach of the Members' Code of Conduct (the Procedure).
3. The Monitoring Officer prepared a report for the Panel which it considered at its meeting on 6th December 2017. The Panel at that meeting agreed that the complaints should be referred for investigation.
4. The Monitoring Officer asked Jonathan Goolden of Wilkin Chapman LLP to conduct the investigation. He duly carried out an investigation and prepared a report of his findings which was received by the

Monitoring Officer on 14 May 2018. This report is now enclosed with the agenda for the Member Conduct Panel to consider.

Summary of complaint

5. Both complaints arise out of the same events and relate to comments made by Mr. Charlesworth during the Council debate which took place on Wednesday, 27th September on the report of the Independent Remuneration Panel on Members' Allowances.
6. Mr. Rushton complains that the comments made by Mr. Charlesworth amount to a breach of the provisions of the Code of Conduct about treating members with respect and bringing disrepute to the office of an elected member and to the reputation of the County Council.
7. Dr. Eynon complains that Mr. Charlesworth's comments called into question the integrity of the members of the Independent Remuneration Panel which she believes to be insulting to the individual members concerned and which brings the Council, its processes and all elected members into disrepute.

Relevant sections of the Code of Conduct

8. The relevant sections of the Council's Members' Code of Conduct are –

Paragraph 3.1	-	Respect - <i>You must treat others with respect.</i>
Paragraph 3.5	-	Reputation of the Authority - <i>You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.</i>

Pre - Hearing Process

9. On 25th May 2018, in accordance with paragraph 47 of the Procedure, the Monitoring Officer wrote to Mr. Charlesworth enclosing a copy of the investigation report and seeking his response on the following -
 - The findings contained in the investigation report along with any evidence in support of his position that he would wish to rely on at a hearing.
 - Whether he disagreed with any of the facts contained in the investigation report and if so, to provide an outline of these and the reasons for his disagreement.
 - Whether any part of the investigation report or other relevant documents should be withheld from the public, and whether any part of the hearing should not be held in public.
 - Whether he disagreed with any of the facts contained in the investigation report and to outline what these were and the reasons why he disagreed.

- Whether he intended to call any witnesses and if so, to provide their details.
 - Whether they had sought the views of the independent person and to provide details of those.
10. In response to the above, Mr. Charlesworth confirmed as follows by email on 1st June 2018 –

“Having taken advice I wish to remain silent and neutral and have nothing further to add, with the following exception;

I do not believe that any part of this investigation should be withheld from the public and that all of the hearing should be in public.

Thank you for providing clarity with the information.”

Findings of fact in the Investigator’s report that are agreed and key issues of dispute

11. The facts as contained in the investigator’s report are neither agreed, nor in dispute. As detailed above, Mr. Charlesworth has confirmed his wish to remain silent and neutral on the matter.
12. A copy of the Investigation Report is attached as Appendix C.

Views of the Independent Person

13. Following completion of the investigation the Monitoring Officer sought the views of the Independent Person whose views are attached marked Appendix B.

Witnesses

14. In light of Mr. Charlesworth’s response above it is understood that he does not wish to call any witnesses. On this basis, the Monitoring Officer and the Investigator do not propose to call any witnesses.

Public or Private Hearing

15. The Monitoring Officer does not consider that any of the information contained in the investigation report should be treated as ‘exempt’ in accordance with Schedule 12A of the Local Government above.
16. As detailed above (para 10) and below (para 17), Mr. Charlesworth has confirmed his view that the investigation report should be made public, and that the hearing should be held in public.

Attendance

17. Mr. Charlesworth has been notified of the date and time of the hearing. By email on 17th June 2018, Mr. Charlesworth responded as follows –

“I have received your letter concerning the meeting on the 26th June. I am unable to confirm my attendance at this moment in time, however, I would urge the Panel to carry on regardless of whether I am there or not.

I also re-iterate my request that the meeting and its reports are all done in public.”

Procedure for the Hearing

18. A copy of the procedure that will be followed at the hearing is attached marked Appendix A.

Documents

19. The following documents are attached and provided to the Panel:
- Member Conduct Panel - Hearing Process (Appendix A)
 - The Views of the Independent Person (Appendix B)
 - The Investigating Officers Report and Appendices (Appendix C)

Officer to contact

Mrs Lauren Haslam,
Director of Law and Governance and Monitoring Officer
Tel: 0116 3056240
E-mail: lauren.haslam@leics.gov.uk

Member Conduct Panel – Hearing Process

1. Subject to paragraph 2 below, the order of business will be as follows:
 - a. Following the agenda –
 - Election of Chair
 - Apologies for absence
 - Declarations of interests
 - b. If the Subject Member is absent, the Panel will consider whether to adjourn or to proceed with the hearing in their absence.
 - c. Introduction by the Chair, of members of the Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor and the Subject Member.
 - d. To receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private or any documents submitted by the Subject Member regarded as exempt.

Presentation of the complaint

- e. The Chair will confirm the procedure (including whether or not witnesses are to be involved) to be followed.
- f. The Monitoring Officer will refer to any covering report to the Panel and then ask the Investigating Officer to present their report including any documentary evidence or other material, and any comments they may have on any representations which have been made.
- g. The Panel and the Subject Member may ask questions of the Investigating Officer through the Chair.
- h. The Investigating Officer may call any witnesses which the Subject Member and the Panel will have the opportunity to ask questions of.

Presentation of the Subject Member's case

- i. The Subject Member will present their case to the Panel. The Panel and the Investigating Officer will then have an opportunity to ask questions of them.
- j. The Subject Member may call witnesses which the Panel and the Investigating Officer will be permitted to question.

Summing up

- k. The Investigating Officer sums up the complaint.
- l. The Subject Member sums up their case.

Views/Submissions of the Independent Person

- m. The Chairman will invite the Independent Person to express their view of the case, having now heard all the evidence presented at the hearing.

Deliberations of the Panel

- n. The Panel will adjourn (with its Legal Advisor and Clerk to the Panel) the hearing and deliberate in private to determine the facts of the case and to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- o. The Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required.

Announcing its decision

- p. The Panel will reconvene the hearing in public and the Chair will announce its findings and whether or not the Panel considers that there has been a breach of the Code of Conduct. If there is no breach the meeting will close.

Sanctions

- r. Where the Panel considers that there has been a breach of the Code of Conduct, the Panel will consider the sanction to be imposed. The Councils Procedure provides that, *“If the Panel concludes that there has been a breach of the Code, it will consider whether and what sanction would be appropriate to impose. The sanctions might include a formal letter to the subject member stating that there has been a breach of the Code, referral for other action, e.g. a requirement to attend training or to make a formal and public apology, or formal censure of the subject member.”*
- s. The sanction may include one or a combination of the following:
 - Formal letter – A requirement that the Monitoring Officer send a formal letter to the Subject Member confirming the Panel’s decision to impose a sanction and the detail(s) and the disappointment at having to have had to make a decision that the Code of Conduct had been breached. The Letter to be published on the Council’s website dealing with

Member matters and be displayed on the subject Members Council web page for a period of up to a year at the Monitoring Officers discretion -

- Censure - Recommend to Council a vote of formal censure from the Council to confirm that the actions of the Member were unacceptable;
 - Restricted Access - Restriction of the member's access to the resources of the Authority for up to six months. This may include limiting access to the premises of the Authority, provided that such restriction does not unnecessarily restrict the member's ability to carry out his or her responsibilities as an elected representative or co-opted member;
 - Apology - A requirement for the Member to apologise in a form specified by the Panel. This might be in writing, in person or at a meeting.
 - Training – A requirement for the Member to undertake such training as the Panel specifies;
 - Conciliation – A requirement that the Member participates in such conciliation as the Panel specifies.
- t. There are no lawful powers to suspend or disqualify a Subject Member who is found to have breached the Code of Conduct. There are also no lawful powers to withdraw their basic or special responsibility allowances.
- u. Any sanctions must include a time period for compliance by the Subject Member and stipulate what will occur if they fail to comply within that time period (i.e. that the Monitoring Officer will refer the matter to the Council's Corporate Governance Committee).
2. The Chairman may exercise their discretion and amend the above order of business where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.
3. The Panel may adjourn the hearing at any time.

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From: Natalie Ainscough
Sent: 18 June 2018 13:09
To: Lauren Haslam
Subject: Councillor Charlesworth investigation - IP views

Dear Lauren,

I can confirm that I received a copy of Wilkin Chapman LLP's Final Report and Schedule of Evidence in respect of Councillor Charlesworth on 15 May 2018. During a telephone conversation between us on 22 May 2018 I expressed my view that the investigation had been sufficiently thorough and covered what I expected it to cover, the report was logical and easy to understand, the reasoning made sense and that I agreed with the finding.

Kind regards,

Natalie

Natalie Ainscough

Co-Director

Hoey Ainscough Associates Ltd

Hoey Ainscough Associates Limited

Registered Office: 179 Castle Street, SK3 9JH

Registered in England No. 07923961

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PRIVATE AND CONFIDENTIAL

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for Leicestershire County Council, into allegations concerning **Councillor Charlesworth of Leicestershire County Council**.

Dated: 14th May 2018

VOLUME 1 REPORT

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Appendix A Schedule of evidence taken into account and list of unused material

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1. Executive Summary

- 1.1 Councillor Michael Charlesworth is a member of Leicestershire County Council (the Council) having been first elected in May 2005.
- 1.2 Complaints were made to the Council's Monitoring Officer by Councillor Richards and Councillor Dr Eynon following a meeting of the Council on 27 September 2017. The complainants stated that Councillor Charlesworth had breached the Council's Code of Conduct as he had failed to show respect and courtesy towards members of the Council's Independent Remuneration Panel.
- 1.3 The Independent Remuneration Panel was comprised of three individuals, Professor David Wilson, Jayne Kelly, and Michael Pearson all of whom were appointed by the Chief Executive. The Panel was established following the Council elections in May 2017. The purpose of the Panel was to review the Council's Members' Allowance Scheme and to make recommendations to the Council on the allowances paid to Members of the Council.
- 1.4 During the review the Panel was supported by Council officers who provided background information and administrative support. The Council's Political Group Leaders were consulted at various stages during the review, particularly on the composition of the Panel, the background information provided to the Panel and the Panel's draft report.
- 1.5 The Panel's report was circulated to all County Councillors with the agenda for a meeting of the Council held on 27 September 2017. The recommendations in the report were proposed and seconded for approval at that meeting. Councillor Charlesworth attended the meeting and read from what appeared to be a prepared statement. The meeting was recorded and a transcript of Councillor Charlesworth's statement was prepared.
- 1.6 In his statement to the Council Councillor Charlesworth questioned the independence of the individual members of the Panel. He named the three individuals, stating:-

"The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them."

"Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not the case, even allowing for the deletion of the two cabinet posts the cost of the members allowance Scheme has increased. If you are happy to increase members allowances then by all means vote for these recommendations."

- 1.7 The members of the Independent Remuneration Panel were not present at the meeting.

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1.8 We have concluded that:-

- (a) relevant legislation requires that members of Independent Remuneration Panels be independent to the extent that they are not members of the authority to which they make recommendations. There is no suggestion that the members of the Panel were not appointed in accordance with the requirements of relevant legislation;
- (b) there is no indication that the members of the Panel were not actually independent of the Council;
- (c) whilst Councillor Charlesworth did have some concerns about the way in which savings in the report were identified, his comments regarding the Panel members were unwarranted, unjustified and personalised;
- (d) Councillor Charlesworth did not treat the Panel members with respect and he thereby brought his office or authority into disrepute;
- (e) Though Councillor Charlesworth cannot be said to have failed to follow paragraph 2.1 of the Council's Code regarding leadership, he did fail to follow paragraph 3.1 (disrespect) and paragraph 3.5 (disrepute).

CONFIDENTIAL REPORT**2. Official details**

- 2.1 Councillor Charlesworth is a member of Leicestershire County Council, having been first elected in May 2005.
- 2.2 He is a Liberal Democrat Councillor representing the East Wigston Electoral Division.
- 2.3 Councillor Charlesworth has not provided information on what training he may have received on the Council's Code of Conduct for Members.

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3. Relevant legislation and protocols

- 3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.
- 3.2 Section 28 (1) of the Act provides that the Council must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-
- (a) Selflessness;
 - (b) Integrity;
 - (c) Objectivity;
 - (d) Accountability;
 - (e) Openness;
 - (f) Honesty;
 - (g) Leadership.
- 3.3 The Council adopted a Code of Conduct (attached at WC 1) in March 2013. The code includes the following:-

“Part 1 – General Provisions**Scope**

1.5 *You must comply with this Code whenever you:*

1.5.1 *act in your capacity as a member or co-opted member of the Authority*

1.5.2 *conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed)*

Part 2 – The principles

2.1 In accordance with the requirements of the Localism Act 2011, you must have regard to the following principles and observe the following rules of behaviour:-

Principle 1 – Selflessness

Holders of public office should act solely in terms of the public interest.

Principle 2 Integrity

Holders of public office must avoid placing themselves under any obligation to outside individuals or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or material benefits for

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themselves, their family or their friends. They must declare and resolve any interests and relationships.

Principle 3 Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Principle 4 Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

Principle 5 Openness

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

Principle 6 Honesty

Holds of public office should be truthful.

Principle 7 Leadership

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

Part 3 – General Obligations

Respect

3.1 *You must treat others with respect.*

Reputation of the Authority

3.5 *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.”*

CONFIDENTIAL REPORT**4. Evidence and facts***Our appointment*

- 4.1 The Council's arrangements for dealing with standards complaints provide that the Monitoring Officer of the Council, in consultation with the appointed Independent Person, shall decide whether or not to investigate a complaint.
- 4.2 Lauren Haslam, the Monitoring Officer (MO) of the Council, instructed Wilkin Chapman LLP on 9 January 2018 to carry out an investigation on his/her behalf of complaints submitted by Councillor Richards and Councillor Eynon.
- 4.3 Wilkin Chapman LLP is a solicitors firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Jonathan Goolden, Dave Hayward, Peter Bray and Alan Tasker.

The investigation

- 4.4 During the investigation, Mr Bray held face to face meetings with, and obtained signed statements from: -
- Councillor Dr Theresa Eynon – Complainant (interviewed 24 January 2018, statement signed 3 February 2018);
 - Councillor Nicholas Rushton - Complainant (interviewed 24 January 2018, statement signed 2 February 2018);
 - Councillor Janice Richards - Witness (interviewed 24 January 2018, statement signed 6 February 2018; and
 - Mohamed Seedat - Witness (interviewed 24 January 2018, statement signed 13 February 2018)
- 4.5 Councillor Charlesworth was invited to be interviewed but declined stating in an email dated 14 January 2018 that the evidence was all available on the Council's webcast.
- 4.6 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence at Appendix A.

Councillor Dr Theresa Eynon - Complainant

- 4.7 Councillor Dr Eynon submitted a complaint to the Monitoring Officer of the Council on 28 September 2017 (attached at WC 2).
- 4.8 Dr Eynon was interviewed by Mr Bray and a signed statement was obtained (attached at WC 3). She stated that: -
- (a) she was the Councillor for Coalville North of Leicestershire County Council, she was first elected in May 2013 and re-elected in May 2017. She represented the Labour Party and was the Group Leader on the Council. She was also a member of the Council's Scrutiny Committee;

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- (b) as the Labour Group Leader she considered it one of her duties to ensure that her members abide by the Council's Members' Code of Conduct.
- (c) following the elections in May 2017 Leicestershire County Council appointed an Independent Panel to review members' allowances. The Panel was non-political which it should be and was outside the influence and control of elected Council members. Members of the Independent Panel were selected by Senior Council Officials and authorised by the Chief Executive;
- (d) the Panel sat and were supplied with changes that had taken place since the last review. This was part of the necessary process for the Panel to consider all relevant information when discussing and deciding on their recommendations;
- (e) the process provided for Party Group Leaders to put forward any views and opinions before the Panel provided a draft paper back to the Group Leaders for any comments;
- (f) in this case the Labour and Liberal Democrats made comments on some issues however the Conservative group did not;
- (g) she attended a Council meeting on 27 September 2017 held in the Council Chamber, County Hall, Leicester. The meeting was a regular Council meeting attended by Councillors of all parties and Chaired by Councillor Mrs Janice Richards;
- (h) the Chief Executive of the Council and Lauren Haslam, the Council's Director of Law and Governance and Monitoring Officer were sat next to the Chair;
- (i) the meeting was an open meeting with the public and media allowed to be present. She was aware that the meeting was recorded live, via the Council's webcast allowing anyone to watch and listen to the debate as it happened. It was also recorded and down loaded on the Council's website to enable anyone access to the running and workings of debate and decision making of the Council;
- (j) the meeting was opened by the Chair and items on the agenda were debated and discussed as per normal Council business. The Independent Panel's paper was introduced by Councillor Rushton who moved that the Council accepted the recommendations. He made a number of comments thanking the Panel for the work they had done on behalf of the Council. The motion was seconded by Councillor Dr Feltham who spoke briefly and reserved his right to speak later;
- (k) the Chair then allowed Councillor Charlesworth to address the Chamber and he rose in order to speak. She could see that he read from a sheet of paper and continued without interruption;
- (l) since the Council meeting, she had viewed the webcast and read the transcript that was prepared from it. She confirmed that the transcript was correct to her knowledge and belief and a true reflection of what Councillor Charlesworth said;

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- (m) she recognised that the matter under discussion was sensitive. There was a need for Councillors who have strong views to be able to robustly challenge others' views and opinions through debate. She believed it was the duty of Councillors to do so. She believed, however, that on this occasion Councillor Charlesworth went far beyond the accepted line of behaviour expected of an elected Councillor;
- (n) she was particularly concerned in respect of the words used, "*The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them*". Councillor Charlesworth continued "*Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not the case, even allowing for the deletion of the two cabinet posts the cost of the members allowance Scheme has increased. If you are happy to increase members allowances then by all means vote for these recommendations*";
- (o) it was her view that Councillor Charlesworth's comments appeared to call into question the integrity of the members of the Independent Remuneration Panel. Not only was this insulting to the individuals, it also risked bringing the Council, its processes and all its elected members into disrepute.
- (p) she believed that Councillor Charlesworth's comments showed a lack of objectivity and were not those she wish to be associated with. She felt that they breached the Members' Code of Conduct which they, as Councillors, should strive to adhere to at all times;
- (q) at the time Councillor Charlesworth made the comments it was apparent that she was not alone with her views. There was noise of discontent from other members present as the comments were being presented;
- (r) the Chair asked Councillor Charlesworth if he would apologise for making personal comment. To which Councillor Charlesworth replied "No";
- (s) other speakers spoke on the subject and when they had presented the motion was put to a vote. It was carried;
- (t) on 28 September 2017, she handed a written letter of complaint to Lauren Haslam, the Monitoring Officer, in respect of the conduct of Councillor Charlesworth at the meeting, requesting that the issue be investigated under the Members' Code of Conduct.

Councillor Nicholas Rushton - Complainant

- 4.9 Councillor Rushton submitted a complaint to the Monitoring Officer of the Council on 28 September 2018 (attached at WC 4).
- 4.10 Councillor Rushton was interviewed by Mr Bray and a signed statement was obtained (attached at WC 5). He stated that:-

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- (a) he was the elected Conservative County Councillor for the Valley District of Leicestershire and had been so since 1989. I had been the elected Leader of Leicestershire County Council since 2012;
- (b) he was of the view that it was extremely important that elected members should, at all times, conduct themselves appropriately as representatives of their Party and of Leicestershire County Council;
- (c) as Leader of the Council one of his tasks was to Chair all Cabinet meetings;
- (d) in May 2017, following the County Council elections, an Independent Panel was set up by the Council to review the remuneration on Members' allowances. The panel was selected by Council Officers and approved by the Chief Executive, without any influence from Political Parties;
- (e) the Panel were supplied with any updates and changes that had taken place since the last review. This was to enable the Independent Panel to have all the necessary up to date information so it could make informed decisions and recommendations, to put before the Council for consideration;
- (f) the setting up of panel members was a matter for the Chief Executive. Group Leaders were informed of the members and the content of the information which was being given to the Panel and had the opportunity to make comments;
- (g) he was aware that the members were Professor David Wilson a former Deputy Vice-Chancellor, Jayne Kelly a former solicitor and a Michael Pearson a former Bursar and Finance Director and Monitoring Officer;
- (h) he and his Party were fully satisfied with the Panel and the skills which they brought to the review process;
- (i) the Panel sat and, with support from the Head of Democratic Services and Head of Member Services, produced their review and findings;
- (j) Group Leaders and Parties had sight of the report prior to its submission and could make comments if they wished. The Conservative Party did not wish to make any comments on the independent review. The Liberal Democrat and Labour Party did make comments;
- (k) the review paper was an agenda item at the Council meeting held on 27 September 2017. He presented the report and thanked the Panel for all their hard work and commitment. The item was seconded by Councillor Dr Feltham;
- (l) the Chair then allowed Councillor Charlesworth to speak. He had read the transcript prepared by a Council Officer and confirmed that it was a true reflection of what Councillor Charlesworth said. Councillor Charlesworth read from a sheet of paper;
- (m) the Chair then asked Councillor Charlesworth to apologise for making a personal comment to which Councillor Charlesworth replied "No";

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- (n) it was clear that Members were not content with what Councillor Charlesworth had said as there were rumblings;
- (o) he was appalled at the comments and felt that Councillor Charlesworth brought disrespect to the office of an elected Member and to the reputation of the County Council;
- (p) he accepted that it was an elected Member's right to challenge, sometimes robustly, during debate and it was a necessary part of the democratic process that takes place. He did, however, feel that Councillor Charlesworth's personal comments about the Independent Panel were both unjust and unfair and not in the manner in which any Councillor should conduct themselves;
- (q) the Chair, following the comments, asked Councillor Charlesworth if he wished to apologise for his comments which he declined. The Chair then asked for a record to be made;
- (r) the debate continued, and the motion was carried;
- (s) all Members were aware that the meeting was recorded and a live webcam was broadcast for anyone to view. The meetings were open to members of the public and media;
- (t) he was not satisfied by the comments and actions by Councillor Charlesworth and the next day handed a written complaint in respect of these and in his view the breach of the Code of Conduct and Nolan Principles to the Council's Monitoring Officer, Lauren Haslam.

Councillor Janice Richards - Witness

4.11 Councillor Richards was interviewed by Mr Bray and a signed statement was obtained (attached at WC 6). She stated that:-

- (a) she was the elected Conservative County Councillor for the Earl Shilton District of Leicestershire. She was first elected to Hinckley & Bosworth Borough Council in 2007 and elected to the County Council in 2009;
- (b) on 17 May 2017 she was elected Chairman of Leicestershire County Council. This post was voted on by all parties of the Council. It was expected that the holder of this office and as Chairman of the Council meetings acted in a non-political manner and maintained impartiality whilst chairing meetings, as well as when attending and representing the Council in the role of Chairman of the Council;
- (c) she endeavoured at all times to be impartial allowing elected members their democratic right to speak at Council meetings whilst maintaining order and making sure that the Council's business and work is able to flow in the correct, timely and appropriate manner that it should;
- (d) she also endeavoured to distance herself from any personal political opinion and political business whilst acting in her role as Chair of the Council;

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- (e) on Wednesday 27 September 2017 there was a meeting of the Council, she was Chair of that meeting. She was sat in the Chairman's seat and next to her was the Chief Executive, Mr John Sinnott and Lauren Haslam, Director of Law and Governance. The minutes were taken by Council officials from the Democratic Services Department. The meeting was also being recorded on the Council's Webcast, both visually and in sound. This was a live Webcast which allowed any member of the public or media to view the proceeding live;
- (f) the meeting was an open meeting which any member of the public and/or media can be present;
- (g) she opened the meeting as normal. There were a number of agenda items which were presented and dealt with in the normal manner, without incident;
- (h) the next item was to present the paper of the Independent Remuneration Panel on member allowances. Councillor Rushton presented the paper and thanked the Independent Panel for their work in coming to their views. She recalled Councillor Dr Feltham seconded the motion and reserved his right to speak at the end of the debate;
- (i) she then allowed Councillor Charlesworth to speak, who stood and read from a paper he held in his hand. At first there was no issue however she soon became concerned as to the content of his presentation;
- (j) she has read and viewed the webcam and read the transcript prepared from it, she confirmed that it was her view that the transcript prepared by Council Officers was correct and the same as her recollection of what Councillor Charlesworth said;
- (k) she was aware, due to some rumblings by Councillors in the Chamber, of what she took to be discontent with some of the content and words used by Councillor Charlesworth. This was in respect of the personal comments made about the independence of the Panel and the fact that he felt that they did not act in an independent way;
- (l) she also felt that this was not the behaviour which was expected of an elected Councillor, calling into question the integrity of Panel members who were neither present nor elected members of the Council;
- (m) she felt that this was not correct and following Councillor Charlesworth's presentation asked him to apologise for his personal comments. Councillor Charlesworth replied, "No". She then asked the officers from the Democratic Services Department and minute takers of the meeting to make of note of this;
- (n) as Chair of the Council she was very keen to allow fair, well thought out debate by all political sides and differing opinions. She was also very keen to allow all speakers the chance to have their say and allow free speech in debate. This must, however, be in line with the Members' Code of Conduct and protocol;
- (o) she believed that Councillor Charlesworth went beyond this in his statement by openly naming and criticising persons of an Independent Panel working on behalf of the Council;

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- (p) she then allowed further debate and presentation on the subject by Councillors following which the motion was voted upon and carried;
- (q) she did not take the matter further as she wished to remain independent. As Chair she felt that she had, by asking the minute taker to record proceedings and her request for an apology to be noted, acted in the best manner she could;
- (r) she became aware that complaints had been made to the Monitoring Officer in respect of Councillor Charlesworth's conduct.

Mohamed Seedat - Witness

4.12 Mohamed Seedat was interviewed by Mr Bray on 24th January 2018 and a signed statement was obtained (attached at WC 7). He stated that:-

- (a) he was employed by Leicestershire County Council in the role of Head of Democratic Services having been employed by the since September 1982;
- (b) as Head of Democratic Services he managed the Democratic Services Team supplying administrative support for all Committee meetings, subcommittee meetings and providing advice on reports to such bodies. He also supported the Monitoring Officer, Lauren Haslam in her role;
- (c) he was involved in the appointment of Independent Panels made up of members of the public who assist the Council on a number of matters from time to time. These panel members were selected for their independence, integrity, skills and ability to examine and review issues requested by the Council;
- (d) in May 2017 there was a need to review the members' allowances. This review was conducted after each election. Prior to the elections he made sure that the Council had qualified and appropriate panellists available who were willing and able to sit as the Independent Remunerations Panel;
- (e) the Panel members selected were Professor David Wilson, a former Deputy Vice Chancellor at De-Montfort University who had chaired the Panel for some years, Jayne Kelly, a former Local Government Solicitor and Michael Pearson, a former Bursar and Finance Director. Jayne Kelly and Michael Pearson had recently been appointed to serve as independent members to deal with Standards and Conduct matters;
- (f) he was satisfied that the members had many different skills which they would bring to an independent panel and that they were appropriately experienced to review the members' allowances. In line with the decision of the Constitution Committee at its meeting in March 2006, the Chief Executive exercised his delegated powers to approve the membership of the Independent Remuneration Panel;
- (g) the Panel was provided with information on changes that had taken place since the last review. This included details of the current governance arrangements, how the role of members had changed

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and the challenges now facing elected members in discharging their role. The Political Group Leaders were given a draft of the paper to be submitted to the Panel and were asked for any comments;

- (h) the comments made were reflected in a revised draft. John Sinnott (the Chief Executive and Graeme Wardle (Head of Member Services) and he discussed the revised draft with Professor David Wilson, Chairman of the Panel who asked for some additional information and clarification. This was done and the Leaders of the three political groups were advised of the changes and were asked for any further comments. None were received;
- (i) the Leaders were also made aware of the membership of the Panel and advised to submit comments as Political Groups if they so wished. The Labour and Liberal Democrat Leaders submitted written submissions and these were forwarded to members of the Panel. The Conservative Group chose not to make any comments;
- (j) the officers who attended the Panel meeting with him were John Sinnott and Graeme Wardle. No members attended the meeting. The Panel worked through the report asking questions and seeking clarification as appropriate before making their recommendations;
- (k) following the meeting he and Graeme Wardle produced a report based on the discussions at the Panel meeting. That draft was shared with Panel members who made comments and suggested changes which were incorporated in the final version;
- (l) given the political sensitivity around the issue of member allowances, the final report was given to the three Group Leaders a few days prior to its circulation to the Constitution Committee at which point it became a public document;
- (m) the final report was put to the Constitution Committee. The 3 Group Leaders served on this Committee and at the meeting the report was agreed for submission to the Council meeting for decision;
- (n) the Council meeting took place on Wednesday 27 September in the Chamber of County Hall. The Chairman of the meeting was Councillor Richards. Sat with her were John Sinnott, the Chief Executive and Lauren Haslam, the Monitoring Officer. He was sat below them with a member of his Section. They were responsible for the minutes of the meeting, the working of the webcast, order papers, notes and general assistance to the Chairman and Monitoring Officer in the correct running of the meeting;
- (o) the webcast was working correctly and both recording and relaying live to anyone who wished to view the Council meeting. He had viewed the webcast recording and transcript prepared from it and confirmed that both records were a true reflection of what took place at the meeting;
- (p) the recommendations in the report of the Independent Remuneration Panel were proposed by Councillor Rushton, the Leader of the Conservative Group and the Council and seconded by Councillor Feltham, a member of the Constitution Committee. The Chairman then allowed Councillor Charlesworth to speak;

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- (q) he noted that Councillor Charlesworth read from a piece of paper which he was holding. Having read the transcript of the meeting he confirmed that it was an accurate record of Councillor Charlesworth's words;
- (r) during the later part of the speech Members in the Chamber started to verbally challenge Councillor Charlesworth and there were rumblings of what he felt was discontent with the comments;
- (s) on conclusion of Councillor Charlesworth's comments the Chairman, Councillor Mrs Richards asked Councillor Charlesworth if he would apologise for making personal comments. Councillor Charlesworth replied 'no'. The Chairman then asked him to make a note of the reply and what had taken place. He did that and reflected that in the minutes which he later produced;
- (t) as an officer of the Council he was saddened and disappointed about the way in which Councillor Charlesworth spoke, openly criticising the members of the Independent Remuneration Panel. The Panel members were not present and even if they were they would have had no right of reply to these comments. The Panel members had given their time as a public service and he felt the comments made were inappropriate and reflected very badly on the Council;
- (u) he accepted that political debate could become heated between Councillors. However, these comments were personal and against independent people, and not Councillors;
- (v) the minutes of the meeting of 27 September 2017 were presented at the next Council meeting and signed as a true record.

Councillor Charlesworth

- 4.13 Councillor Charlesworth was invited to be interviewed but declined. After completing the interviews of the complainants and witnesses a letter dated 15 February 2018 was sent to Councillor Charlesworth with a number of questions (copy attached at WC 8) which he was invited to respond to. At the time of preparing this report no response had been received.

Independent Remuneration Panels

- 4.14 Regulation 20 of the Local Authorities (Members' Allowances) (England) Regulations 2003 require the Council to establish a panel of at least three independent members. None of these individuals can be a member of the Council, or its committees or subcommittees or be disqualified from being or becoming a member of the Council.
- 4.15 The functions of such a panel are set out in regulation 21 of the above regulations and are to make recommendations on matters including:-
- (a) as to the responsibilities or duties in respect of which the following should be available—
 - (i) special responsibility allowance;
 - (ii) travelling and subsistence allowance; and
 - (iii) co-optees' allowance;

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- (b) as to the amount of such allowances and as to the amount of basic allowance;
- (c) as to whether dependants' carers' allowance should be payable to members of the Council, and as to the amount of such an allowance;
- (d) as to whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated;
- (e) as to whether adjustments to the level of allowances may be determined according to an index;
- (f) as to which members of the Council might be entitled to pensions.

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5. Summary of the material facts

- 5.1 Councillor Charlesworth is a member of Leicestershire County Council and attended a meeting of the Council on 27 September 2017.
- 5.2 The Council meeting was recorded and was broadcast via webcam on the Council's website.
- 5.3 The agenda for the Council meeting included a report from the Council's Independent Remuneration Panel. The Panel comprised three individuals appointed by the Council to undertake a review of the Council's Members' Allowance Scheme. These individuals were Professor David Wilson, a former Deputy Vice Chancellor at De-Montfort University, Jayne Kelly, a former Local Government Solicitor and Michael Pearson, a former Bursar and Finance Director.
- 5.4 The members were appointed to the Panel by the Chief Executive in accordance with his delegated powers. The membership of the Panel was notified to the Political Groups on the Council who were given to opportunity to comment.
- 5.5 The report was prepared by the Panel with assistance from Council Officers who provided background information, supported the Panel at their meeting and drafted the report.
- 5.6 The Panel's draft report was circulated to the Political Groups for comment prior to finalisation. The Labour Group and Liberal Democrat Group submitted comments, the Conservative Group did not. The final report was presented to the Council at a meeting on 27 September 2017.
- 5.7 The three members of the Independent Remuneration Panel were not present at the meeting.
- 5.8 When the meeting considered the report of the Independent Remuneration Panel, the recommendations in the Panel's report were proposed and seconded by Councillors Rushton and Councillor Dr Feltham respectively. After Councillor Rushton had made the proposition and thanked the Panel for their work Councillor Charlesworth requested to speak.
- 5.9 Councillor Charlesworth stood and read from a prepared paper. The words used by Councillor Charlesworth are set out at paragraph 15 of the statement of Councillor Rushton at WC 5. Whilst Councillor Charlesworth was speaking it was evident some members had concerns about some of the comments he was making. This included the Chair of the meeting, Councillor Richards, who asked if he would apologise for the personal comments he had made. Councillor Charlesworth responded "no".
- 5.10 The particular comments which caused concern and are the subject of the complaints made were:-

"With the Cabinet posts, Fire Authority appointments, Committee Chairs and now Deputy Chairs the Leader has effectively greased the palms of nearly all 36 tory members. Of course the Conservative Group did not make any recommendations to the Panel, they didn't need to; they knew what the outcome would be.

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The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them.

Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not the case, even allowing for the deletion of the two Cabinet posts the cost of Members' Allowances Scheme has increased. If you are happy to increase Members' Allowances then by all means vote for these recommendations."

- 5.11 Councillor Richards requested that the minute taker record the comments. The minutes of the meeting state:-

During the discussion on this matter, Mr Charlesworth made comments which questioned the independence of the members of the Remuneration Panel. The Chairman invited Mr Charlesworth to withdraw the remarks and apologise. Mr Charlesworth refused to do so.

The minutes then record the detail of the decisions taken on the recommendations in the Panel's report.

- 5.12 Following the meeting Councillor Rushton and Councillor Dr Eynon submitted complaints to the Council's Monitoring Officer alleging that Councillor Charlesworth's comments were disrespectful towards the individual members of the Remuneration Panel and could bring the office of Councillor or the Council into disrepute.

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6. Reasoning as to whether there have been failures*Official Capacity*

- 6.1 Section 28(2) of the Localism Act 2011 requires the Council to adopt a code of conduct dealing with the conduct that is expected of members of the Council “*when they are acting in that capacity*”.
- 6.2 The Council’s Code of Conduct reflects the requirement of section 28(2) of the Localism Act. The Code states:-

Scope

1.5 *You must comply with this Code whenever you:*

1.5.1 *act in your capacity as a member or co-opted member of the Authority*

1.5.2 *conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed)*

- 6.3 Though relating to the former 2007 model code of conduct, the Upper Tribunal decision in *MC v Standards Committee of the London Borough of Richmond 2011) UKUT 232 (AAC)* is a helpful distillation of the previous High court cases on capacity, those being – *Livingstone v Adjudication Panel for England (2006) EWHC 2533* and *R(Mullaney) v Adjudication Panel for England (2009) EWHC 72*. The principles stated in MC are:-

(a) *was the Councillor, as a matter of ordinary English, actually conducting the business of their authority, including the business of the office of councillor?*

(b) *a fact sensitive approach is required to the above.*

(c) *the question is one for the tribunal to determine, not a reasonable observer.*

- 6.4 At the Council meeting on 27 September 20176 it is clear that Councillor Charlesworth was acting in his capacity as a Councillor. He was a member of the Council and at the meeting conducting the business of the Council and the business of his office of Councillor. We therefore conclude that on this occasion Councillor Charlesworth was acting in an official capacity and was subject to the Code of Conduct.

Respect

- 6.5 Paragraph 3.1 of the Code states:-

You must treat others with respect.

- 6.6 The term “respect” is not defined in the Code. However, the requirement to treat others with respect must be viewed objectively. Account should be taken of the member’s intent and how their behaviour would reasonably be perceived.

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- 6.7 The Standards Board for England Case Review 2010 (2011 Edition) provides guidance by indicating a 'rule of thumb' comparison. Q15 of the Case Review 2010 advises that:-

"A very clear line has to be drawn between the Code of Conduct's requirement of respect for others, including members of the authority with opposing views, and the freedom to disagree with the views and opinions of others. In a democracy, members of public bodies should be able to express disagreement publicly with each other."

- 6.8 A rule of thumb is expressed in this comparison:

"You're talking drivell" is likely to be an acceptable expression of disagreement.

Calling someone an "incompetent moron", on the other hand, is more likely to be a failure to comply with paragraph 3(1).

We can see that the first comment is aimed at the expression of an idea or argument. The second is aimed at the person and their personal characteristics".

- 6.9 Whilst some care must be taken in adopting wholesale a test applicable to a provision of the former national model code, it is the personalisation of comments that cause the user to breach the Code. The conduct must be unreasonable, unwarranted and personalised. In considering whether comments are disrespectful, regard must be had to the right to free speech in article 10 of the European Convention on Human Rights (see below regarding *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504).
- 6.10 We note the approach taken by the former Adjudication Panel in *Capon v Shepway District Council* [2008] APE 0399, conveniently summarised by the Case Review 2010 at page 32 as:-

"A tribunal considered the threshold for a failure to treat others with respect. The councillor made comments about the town clerk at a parish meeting saying that an officer found her "difficult to get on with". The councillor added that "this is also the view of many towns' people who say that when they try to contact the town clerk, she is downright rude to them".

- 6.11 The tribunal considered that the threshold for a failure to treat another with respect has to be set at a level that allows for the passion and frustration that often accompanies political debate and the discussion of the efficient running of a council. It should also be set within the context of who was involved in the exchange.
- 6.12 In that case, the comments were opinions of other individuals which the member honestly believed to be true. The member's conduct was not unfair, unreasonable or demeaning to the Town Clerk and not made in a malicious or bullying manner. The Town Clerk was very experienced in her dealings with Councillors and given her seniority was entirely able to defend her position. Therefore, the tribunal decided that the threshold was not reached.
- 6.13 The Case Review 2010 confirms that members are able to criticize officers. It states on page 41, Q22 of the Guidance that:-

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"In some cases officers have been known to reject reasonable criticism appropriately made and describe it as bullying. The Government did not intend the Code of Conduct to constrain members' involvement in local governance, including the role of members to challenge performance. Members are able to question and probe poor officer performance provided it is done in an appropriate way. In the everyday running of a local authority, it is inevitable that members may have disagreements with officers from time to time.

This paragraph does not mean that members cannot express disagreement with officers. This disagreement might, in the appropriate content, manifest itself in criticism of the way in which an officer or officers handled particular matters.

It is important that members raise poor performance in the correct way and at the proper forum, such as in a private meeting with a senior manager, and not in a public meeting or through a published article in the media"

- 6.14 We have also had regard to the right to freedom of speech on political matters set out in Article 10 of the European Convention on Human Rights (ECHR) as considered in *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504, where it was held:-
- Article 10 of ECHR protects not only the substance of political comment but the form in which it is conveyed;
 - a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, non rational and aggressive is to be tolerated;
 - political comment includes comment on public administration and the adequacy of the performance of public duties by others, but not gratuitous personal comments;
 - whilst civil servants are open to criticism, there is a public interest that they are not subject to unwarranted comments that disenable them from performing public duties and undermines public confidence;
 - there is a need to weigh up the public interest in protecting civil servants against enhanced protection for political comment.
- 6.15 Clearly from the above guidance it is evident that it is part of the members' role to scrutinise and challenge the conduct and performance of officers. It also provides some indication of how this might be raised and in particular how it should not be done i.e. the seniority of the officer involved.
- 6.16 In determining whether Councillor Charlesworth's conduct at the Council meeting amounted to a failure to treat others with respect, as referred to in relevant guidance and case law, it is appropriate to carefully consider his comments and the surrounding circumstances.
- 6.17 Whilst Councillor Charlesworth has not engaged with us during our investigation it seems evident from the recording of the meeting, transcript of his speech and our reading of the Panel's report that he was critical of some of the content of the report. In particular he seemed to object to how savings

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on other functions have been incorporated into the Members' Allowance report in what he seemed to allege was an attempt to cover up additional expenditure on the allowances. We understand that this comment related to the financial implications of the review of the Members' Allowances Scheme which highlighted that the overall cost of democracy would reduce by £235,000 per annum.

- 6.18 However, having regard to the guidance and case law set out above we have to have regard to the manner in which Councillor Charlesworth articulated his concerns. In this case we consider the significant facts to be that Councillor Charlesworth accused the members of the Independent Remuneration Panel of not being independent. He named each individual in his speech even though they were not present at the meeting and had no opportunity to defend themselves or refute his allegations.
- 6.19 There is no suggestion that the appointment of the Panel members was not in accordance with the requirements of regulation 20 of the Local Authorities (Members' Allowances) (England) Regulations 2003. The Panel members were, in law, independent.
- 6.20 The evidence of Mr Seedat (WC 7) in particular is that the Panel members carried out their role in a proper and independent manner. In particular Mr Seedat refers to members of the Panel questioning officers, making comments on and suggesting changes to the report which was made to councillors.
- 6.21 The members of the Panel were not elected members of the Council nor were they Senior Officers both of whom might be expected to be subject to some robust scrutiny and challenge. Whilst they were not members of the public it is our opinion that they should be treated with similar courtesy and respect as a member of the public would be.
- 6.22 When Councillor Charlesworth said:-

"With the Cabinet posts, Fire Authority appointments, Committee Chairs and now Deputy Chairs the Leader has effectively greased the palms of nearly all 36 tory members. Of course the Conservative Group did not make any recommendations to the Panel, they didn't need to; they knew what the outcome would be.

The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them.

Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not the case, even allowing for the deletion of the two Cabinet posts the cost of Members' Allowances Scheme has increased. If you are happy to increase Members' Allowances then by all means vote for these recommendations."

We consider that by naming the Panel members his comments were personalised. We also consider that it was unwarranted to name the individuals and inappropriate to do so in a public meeting.

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- 6.23 *Capon* indicates that the threshold for finding a failure to treat others with respect must allow for the exercise of the passions and frustrations which often accompany political debate. Further, civil servants, particularly those with experience and seniority, are expected to be familiar with the arguably intemperate language used by members and able to defend their positions if challenged or criticized.
- 6.24 Councillor Charlesworth may have expressed his concerns and criticisms relating to the Independent Remuneration Panel's report in a more considerate manner or appropriate context. It is our conclusion that Councillor Charlesworth could, quite legitimately and in an appropriate manner, have expressed his concerns about the report without resorting to a personalised attack on the individual members of the Independent Remuneration Panel.
- 6.25 We have therefore concluded that Councillor Charlesworth's conduct did fall short of the standard required by the Council's Code of Conduct.

Disrepute

- 6.26 It is evident that the Council meeting was open to both public and members of the press. The meeting was also broadcast via webcam on the Council's website. The factual circumstances make it appropriate to consider whether or not Councillor Charlesworth's comments in this meeting had the potential of bringing his position as a councillor and/or the Council into disrepute.
- 6.27 Q43 on page 68 of the Case Review 2010 (2011 Edition) published by SfE advises that disrepute is:-

"...a lack of good reputation or respectability.

In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either:

- 1) *Reducing the public's confidence in that member being able to fulfill their role; or*
- 2) *Adversely affecting the reputation of members generally, in being able to fulfill their role."*

- 6.28 Q44 on the next page of the Case Review 2010 advises that:-

"An officer carrying out an investigation...does not need to prove that a member's actions have actually diminished public confidence, or harmed the reputation of the authority...the test is whether or not a members' conduct "could reasonably be regarded" as having these effects.

The test is objective and does not rely on any one individual's perception. There will be a range of opinions that a reasonable person could have towards the conduct in question."

- 6.29 Q42 on page 68 of the Case Review 2010 indicates that:-

"A case tribunal or standards committee will need to be persuaded that the misconduct is sufficient to damage the reputation of the

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member's office or Authority, as opposed simply to damaging the reputation of the individual concerned."

- 6.30 By making unsubstantiated allegations that the members of the Remuneration Panel had not acted in an independent manner could lead listeners to believe that the Council or Councillors had exerted inappropriate influence on the Panel members. There was no evidence of such influence.
- 6.31 We have considered the context of Councillor Charlesworth's speech and his evident concerns regarding the Panel's report. Though he may have had concerns, these were not expressed in an appropriate manner.
- 6.32 On balance, we have concluded that Councillor Charlesworth's misconduct was sufficient to damage the reputation of the office of Councillor or the Authority and thus he failed to follow paragraph 3.5 of the Code.

Leadership

- 6.33 Paragraph 2.1 of the Council's Code of Conduct requires members to have regard to a number of principles. Principle 7 is entitled Leadership and is described as follows:

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

- 6.34 Neither legislation nor case law provides further guidance on what constitutes 'leadership'. Leadership is therefore a broad principle and includes promoting and supporting high standards.
- 6.35 To "have regard" means to comply with unless there are very good reasons not to.
- 6.36 The principles referred to in Principle 7 ("*these principles*") appear to be those other Principles set out at paragraph 2.1 of the Code. These are:-

Principle 1 – Selflessness

Holders of public office should act solely in terms of the public interest.

Principle 2 Integrity

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

Principle 3 Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Principle 4 Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

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Principle 5 Openness

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

Principle 6 Honesty

Holds of public office should be truthful.

- 6.37 No one of these principles appear directly to address disrespect and disrepute. We have therefore concluded that Councillor Charlesworth did not fail to have regard to the principles and thus cannot be said to have failed to exhibit leadership in breach of paragraph 2.1 of the Code.

7. Finding

- 7.1 Our findings are that there has been a breach of the code of conduct of the authority concerned.

Wilkin Chapman LLP

Investigating Solicitors



PRIVATE AND CONFIDENTIAL

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for Leicestershire County Council, into allegations concerning Councillor Charlesworth of Leicestershire County Council.

Dated: 14th May 2018

VOLUME 2 SCHEDULE OF EVIDENCE

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Appendix A

Schedule of evidence taken into account and list of unused material

Page	Number	Description
3	WC 1	Code of Conduct
13	WC 2	Complaint of Councillor Eynon
14	WC 3	Statement of Councillor Eynon
21	WC 4	Complaint of Councillor Rushton
22	WC 5	Statement of Councillor Rushton
27	WC 6	Statement of Councillor Richards
33	WC 7	Statement of Mo Seedat
40	WC 8	Written questions sent to Councillor Charlesworth

List of unused material

Investigator's notes, file correspondence and drafts.

Part 5 A

Members' Code of Conduct

PART 5A - MEMBERS' CODE OF CONDUCT

CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS OF LEICESTERSHIRE COUNTY COUNCIL

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

Part 1 – General Provisions

Introduction

- 1.1 This Code applies to **you** as a member of Leicestershire County Council ('the Authority').
- 1.2 You should read this Code in conjunction with the Procedure Rules as detailed in the Constitution.
- 1.3 It is your responsibility to comply with the provisions of this Code and ensure all obligations are met.

Interpretation

- 1.4 In this Code:
 - 1.4.1 "**co-opted member**" means those members who are not elected members of the Authority, but who are co-opted and have voting powers.
 - 1.4.2 "**meeting**" means any meeting of:
 - (a) the Authority;
 - (b) the executive of the Authority;
 - (c) any of the Authority's or its executive's committees, subcommittees, joint committees, joint subcommittees, or area committees.
 - 1.4.3 "**member**" means any person being an elected or co-opted member of the Authority.

Scope

- 1.5 You must comply with this Code whenever you:
 - 1.5.1 act in your capacity as a member or co-opted member of the Authority;

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- 1.5.2 conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed).
- 1.6 Where you act as a representative of the Authority:
- 1.6.1 on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- 1.6.2 on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

Part 2 – The Principles

- 2.1 In accordance with the requirements of the Localism Act 2011, you must have regard to the following principles and observe the following rules of behaviour:-

Principle 1 - Selflessness

Holders of public office should act solely in terms of the public interest.

Principle 2 - Integrity

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

Principle 3 - Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Principle 4 - Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Principle 5 - Openness

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

Principle 6 - Honesty

Holders of public office should be truthful.

Principle 7 - Leadership

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

- 2.2. The above principles articulate the fundamental values of public service that underpin the conduct of members. The following provisions contained in this Code are derived from these principles and provide a set of enforceable minimum standards for the conduct that is expected of members and co-opted members of the Authority when they are acting in that capacity.

Part 3 – General Obligations**Respect**

- 3.1 You must treat others with respect.
- 3.2 You must not:
- 3.2.1 do anything which may cause the Authority to breach any of the equality enactments;
 - 3.2.2 bully any person;
 - 3.2.3 intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings;
 - 3.2.4 in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

Confidentiality

- 3.3 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- 3.3.1 you have the consent of a person authorised to give it;
 - 3.3.2 you are required by law to do so;
 - 3.3.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - 3.3.4 the disclosure is:
 - (i) reasonable and in the public interest; and

Part 5A

Members' Code of Conduct
Page 4

- (ii) made in good faith and in compliance with the reasonable requirements of the Authority.

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

Reputation of the Authority

3.5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.

Use of your position and the Authority's resources

3.6 You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

3.7 You must, when using or authorising the use by others of the resources of the Authority:

3.7.1 act in accordance with the Authority's reasonable requirements;

3.7.2 ensure that such resources are not used improperly, (including use for political and party political purposes).

Publicity

3.8 You must have regard to any applicable Local Authority Code of Publicity made under the relevant legislation in existence at the time.

Decision making

3.9 When reaching decisions on any matter you must have regard to any relevant advice provided to you by officers of the Authority acting pursuant to their statutory responsibilities (including a proper officer designated by the Authority), or advisors to the Authority.

3.10 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

3.11 You must follow the adopted corporate operational policies of the Authority.

Part 4 – Interests

A. Disclosable Pecuniary Interests

Definition

- 4.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description specified in regulations made by the Secretary of State and the interest is:
- (a) yours;
 - (b) your spouse's or civil partner's;
 - (c) somebody with whom you are living as husband and wife or as if you are civil partners;
- and you are aware, in the case of paragraphs (b) and (c) that that other person has the interest.

[Note 2: the regulations currently in force are attached but do not form part of the Constitution determined by the Authority, as they may be amended by the Government at any time.]

Declaring at and participation in meetings

- 4.2 If you are present at any meeting of the Authority, and you have a Disclosable Pecuniary Interest in any matter to be considered or being considered, and the interest is not a 'sensitive interest', at the meeting:
- 4.2.1 you must disclose the interest to the meeting whether or not it has been registered;
 - 4.2.2 unless a dispensation has been given, you may not participate in any discussion of the matter at the meeting;
 - 4.2.3 unless a dispensation has been given, you may not participate in any vote taken on the matter at the meeting.
- 4.3 Where you have a Disclosable Pecuniary Interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

Part 5A

Members' Code of Conduct
Page 6

- 4.4 Following any disclosure of a Disclosable Pecuniary Interest at a meeting which is not on the Authority's register or the subject of a pending notification, you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.

[Note: In addition, Standing Order 30 requires you to leave the room where the meeting is held while any discussion or voting takes place.]

- 4.5 Where an executive member may discharge functions alone and becomes aware of a Disclosable Pecuniary Interest in a matter being dealt with or to be dealt with by him/her, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

B. Personal Interests**Definition**

- 4.6 You have a personal interest in any business of the Authority where either:

4.6.1 it relates to or is likely to affect:

4.6.1.1 any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;

4.6.1.2 any body:

(i) exercising functions of a public nature;

(ii) directed to charitable purposes; or

(iii) one of whose principle purposes includes the influence of public opinion or policy (including any political party or trade union);

of which you are a member or in a position of general control or management.

4.6.1.3 the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50 within the last 12 months.

or

4.6.2 a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

- 4.7 For the purposes of paragraph 4.6, a 'relevant person' is:
- 4.7.1 a member of your family or any person with whom you have a close association; or
 - 4.7.2 any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
 - 4.7.3 any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body; or
 - 4.7.4 any body of a type described in sub-paragraph 4.6.1.1 or 4.6.1.2.

Declaring at and participation in meetings

- 4.8 Subject to paragraph 4.10 below, where you have a Personal Interest in any business of the Authority and where you are aware or ought reasonably to be aware of the existence of the Personal Interest and you attend a meeting of the Authority where such business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of the meeting and prior to any discussion of the relevant item, or as soon as the interest becomes apparent to you.
- 4.9 Where you have a Personal Interest you may remain in the meeting, speak and vote on the matter unless to do so would compromise your impartiality obligations or any other obligations set out in this Code.
- 4.10 Where you have a Personal Interest, but, by virtue of paragraph 4.17, sensitive information relating to it is not registered in the Authority's Register of Members Interests, you must indicate to the meeting that you have a Personal Interest, but need not disclose the sensitive information to the meeting.

C. Personal Interests which might lead to bias

Definition

- 4.11 In addition to the requirements in relation to Disclosable Pecuniary Interests referred to in Section A of Part 4 of this Code, you have a Personal Interest which might lead to bias in any business of the Authority where:
- 4.11.1 you have a 'Personal Interest' as defined in paragraph 4.6 and 4.7 above; **and**
 - 4.11.2 that 'Personal Interest' is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so

Part 5A

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Page 8

significant that it is likely to prejudice your judgement of the public interest.

- 4.12 The provisions of paragraph 4.11 shall be applied in such a manner as to recognise that this Code should not obstruct a members service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances.

Declaring at and participation in meetings

- 4.13 If you are present at any meeting of the Authority, and you have a Personal Interest which might lead to bias in any matter to be considered or being considered, and the interest is not a 'sensitive interest', subject to paragraphs 4.14 and 4.15 below, at the meeting:
- 4.13.1 you must disclose the interest to the meeting (whether or not it is registered);
 - 4.13.2 unless a dispensation has been given, you may not participate in any discussion of the matter at the meeting;
 - 4.13.3 unless a dispensation has been given, you may not participate in any vote taken on the matter at the meeting.
- 4.14 Where you have a Personal Interest which might lead to bias in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 4.15 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a Personal Interest which might lead to bias, if the matter relates to:
- 4.15.1 housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;
 - 4.15.2 school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - 4.15.3 an allowance, payment or indemnity given to members;

- 4.15.4 any ceremonial honour given to members; or
- 4.15.5 setting council tax or precept under the Local Government Finance Act 1992.

D. Registration of interests

- 4.16 Subject to paragraph 4.18 (Sensitive Interests), you must within 28 days of:
- (a) the adoption of this Code; or
 - (b) your election or appointment to office as a member (where that is later);
- notify the Monitoring Officer in writing of :
- (i) any Disclosable Pecuniary Interest, as defined in paragraph 4.1 above; and
 - (ii) details of your Personal Interests where they fall within the category mentioned in paragraph 4.6.1 above.
- 4.17 Subject to paragraph 4.18 (Sensitive Interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest or Personal Interest as referred to in paragraph 4.6.1, or any change to any such interest, notify the Monitoring Officer in writing of the details of that new interest or change.

E. Sensitive Interests

- 4.18 Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being the subject of violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the Register, copies of the Register that are made available for inspection and any published version of the Register will exclude details of the interest but may state that you have an interest, the details of which are withheld.

F. Dispensations

- 4.19 To enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest or a Personal Interest that might lead to bias, the Council may grant you a dispensation in accordance with rules and procedures established by the Authority.



IN CONFIDENCE

Leicestershire
County Council

From County Councillor Dr Terri Eynon

28th September 2017

1 Wyggeston Road
Coalville
Leicestershire
LE67 3RE

01530 832622

Lauren Haslam
Monitoring Officer
(By hand)

Dear Lauren,

Re Comments from Michael Charlesworth CC

I wish to raise a concern regarding remarks made during the Council debate last Wednesday 27th September.

I recognise that the matter under discussion was sensitive. I respect the duty of Opposition Councillors to scrutinise and to oppose. I am concerned that, as part of a longer speech, which provided a robust critique of the Councillor's remuneration review process, Mr Charlesworth made the following statement (as transcribed from the webcast):-

"The Panel Members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them."

I am concerned that Mr Charlesworth appears to call into question the integrity of the members of the Independent Remuneration Panel. Not only is this insulting to the individuals so publicly named. It also risks bringing the Council, its processes and all Elected Members into disrepute.

I believe that Mr Charlesworth's comments show a lack of objectivity. I hope that, after quiet reflection, he may be prepared to withdraw them. I would be grateful if you could take appropriate action under the Members Code of Conduct to achieve a suitable resolution.

Yours Sincerely,

Dr Terri Eynon MRCPsych MRCGP
County Councillor for Coalville North and Labour Group Leader
Leicestershire County Council

C.c. John Sinnott, Nicholas Rushton

Members Group Room Leicestershire County Council, County Hall, Glenfield, Leicestershire LE3
8RA Telephone: 0116 232 3232www.leics.gov.uk

**STATEMENT
FRONT COVER**

Case Ref:	
Name:	Theresa Eynon
Position Held:	County Councillor

wilkin chapman llp
solicitors

Cartergate House,
26 Chantry Lane,
Grimsby
DN31 2LJ

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STATEMENT of:- Theresa Eynon

1. I am the elected councillor for Coalville North of Leicestershire County Council. I was first elected in May 2013 and re-elected in May 2017.
2. I completed my induction training when first elected into office and have since had a number of further inputs on the member code of conduct.
3. I have signed the declaration of office which also includes that I, as an elected Councillor, will abide by the Leicestershire County Council Members' code of conduct.
4. I represent the Labour Party and am its current Group Leader on the Council. I am also a member of the Council's Scrutiny Committee.
5. As the Labour Party Group Leader, I see that it is one of my duties to ensure that my members abide by the Council's Members' code of conduct.
6. Following the election in May 2017 Leicestershire County Council appointed an independent panel to sit and review members' allowances. This panel is a non-political panel which should be and is outside the influence and control of elected Council members.
7. Members of the independent panel are selected by Senior Council officials and authorised by the Chief Executive.
8. The panel sat and they were supplied by Council officers with any changes that had come into place since the last review. Again, this was part of the necessary process for the panel to consider all relevant information when discussing and deciding on their recommendations.
9. Within the process there is the availability for Party Group Leaders to put forward any views and opinions before the panel bring their draft paper back to the Group Leaders for any comments.

10. In this case the Labour and Liberal Democrats did make comments on some issues however the Conservative group did not.
11. At 2pm on Wednesday 27 September 2017 I attended a full County Council meeting of Leicestershire County Council held in the Council Chamber, County Hall, Leicester.
12. The meeting was a regular council meeting attended by councillors of all parties and Chaired by the elected chair Councillor Mrs Janice Richards.
13. Sat next to the chair were the Chief Executive of the Council and Lauren Haslam, Director of Law and Governance of the Council and Monitoring officer.
14. The meeting was an open meeting with the public and media allowed to be present.
15. I am also aware that the meeting is recorded live, via the Council's webcast allowing anyone to watch and listen to the debate as it happens. It is also recorded and downloaded on the Council's website to enable anyone access to the running and workings of debate and decision making of the Council.
16. The meeting was opened by the chair and items on the agenda were debated and discussed as per normal Council business.
17. The item producing the independent paper was introduced by Councillor Rushton who moved that the Council accepted the recommendations. He made a number of comments thanking the panel for the work they had done on behalf of the Council. The motion was seconded by Councillor Dr Feltham who spoke briefly and reserved his right to speak later.
18. It was then that the chair allowed Councillor Charlesworth to address the Chamber and he rose in order to speak. I could see that he read from a sheet of paper and continued without interruption.

19. Since the Council meeting, I have viewed the webcast and read the transcript that was prepared from it. I can say that the transcript is correct to my knowledge and belief and a true reflection of what Councillor Charlesworth said.

20. I refer to the transcript as below:- Councillor Charlesworth said,

"I'll begin with the resources implications, page 79 under paragraph 4 mentions a saving of £235,000 per annum, that's fine as part of the democratic process but has got absolutely nothing to do with Members' Allowances and while we've got rid of two Cabinet members this has to be balanced against the new Conservative policy adviser to the Cabinet at a cost of £30,000 plus. How on earth did Highway Forums get included, surely everything we as members do here is part of the democratic process but that does not make it part of the Members' Allowances Scheme, and the Highway forums certainly weren't.

The abolishment of the political assistants is a politically motivated move and expecting the Whips to pick up this line of work is short-sighted and damaging to the role of being a County Councillor.

The Panel states in its report that members are accountable in multiple ways for monitoring the internal and external performance of the Council. They have just made it much more difficult for members of the opposition to do that, the role of all members, including the ruling party, is to hold the Executive to account. Doing an annual report is, I believe, a futile attempt gesture that about 4 people will read. As for the savings of the Local Government Pension Scheme, that decision was taken elsewhere. It appears Christmas has come early for the Conservative group; the wish list that was sent to the Panel has been delivered in full.

In paragraph 33 of the report the Panel noted a disparity in pay to Opposition Leaders, this was outside the scope of the review and I am doubtful whether they noticed it themselves or more likely it was brought to their attention. The Panel then contradicted itself when looking at the methodology of determining the SRAs. They have treated all Group Whips equally with the proposal of £59 per member but they haven't applied this rationale to the Group Leaders. If the Leader of the Council was

to be paid £684 per group member, as are the other Group Leaders, his SRA would be £24,624. We could have saved £11,600 if the Panel had been fair in its recommendations. It seems to me the controlling group has engineered a process that has enriched them at the expense of council tax payers.

With the Cabinet posts, Fire Authority appointments, Committee Chairs and now Deputy Chairs the Leader has effectively greased the palms of nearly all 36 Tory members. Of course the Conservative Group did not make any recommendations to the Panel, they didn't need to; they knew what the outcome would be.

The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them.

Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not the case, even allowing for the deletion of the two Cabinet posts the cost of Members' Allowances Scheme has increased. If you are happy to increase Members' Allowances then by all means vote for these recommendations."

21. I recognise that the matter under discussion was sensitive. There is a need for Councillors who have strong views to be able to robustly challenge others' views and opinions through debate. In fact, I believe it is the duty of councillors to do so.
22. I firmly believe, however, that on this occasion Councillor Charlesworth went far beyond the accepted line of behaviour expected of an elected councillor.
23. I was particularly concerned in respect of the words used, *"The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them"*.

24. He continued:-

“Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not the case, even allowing for the deletion of the two cabinet posts the cost of the members allowance Scheme has increased. If you are happy to increase members allowances then by all means vote for these recommendations “.

25. It is my view that Councillor Charlesworth’s comments appear to call into question the integrity of the members of the Independent Remuneration Panel. Not only is this insulting to the individuals, it also risks bringing the Council, its processes and all its elected members into disrepute.

26. I believe that Councillor Charlesworth’s comments showed a lack of objectivity and were not those I wish to be associated with. I feel that they breach the Members’ Code of Conduct which we, as councillors, should strive to adhere to at all times.

27. At the time Councillor Charlesworth made the comments I refer to it was apparent that I was not alone with my views. There was noise of discontent from other members present as these comments were being presented.

28. I know the chair, Councillor Richards, upon conclusion of Councillor Charlesworth’s comments, said:-


Mrs Richards – *“Can I ask Mr Charlesworth that you would apologise for making a personal comment please”.*

Mr Charlesworth Replied – *“No”.*

29. There were other speakers who spoke on the subject and when they had presented the motion was put to a vote. It was carried.

- 30. On 28 September 2017, I handed a written letter of complaint to Lauren Haslam ,the Monitoring Officer, in respect of the conduct of Councillor Charlesworth at the meeting, requesting that the issue should be investigated under the Members Code of Conduct.

I Theresa Eynon declare that this statement is true and accurate to the best of my knowledge and belief.

Signed  Date 3/2/18



28th September 2017

Attn: Lauren Haslam
Monitoring Officer
(by hand)

Dear Lauren

Re Michael Charlesworth CC

I was appalled at the comments made at the County Council meeting on 27th September 2017 by Mr Charlesworth, during the debate on the report of the Independent Remuneration Panel on Members' allowances.

Despite being given the opportunity to withdraw his comments and to apologise by the Chairman, he refused.

Consequently, I should like to make an official complaint to the Monitoring Officer and ask that the matter be investigated as a potential breach of the Members Code of Conduct, namely section 3.1- treating Members with respect.

I also feel that his comments brought disrepute to the office of an elected member and to the reputation of the County Council.

Every elected member signs the Code of Conduct and agrees to be bound by its provisions, particularly the Nolan principles on Standards in Public Life.

Yours sincerely

Nicholas Rushton CC
Leader of the Council

Copy to: John Sinnott, Dr Eynon CC

Cabinet Office
Leicestershire County Council, County Hall, Glenfield, Leicestershire. LE3 8RA
Telephone: 0116 3057453
Email: nicholas.rushton@leics.gov.uk

STATEMENT FRONT COVER

Case Ref:	
Name:	Nicholas Rushton
Position Held	Leader of Leicestershire County Council.

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solicitors

Cartergate House,
26 Chantry Lane,
Grimsby
DN31 2LJ

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STATEMENT of:- Nicholas Rushton

1. I am the elected Conservative County Councillor for the Valley District of Leicestershire and have been so since 1989. I have been the elected Leader of Leicestershire County Council since 2012.
2. I am fully aware of the Members' Code of Conduct and the manner in which elected members should act when conducting Council business.
3. I have signed the declaration of office which states that I will abide by this Code of Conduct and agree to be bound by its provisions, particularly the Nolan principles on Standards in public life.
4. I am also of the view that it is extremely important that elected members should, at all times, conduct themselves appropriately as representatives of their Party and of Leicestershire County Council.
5. As Leader of the Council one of my tasks is to Chair all Cabinet meetings.
6. In May 2017, following the County Council elections, an independent panel was set up by Leicestershire County Council to review the remuneration on Members' allowances.
7. The panel was selected by Council Officers and approved by the Chief Executive, without any influence from political parties.
8. The panel are supplied with any updates and changes that have taken place since the last review. This is to enable the independent panel to have all the necessary up to date information so it can make informed decisions and recommendations, to put before full Council for consideration.

9. The contact and setting up of panel members is a matter for the Chief Executive. Group Leaders are however informed of the members and the content of the information which is being given to the panel and have the opportunity to make comments.
10. I was aware that the members were Professor David Wilson a former deputy Vice-Chancellor, Jayne Kelly a former solicitor and a Michael Pearson a former bursar and Finance Director and Monitoring Officer.
11. I and my party were fully satisfied with the panel and the skills which they brought to the review process.
12. The Panel sat and, with support from the Head of Democratic Services and Head of Member Services, produced their review and findings.
13. Group leaders and parties do have sight of the report prior to its submission and can make comments if they wish. The Conservative Party did not wish to make any comments on the independent review. The Liberal Democrat and Labour Party did make comments.
14. The review paper was an agenda item at the full Council meeting held on 27 September 2017. I presented the report and thanked the panel for all their hard work and commitment. The item was seconded by Councillor Dr Feltham.
15. The Chair then allowed Councillor Charlesworth to speak. I have read the transcript prepared by a Council officer and can say that it is a true reflection of what Councillor Charlesworth said. He read from a sheet of paper and said:-

"I'll begin with the resources implications, page 79 under paragraph 4 mentions a saving of £235,000 per annum, that's fine as part of the democratic process but has got absolutely nothing to do with Members' Allowances and while we've got rid of two Cabinet members this has to be balanced against the new Conservative policy adviser to the Cabinet at a cost of £30,000 plus. How on earth did Highway Forums get included, surely everything we as members do here is part of the democratic process but that does not make it part of the Members' Allowances Scheme, and the Highway forums certainly weren't.

The abolishment of the political assistants is a politically motivated move and expecting the Whips to pick up this line of work is short-sighted and damaging to the role of being a County Councillor.

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In paragraph 33 of the report the Panel noted a disparity in pay to Opposition Leaders, this was outside the scope of the review and I am doubtful whether they noticed it themselves or more likely it was brought to their attention. The Panel then contradicted itself when looking at the methodology of determining the SRAs. They have treated all Group Whips equally with the proposal of £59 per member but they haven't applied this rationale to the Group Leaders. If the Leader of the Council was to be paid £684 per group member, as are the other Group Leaders, his SRA would be £24,624. We could have saved £11,600 if the Panel had been fair in its recommendations. It seems to me the controlling group has engineered a process that has enriched them at the expense of council tax payers.

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The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them.

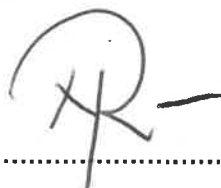
Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not

the case, even allowing for the deletion of the two Cabinet posts the cost of Members' Allowances Scheme has increased. If you are happy to increase Members' Allowances then by all means vote for these recommendations."

16. The chair then asked Councillor Charlesworth to apologise saying, *"Can I ask Mr Charlesworth that you would apologise for making a personal comment please."*
17. Councillor Charlesworth replied, "No".
18. It was clear that Members were not content with what Councillor Charlesworth had said as there were rumblings.
19. I was appalled at his comments and felt that he brought disrespect to the office of an elected Member and to the reputation of the County Council.
20. I fully accept that it is an elected Member's right to challenge, sometimes robustly, during debate and it is a necessary part of the democratic process that takes place. I do, however, feel that Councillor Charlesworth's personal comments about the independent panel were both unjust and unfair and not in the manner in which any councillor should conduct themselves.
21. The Chair, following the comments, asked councillor Charlesworth if he wished to apologise for his comments which he declined. The Chair then asked for a record to be made.
22. The debate continued, and the motion was carried.
23. I am, as all Members are, aware that the meeting is recorded and a live webcam is broadcast for anyone to view. The meetings are open to members of the public and media.
24. I was not satisfied by the comments and actions by Councillor Charlesworth and the next day handed a written complaint in respect of these and in my view the breach of the Code of Conduct and Nolan principles to the Council's Monitoring Officer, Lauren Haslam.

I Nicholas Rushton declare that this statement is true and accurate to the best of my knowledge and belief.

Signed



Date

2nd February
2018.

STATEMENT FRONT COVER

Case Ref:

Name: Councillor Janice Richards

Position Held: Chairman of Leicestershire
County Council.

wilkin chapman llp
solicitors

Cartergate House,
26 Chantry Lane,
Grimsby
DN31 2LJ

a limited liability partnership registered in England number OC343261
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08 FEB 2017

wilkin chapman llp

STATEMENT of:- Councillor Janice Richards

1. I am the elected Conservative County Councillor for the Earl Shilton District of Leicestershire. I was first elected to Hinckley & Bosworth Borough Council in 2007 and elected to the County Council in 2009. May 2017 being my third period of office.
2. I am fully aware of the Members' Code of Conduct and the responsibility this set upon all of us as councillors.
3. I first signed my declaration of office in 2009 and have received Member Code of Conduct training along with updates upon re-election.
4. On 17 May 2017 I was elected as Chairman of Leicestershire County Council. This post is voted on by all parties of the Council.
5. It is expected that the holder of this office and as Chairman of the Council meetings acts in a non-political manner and maintains impartiality whilst chairing meetings, as well as when attending and representing the Council in the roll of Chairman of the Council.
6. I endeavour at all times to be impartial allowing elected members their democratic right to speak at Council meetings whilst maintaining order and making sure that the Council's business and work is able to flow in the correct, timely and appropriate manner that it should.
7. I also endeavour to distance myself from any personal political opinion and political business whilst acting in my role as Chair of the Council.
8. On Wednesday 27 September 2017 there was a full member meeting of the County Council. It commenced at 2pm and I was chair of that meeting.
9. I was sat in the Chairman's seat and next to me were the Chief Executive, Mr John Sinnott and Lauren Haslam, Director of Law and Governance to the Council.

10. The minutes were being taken by Council officials from the Democratic Services department. The meeting was also being recorded on the Council's Webcast, both visually and in sound. This is a live Webcast which allows any member of the public or media to view the proceeding live.
11. It is the responsibility of the Democratic Services Department to see that this is carried out and working correctly and to ensure that the openness of such Council meetings are being conducted.
12. The meeting is an open meeting in which any member of the public and/or media can be present.
13. I opened the meeting at 2pm as normal. Councillors of all parties were present along with Council officers.
14. There were a number of agenda items which were presented and dealt with in the normal manner, without incident.
15. The next item was to present the paper of the Independent Remuneration Panel on member allowances. Councillor Rushton presented the paper and thanked the Independent Panel for their work in coming to their views. I recall Councillor Dr Feltham seconded the motion and reserved his right. This would enable him to speak at the end of debate.
16. I then allowed Councillor Charlesworth to speak. He stood and then spoke, reading from a paper he held in his hand. At first there was no issue however I soon became concerned as to the content of his presentation.
17. I have read and viewed the webcam and read the transcript prepared from it, I can say that it is my view that the transcript prepared by Council officers is correct and the same as my recollection of what Councillor Charlesworth said.
18. From the transcript of the meeting Councillor Charlesworth said:-

"I'll begin with the resources implications, page 79 under paragraph 4 mentions a saving of £235,000 per annum, that's fine as part of the democratic process but has got absolutely nothing to do with Members' Allowances and while we've got rid of two

Cabinet members this has to be balanced against the new Conservative policy adviser to the Cabinet at a cost of £30,000 plus. How on earth did Highway Forums get included, surely everything we as members do here is part of the democratic process but that does not make it part of the Members' Allowances Scheme, and the Highway forums certainly weren't.

The abolishment of the political assistants is a politically motivated move and expecting the Whips to pick up this line of work is short-sighted and damaging to the role of being a County Councillor.

The Panel states in its report that members are accountable in multiple ways for monitoring the internal and external performance of the Council. They have just made it much more difficult for members of the opposition to do that, the role of all members, including the ruling party, is to hold the Executive to account. Doing an annual report is, I believe, a futile attempt gesture that about 4 people will read. As for the savings of the Local Government Pension Scheme, that decision was taken elsewhere. It appears Christmas has come early for the Conservative group; the wish list that was sent to the Panel has been delivered in full.

In paragraph 33 of the report the Panel noted a disparity in pay to Opposition Leaders, this was outside the scope of the review and I am doubtful whether they noticed it themselves or more likely it was brought to their attention. The Panel then contradicted itself when looking at the methodology of determining the SRAs. They have treated all Group Whips equally with the proposal of £59 per member but they haven't applied this rationale to the Group Leaders. If the Leader of the Council was to be paid £684 per group member, as are the other Group Leaders, his SRA would be £24,624. We could have saved £11,600 if the Panel had been fair in its recommendations. It seems to me the controlling group has engineered a process that has enriched them at the expense of council tax payers.

With the Cabinet posts, Fire Authority appointments, Committee Chairs and now Deputy Chairs the Leader has effectively greased the palms of nearly all 36 tory members. Of course the Conservative Group did not make any recommendations to the Panel, they didn't need to; they knew what the outcome would be.

The Panel members, David Wilson, Jane Kelly and Michael Pearson, I believe have not come to these recommendations independently. I feel they have been guided through this process and done what was expected of them.

Independent: dictionary definition: free from control in action and judgement, autonomous, not dependent on anything else for function, not reliant on the support of others. That is the definition of independent. The report clearly shows that is not the case, even allowing for the deletion of the two Cabinet posts the cost of Members' Allowances Scheme has increased. If you are happy to increase Members' Allowances, then by all means vote for these recommendations."

19. I was aware, due to some rumblings by Councillors in the Chamber, of what I took to be discontent with some of the content and words used by Councillor Charlesworth. This was in respect of the personal comments made about the independence of the panel and the fact that he felt that they did not act in an independent way.
20. I also felt that this was not the behaviour which is expected of an elected Councillor, calling into question the integrity of panel members who were neither present nor elected members of the Council.
21. I did feel that this was not correct and following his presentation asked him to apologise for his personal comments. I said, "can I ask Mr Charlesworth that you would like to apologise for making a personal comment please." Councillor Charlesworth replied, "No".
22. I then asked the officers from the Democratic Services Department and minute takers of the meeting to please make of note of this.
23. As Chair of the Council I am very keen to allow fair, well thought out debate by all political sides and differing opinions. I am also very keen to allow all speakers the chance to have their say and allow free speech in debate. This must, however, be in line with the Members' Code of Conduct and protocol.
24. I do believe that Councillor Charlesworth went beyond this in his statement by openly naming and criticising persons of an independent panel working on behalf of the Council.

- 25. I then allowed further debate and presentation on the subject by councillors following which the motion was voted upon and carried.
- 26. I did not take the matter further as I wished to remain independent. As Chair I felt that I had, by asking the minute taker to record proceedings and my request for an apology to be noted, acted in the best manner I could.
- 27. I became aware that complaints had been made to the Monitoring Officer in respect of Councillor Charlesworth's conduct.

I Janice Richards declare that this statement is true and accurate to the best of my knowledge and belief.

Signed J. Richards Date 6.2.2018

STATEMENT FRONT COVER

Case Ref:

Name: Mohamed Iqbal Seedat

Position Held Head of Democratic services.

wilkin chapman llp
solicitors

Cartergate House,
26 Chantry Lane,
Grimsby
DN31 2LJ

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STATEMENT of: - Mohamed Iqbal Seedat

1. I am employed by Leicestershire County Council in the role of Head of Democratic Services. I have been employed by Leicestershire County Council since September 1982.
2. My role as Head of Democratic Services includes the management of the Democratic Services Team ensuring that we supply administration support for all Committee meetings, subcommittee meetings, providing advice on reports to such bodies making sure they are adequate and appropriate. I also support the Monitoring officer, Lauren Haslam in her role.
3. I am fully aware of the Members Code of Conduct and have received training and input on a number of occasions from the Monitoring Officer. I am also involved within my department in cascading the training on the Members Code of Conduct to officers within the Democratic Services Team and other staff at the Council.
4. As Head of Democratic Services, I am involved in the appointment of Independent Panels made up of members of the public who assist the Council on a number of matters from time to time.
5. The panel members are selected for their independence, integrity, skills and ability to examine and review issues requested by the Council.
6. Following the elections in May 2017 there was a need to review the remuneration on elected members' allowances. This review is conducted after each election as a matter of course.
7. Prior to the elections taking place I made sure that we, as a Council, had qualified and appropriate panellists available who were both willing and able to sit as the Independent Remunerations Panel, to review the current Member Allowances Scheme and produce a report on their findings and recommendations.

8. The Panel members selected were Professor David Wilson, a former deputy vice chancellor at De-Montfort University and someone who had chaired the Panel for some years, Jayne Kelly, a former local government solicitor and Michael Pearson, a former bursar and finance director. Jayne Kelly and Michael Pearson had recently been appointed to serve as independent members to deal with Standards and Conduct matters.
9. I was fully satisfied that the members held a range of roles and therefore had many different skills which they would bring to an independent panel and that they were appropriately experienced to properly review the allowances for Council members. In line with the decision of the Constitution Committee at its meeting in March 2006, the Chief Executive was asked to exercise his delegated powers and approve the membership of the Independent Remuneration Panel, which he did.
10. I and members of my section were responsible for updating the panel with information on changes that had taken place since the last Independent Remuneration Panel had carried out a similar review. This included details of the current governance arrangements within the Council, how the role of members had changed and the challenges now facing elected members in discharging their role.
11. The Group Leaders of political parties are given a draft of the paper which we intended to submit to the Panel and they were asked for any comments. The comments made were reflected in a revised draft. John Sinnott (the Chief Executive and Graeme Wardle (Head of Member Services) and I discussed the revised draft with Professor David Wilson, Chairman of the Panel who asked for some additional information and clarification. This was done and the Leaders of the three political groups were advised of the changes and asked for any further comments. None were received.
12. The Leaders are also made aware of the membership of the Panel and advised to submit comments as Political Groups if they so wished. The Labour and Liberal Democrat Leaders submitted written submissions and these were forwarded to members of the Panel. The Conservative Group chose not to make any comments.

13. The officers attending the Panel meeting with me were John Sinnott and Graeme Wardle. No members attended the meeting. The Panel worked their way through the report asking questions and seeking clarification as appropriate before making their recommendations.
14. Following the meeting a draft report was written by me and my colleague Graeme Wardle based on the discussions at the Panel meeting. That draft was then shared with Panel members who made comments and suggested changes which were incorporated in the final version.
15. Given the political sensitivity around the issue of member allowances, the final report was given to the three Group Leaders a few days prior to its circulation to the Constitution Committee at which point it became a public document.
16. The final report was completed and put to the Constitution Committee. The 3 Group Leaders serve on this Committee and at the meeting the report was agreed for submission to the full Council meeting for decision.
17. At 2pm on Wednesday 27 September the full Council meeting took place in the Chamber of County Hall.
18. The Chairman of the meeting was Councillor Richards. Sat with her were John Sinnott, the Chief Executive of the Council and Lauren Haslam, the Monitoring Officer.
19. I was sat below them with a member of my Section. We are responsible for the minutes of the meeting, the working of the webcast, order papers, notes and general assistance to the Chairman and Monitoring Officer in the correct running of the meeting.
20. I am able to say that the webcast was working correctly and both recording and relaying live to anyone who wished to view the Council meeting.
21. I have since viewed the webcast recording and transcript prepared from it and can say that both records are a true reflection of what took place at the meeting.

22. The meeting was opened by the Chairman and agenda items were debated as normal. Minutes were being taken and the webcast was recording.
23. The recommendations set out in the report of the Independent Remuneration Panel were proposed by Councillor Rushton, the Leader of the Conservative Group and the Council and seconded by Councillor Feltham, a member of the Constitution Committee. The Chairman then allowed Councillor Charlesworth to speak.
24. I noted that Councillor Charlesworth read from a piece of paper which he was holding. From the transcript of the meeting Councillor Charlesworth said:-

"I'll begin with the resources implications, page 79 under paragraph 4 mentions a saving of £235,000 per annum, that's fine as part of the democratic process but has got absolutely nothing to do with Members' Allowances and while we've got rid of two Cabinet members this has to be balanced against the new Conservative policy adviser to the Cabinet at a cost of £30,000 plus. How on earth did Highway Forums get included, surely everything we as members do here is part of the democratic process but that does not make it part of the Members' Allowances Scheme, and the Highway forums certainly weren't.

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25. It was during the later part of his speech that Members in the Chamber started to verbally challenge him and there were rumblings of what I felt was discontent with his comments.
26. On conclusion of Councillor Charlesworth's comments the Chairman, Councillor Mrs Richards, said:-

"Can I ask Mr Charlesworth that you would apologise for making a personal comment please."
27. Councillor Charlesworth replied "No".
28. The Chairman then asked me to make a note of his reply and what had taken place. I did that and reflected that in the minutes which I later produced.

- 29. The issue was further debated, and the motion was carried.
- 30. As an officer of the Council I was saddened and disappointed about the way in which Councillor Charlesworth spoke, openly criticising the members of the Independent Panel. The Independent Remuneration Panel members were not present and even if they were they would have had no right of reply to these comments. The Panel members had given their time as a public service and I felt the comments made were inappropriate and reflected very badly on the Council.
- 31. I totally accept that political debate can become heated between Councillors. However, these comments were personal and against independent people, and not Councillors.
- 32. The minutes of the meeting of 27 September 2017 were presented at the next Council meeting and signed as a true record.

I Mohamed Iqbal Seedat declare that this statement is true and accurate to the best of my knowledge and belief.

Signed  Date 13/02/2018

Questions to Councillor Charlesworth.

1. When were you first elected to the County Council?

2. Have you been an elected member of any other local authority? If so please provide details.

3. Are you familiar with the requirements of the Council's Code of Conduct?

4. Have you received training on the Code of Conduct? If so please provide details.

5. At the meeting of the Council on 27 September 2017 were you aware that members of the public may be present and that the meeting was being recorded and broadcast on a webcam?

6. When you spoke on the report of the Independent Remuneration Panel what exactly were your objections or concerns?

7. During the Independent Remuneration Panel's review were you or your Political Group consulted on any of the following matters:-
 - (a) the Panel membership?

 - (b) the information provided to the Panel?

(c) the draft and/or final report prior to publication?

8. At the Council meeting were your comments aimed directly at the members of the Panel?

9. Why did you personalise your comments by naming the members of the Panel?

10. Were you aware that the members of the Panel were not present at the meeting?

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