

**Report of Investigation by Barbara Beardwell into a Complaint made against Councillor Dr Rob Clinton, a Member of Dudley Metropolitan Borough Council, on behalf of the Monitoring Officer of Dudley Metropolitan Council.**

## **Final Report**

Barbara Beardwell

30 November 2023

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## **1. EXECUTIVE SUMMARY**

### **1.1 BACKGROUND**

On 14 March 2023, Mr Mohammed Farooq, Monitoring Officer of Dudley Metropolitan Borough Council ('the Council') appointed Mrs Barbara Beardwell, an independent specialist investigator, to investigate a complaint made against Councillor Dr Rob Clinton, an elected Member of the Council, pursuant to the Council's Members' Code of Conduct. This investigation report is prepared by Mrs Beardwell. Mrs Beardwell has many years' experience as a Monitoring Officer prior to becoming an independent investigator, and has extensive experience of Member Conduct matters and Investigations.

### **1.2 FOCUS OF THE INVESTIGATION**

The complaint was made under the Council's Members' Code of Conduct (Members' Code of Conduct) and related to the alleged behaviour of Councillor Clinton's at a meeting of the Dudley Forum on Monday 7 November 2022. The complaint was made by Councillor Cathryn Bayton, who is also an elected Member of the Council. The complainant alleged a number of breaches by Councillor Clinton of the Code of Conduct.

## **2. CONCLUSIONS AND RECOMMENDATIONS**

I have investigated whether Councillor Clinton acted in the manner alleged in the complaint, whether in doing so he was acting in his official capacity as a Member of the Council, and whether as a result he failed to comply with the Code of Conduct.

After I had completed the preliminary draft of the Report it was peer-reviewed for quality and to ensure consistency of approach with similar cases across the country. I now submit the Final Report containing my final findings and conclusions to Mohammed Farooq for his consideration and further action. In doing that I pass copyright in the Report to Dudley Metropolitan Borough Council.

**Based on the balance of probabilities, and the evidence available to me:**

- (a) I DO CONCLUDE that Councillor Clinton was acting in his official capacity as a Member of the Council at the time he engaged in the behaviour complained of.**
- (b) I DO CONCLUDE that having satisfied myself that Councillor Clinton was acting in his official capacity at the time of the behaviour complained of, Councillor Clinton breached Paragraph 5.1 of the Council's Members' Code of Conduct, in that he did not treat other Councillors and members of the public with respect.**
- (c) I DO NOT CONCLUDE that Councillor Clinton breached Paragraph 5.5 of the Council's Members' Code of Conduct, in that as a Councillor he did not bring his role or local authority into disrepute.**
- (d) I FURTHER CONCLUDE that Councillor Clinton did not breach any other Paragraphs of the Council's Members' Code of Conduct.**

### **3. RELEVANT LEGISLATION AND PROTOCOLS**

#### **Code of Conduct**

By virtue of Section 27 (1) of the Localism Act 2011 ('the Act'), a '*relevant authority*' (which includes a District Council) '*must promote and maintain high standards of conduct by Members and Co-opted Members of the Authority*'.

By virtue of Section 27 (2) of the Act, a relevant authority '*must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity*'.

By virtue of Section 28 of the Act, a relevant authority '*must secure that a Code of Conduct adopted by [the Authority] pursuant to Section 27 (2) of the Act is, when viewed as a whole, consistent with the principles of (a) selflessness; (b) integrity; (c) objectivity; (d) accountability; (e) openness; (f) honesty, and (g) leadership*'. These are the principles of public life or the 'so-called' Nolan principles.

The intention of the legislation is to ensure that the conduct of those in public life in local government does not fall below a minimum level which endangers public confidence in democracy.

## **Arrangements for Investigation of Allegations of Failure to Comply with Code of Conduct**

By virtue of Section 28 (6) of the Act, relevant authorities must have in place:

- (a) *'arrangements under which allegations of failure to comply with the Authority's Code of Conduct', and;*
- (b) *'arrangements under which decisions on allegations can be made. Arrangements must include provision for the appointment by the authority of at least one 'independent person' whose views are to be sought, and taken into account, by the Authority before it makes a decision on an allegation it has decided to investigate, and whose views may be sought by the Member or Co-opted member subject of the allegation'.*

Lastly, Section 28 (11) of the Act provides *that 'if a relevant authority finds that a Member or Co-opted Member of the Authority has failed to comply with its code of conduct....., it may have regard to the failure in deciding:*

- (a) *whether to take action in relation to the Member or Co-opted member, and;*
- (b) *what action to take'.*

The procedure under which consideration of allegations of failure to comply with the Members' Code of Conduct (Complaints Procedures) is published on the Council's website. A copy of the Complaints Procedure (including the Members' Code of Conduct) is below.

<https://www.dudley.gov.uk/media/20131/standards-arrangements.pdf>

## **4. CONTEXT**

Dudley Metropolitan Borough Council is a unitary council in the West Midlands. The Office for National Statistics states that in 2021 the District had a population of around 325,500. The Council has 72 elected Members of whom 44 are Members of the Conservative Group and 27 are Members of the Labour Group. There is 1 unaffiliated Member. The Conservative Group is the majority Political Group on the Council. The Council is split into 24 electoral Wards. Each Ward is represented by 3 Councillors.

## **5. OFFICIAL DETAILS OF SUBJECT MEMBER**

Councillor Clinton is a Member of Dudley Metropolitan Borough Council, a Member of the Conservative Group, and Cabinet Member for Climate Change.

He was first elected to the Council on 6 May 2021, and has served as a Councillor since this date. So far as is relevant to the complaint, Councillor Clinton signed a declaration of acceptance of office on 7 May 2021. Together with 2 other Councillors from the Council's Labour Group, Councillor Jackie Cowell and Councillor Chris Barnett, Councillor Clinton represents the Quarry Bank and Dudley Wood Ward. Councillor Clinton is also a Member of the Dudley Forum.

## **6. DUDLEY METROPOLITAN BOROUGH COUNCIL CODE OF CONDUCT**

Pursuant to the requirement of the Act as outlined above, the Council adopted the Dudley Metropolitan Borough Council Members' Code of Conduct. A link to the Members' Code of Conduct (which also includes the Standards Arrangements as discussed above) is below for ease of reference:

<https://www.dudley.gov.uk/media/20131/standards-arrangements.pdf>

By law, after their election as a new or returning Member all Councillors are required to sign a Declaration of Acceptance of Office. The Council's records indicate that Councillor Clinton received training on the Council's Code of Conduct on 17 May 2021, and 18 May 2022.

So far as material, the Code provides as follows:

### **4. Application of the Code of Conduct**

*This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a Coopted Member. It continues to apply to you until you cease to be a Councillor.*

*This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:*

- *you misuse your position as a Councillor*
- *Your actions would give the impression to a reasonable member of the public, with knowledge of all the facts, that you are acting as a Councillor.*

*The Code applies to all forms of communication and interaction, including:*

- *at face-to-face meetings*
- *at online or telephone meetings*
- *in written communication*
- *in verbal communication*
- *in non-verbal communication*
- *in electronic and social media communication, posts, statements and comments.*

*You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor. The Council's Monitoring Officer has a statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.*

## **General Conduct**

### **5.1 Respect**

*As a Councillor:*

- I treat other Councillors and members of the public with respect.*
- I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.*

*Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.*

*In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.*

*In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the Police. This also applies to fellow Councillors, where action could then be taken under the Members' Code of Conduct, and local authority employees, where concerns can be raised with the Chief Executive, Monitoring Officer or appropriate Director*

### **5.5 Disrepute as a Councillor:**

- I do not bring my role or local authority into disrepute.*

*As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.*

*You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct*

## **7. WHEN DOES THE CODE OF CONDUCT APPLY?**

Under Section 27(2) of the Localism Act 2011 a Council must adopt a code dealing with the 'conduct of members... when they are acting in that capacity'. 'Capacity' is not defined in the Act, but the general interpretation is that councils can only investigate matters where a Member subject of a complaint was acting as a Councillor, or representative of the Council, at the time of the alleged incident.

Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by the code – a link to that person's membership of their authority and specifically their role as a Councillor is needed.

Some activities clearly have no link with a Council, such as a purely personal matter or something to do with a member's work completely unrelated to the Council. Case law has established that Councillors must actually be engaged on Council business, commenting on Council business, or acting as a representative of the Council to be deemed within 'capacity' so as to engage the Code of Conduct.

## **8. THE COMPLAINT**

Following discussion with one of the Council's Independent Persons, the Monitoring Officer instructed me on 14 March 2023 to investigate the complaint in accordance with the Council's Complaints Procedures. The Monitoring Officer confirmed that Councillor Clinton had been provided with contact details of one of the Council's Independent Persons.

## **9. EVIDENCE OBTAINED AND METHODOLOGY**

### **9.1 DOCUMENTS SUPPLIED WITH INSTRUCTIONS**

As part of my instructions the Council's Monitoring Officer also provided a number of relevant documents. These included:

- A copy of the Complaint made by Councillor Bayton against Councillor Clinton.



C Bayton - Complaint  
- 02-12-22.pdf



## **9.2 INTERVIEWS WITH SUBJECT MEMBER AND WITNESSES**

The following persons were interviewed during the investigation:

- Councillor Dr Rob Clinton
- Councillor Cathryn Bayton
- Councillor Jackie Cowell
- Mayada Abuaffan
- Jackie Scott

The interviews took place between 4 April 2023 and 24 May 2023. All persons interviewed have agreed a written record of their interviews. These are contained below.

### **9.2.1 Evidence of Councillor Rob Clinton**

On 4 April 2023, I held a telephone interview with Councillor Clinton. A copy of the note of interview is below.

#### **Note of interview with Councillor Clinton – 4 April 2023**

1. The interview was conducted by telephone by Barbara Beardwell (BB). Persons present on the call were BB and Councillor Rob Clinton (RC).
2. BB confirmed that she was a Solicitor and an independent investigator appointed by Mohammed Farooq, Monitoring Officer at the Council, to investigate a complaint made by Councillor Bayton (CB) under the Dudley Metropolitan Borough Council's (the Council) Members' Code of Conduct in relation to his alleged behaviour at a meeting of the Dudley Community Forum on Monday 7 November 2022.
3. BB confirmed she had received a copy of CB's complaint, together with RC's comments on the complaint. BB explained that at this stage she intended to interview RC, CB, plus Councillor Jackie Cowell (JC) and Mayada Abuaffan, the Council's Acting Director of Public Health as persons present at the meeting. Should BB determine any further interviews are necessary she would discuss this with Mr Farooq. The process for the investigation will be as per the Council's arrangements for Dealing with Standards Allegations. Once BB has completed the investigation she will be producing a draft report. BB would then send RC a copy of the draft report and provide him with an opportunity to comment on the draft report before it was finalised. The same process will apply with CB and the Monitoring Officer. It would however be BB's decision as to whether the draft report is amended to take account of any comments made. If following the investigation BB is of the view that there has not been a breach of the Code of Conduct then that will be the end of the

matter, and RC and CB will be advised accordingly by the Monitoring Officer. On the other hand if BB is of the view that there has been a breach or potential breach of the Code of Conduct then the Monitoring Officer will write to RC, and propose either that the matter can be reasonably resolved without the need for a hearing in accordance with the Standards Arrangements, or alternatively that the matter should be referred for a hearing by the Standards Sub-Committee. BB confirmed that the potential breaches of the Members' Code of Conduct she was looking at were Paragraph 5.1 (*'As a Councillor I treat other Councillors and members of the public with respect'*), and Paragraph 5.5 (*'As a Councillor I do not bring my role or local authority into disrepute'*), and also two general principles alleged in CB's complaint, *'I lead by example and act in a way that secures public confidence in the role of a councillor'* and *'I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest'*. BB explained that at this stage the investigation should be treated as confidential and that RC should not discuss anything to do with the investigation with any other party, whether directly involved in the complaint or not. RC confirmed that this was all clear.

4. RC confirmed that he was first elected in May 2021 and was one of three Councillors for the Quarry Bank and Dudley Wood Ward. He was also a Cabinet Member for Waste Management and Climate Change, and also a Member of Dudley Forum.
5. BB asked RC as to what was his understanding of the process for community grants. Was there a specific process? Also was there a difference between Community Forum grants which, from the note supplied by RC appear to BB to be up to a maximum of £5K per year and where the applicant appears to be a voluntary or community organisation in Dudley, and grants made by Public Realm? BB asked who is Public Realm, whether grants under Public Realm are in effect Executive Member grants delegated to Officers, and whether there a limit of funding re Public Realm grants. Enclosed with the papers RC has sent to Mr Farooq are the Agenda for the Netherton, Woodside & St Andrews and Quarry Bank and Dudley Wood Community Forum meeting on 27 October last year. Was this the previous Community Forum meeting at which the decision re the Quarry Bank Christmas lights was deferred, which came back to the subsequent meeting on 7 November? Under which grants scheme did RC understand the application for the Quarry Bank Christmas light to fall.
6. RC said that there was confusion as to what could and couldn't be done, and who could apply. The process had only changed a few weeks before the incident on 7 November 2022. There had been no briefing on the rules and requirements, and Officers were in the same position as Members.

7. RC said that there had been an online Grants meeting on 20 October 2022 before the physical Forum meeting. The Forum meeting was for all Councillors within the Dudley area. It was suggested by Councillor Zada who was the Labour leader, CB and carried forward by JC that it should be discussed at the Forum meeting due to the confusion relating to whether or not a Councillor could submit an application and the limits to the amount that could be requested. Although it was raised by Jackie Scott (JS) that the guidelines allowed for the Forum to authorise funds at their discretion. RC said he'd suggested that there be a discussion regarding the lights on the day of the Forum before the public meeting but Councillor Zada didn't show up.
8. RC said the four options referred to in the email exchange earlier on the day of the Forum meeting between himself and JS contained within his comments to Mr Farooq when notified of the complaint had come from Officers. It was not Councillor Clinton's grant application. JS was not sure if Councillors could put in a grant application, and the application was put in by Public Realm, one of the Council's Departments. The grant for the Christmas lights came from Public Realm, who were also the body responsible for putting up the lights. Once a grant was with Public Realm it ceased to be a Councillor's application. Matters were meant to be clarified at a meeting of the Ward Councillors before the Forum meeting, but this didn't happen.
9. RC said that at the Forum meeting it was unclear if all 15 of the Dudley Councillor could vote, or just the individual Ward Councillors. The public Forum is divided into Wards. The Labour Ward Councillors controlled the meeting 11 – 4, as there were 11 Labour Councillors and 4 Conservative Councillors. There had been discussion previously that all funding should remain with the Ward Councillors. Under the new process all money was to go into a bigger pot for the whole of the Forum area. The Labour group had put the proposal forward and reverted to Quarry Bank Councillors. Quarry Bank had £38,000 funding in its pot – it gets added to each year. RC said the other two Quarry Bank Councillors hadn't been promoting spending from the pot.
10. RC said his application had been for £11,000 as the available money was there, but that this had been voted down 4 – 11 at the Councillors Panel meeting held on line on 20 October 2022. The proposal put forward at the Forum meeting was that of Public Realm, but RC realised on the night that JS had made a mistake in the document. The grant was for nine lights, but there was only going to be funding for 6 lights. If the funding was for 6 lights then the document should have said 6 not 9.
11. RC said he had a meeting with the 2 Labour Councillors for Quarry Bank to ask JC to say that it would be minuted that there would be 9 lights. The money would then be wrong, but this would be down to Officers to sort out.

RC said that it was agreed that JC would mention this at the Forum meeting and that it would be minuted.

12. We then moved onto the Forum meeting itself. BB asked RC to describe the layout of the room. RC said it was a number of square tables scattered around the room, RC said he moved to the side of the table he was sitting on in the walkway so that he could be seen, and not block the view of those sitting behind him. RC said he had had his hand up for a long time. The Chair was asking members of the public to speak and RC was being ignored. BB asked RC if he moved forward. RC said he did not move forward, and did not approach the Chair. RC said there needed to be agreement on 9 lights. RC said he might have moved to the side without his chair. RC said JC and CB were standing at the meeting and didn't have chairs. If they were sat then people at the back would not be able to see them. RC agreed he was waving his paper, saying it was done as a way to get attention. RC said that when this was pointed out he apologised for pointing his finger. RC said he felt his democratic right to speak was not heard, and that the Chair was choosing people to speak from the Labour Wards. RC said there had not been Christmas lights for 4 years and he was there to ensure that the residents and shop owners of Quarry Bank High Street who had gone through Covid had lights. RC mentioned the last Council meeting, when Councillor Shaukat Ali had said he was pointing and pointed out that he had apologised then for pointing.
13. BB asked RC who was with him at the Forum meeting. RC said a Ms Singh who was a member of Street Watch and Speed Watch Quarry Bank. Also Mohammed Ali turned up. Mohammed Ali was a candidate in the forthcoming elections, and was campaigning in the area. RC explained that the Council elected in thirds and one of the Quarry Bank seats was up for election. RC stated that JC was going against Mr Ali.
14. BB asked RC as to the process for attendance at the meeting. RC said he thought Officers signed people in. He was not aware of any restriction as to who could attend. RC said the procedure to be followed at the Forum meeting had just changed. Anyone who lives outside the Ward can attend but not speak. RC didn't think there were any specific rules for the conduct of the Forum meeting. The Community Forum discusses grants, and the Police also have the opportunity to say what's going on. RC said there was quite a lot of disorder relating to the new Forum which had been rolled out. RC stated that he wasn't sure that the new procedure had been digested by Officers. RC mentioned that there had been a problem at the Halesowen meeting.
15. RC again said that funding for the Christmas lights was not his proposal – it was JS's proposal. RC said he considered the complaint to be political. The makeup of the Council is 2 -1 Conservative to Labour, and when the Opposition get an opportunity in the Forum where they do have a majority

they exploit that. RC stated that the Labour 'guys' had signed up for the proposal not realising it was a mistake, it was JS's mistake, and it was a mistake RC was trying to get acknowledged.

16. Following the interview with Councillor Clinton on 4 April 2023, I wrote to Councillor Clinton on 8 May 2023 asking a number of questions. Councillor Clinton replied to me on 15 May 2023, with answers to my questions. My questions (as shown in bullet points), and Councillor Clinton's responses to my questions (as shown in italics in blue) are contained below.

- At Paragraph 11 of the interview you say that you had a meeting with the 2 Labour Councillors for Quarry Bank (Cllr Cowell and Cllr Barnett) prior to the Forum meeting on 7 November 2022 to ask that it be agreed that it would be minuted at the Forum meeting that there would be 9 lights. Was Mohammed Ali with you at this meeting, and if so what was the purpose of Mr Ali's presence? Was it just Cllr Cowell and Cllr Barnett or was the meeting between all the Labour Councillors for the Forum area?

*I cant remember if Mohammed Ali was at the meeting with myself Cllr Cowell and Cllr Barnett , If he was it would have been as the conservative candidate for the forthcoming election and he would have been observing only in order to gain an insight into cross party co operation. The meeting was a stand up meeting held in the entrance way to the hall just outside the doorway to the stairs where the labour group had been holding a meeting. Therefore the meeting was held in a open public space with no access restrictions.*

- At the meeting with the Labour Councillors prior to the Forum meeting did Cllr Cowell indicate to you that the amount for the Christmas lights had been agreed by herself and Cllr Barnett?

*They confirmed that they were in agreeance with Option 4 as proposed by JS so they in effect had agreed the quantity and funding package proposed. But had up until then not been aware of the financial discrepancy in relation to the number of lights ( 9 ) vs the financial figure which would only cover the cost of only 6 lights. And this was the purpose of me asking for the meeting to first make them aware of the discrepancy and secondly to get this point Minuted to which JC agreed.*

- At Paragraph 7 of the Interview there is a reference to 'Councillor Abuaffan' not showing up. Do you mean Mayada Abuaffan? If not who are you referring to. [NB my note was not clear as to whom Councillor Clinton was referring to here.]

*Here I am referring to The Labour leader Cllr Qadar Zada, it was suggested by Cllr Qadar Zada along with CB and carried forward by JC that it should be discussed at the forum meeting due to the confusion relating to whether or not a cllr could submit an application and the limits to the amount that could be requested. Although it was raised by JS that the guidelines allowed for forum to authorise funds at their discretion.*

### **9.2.2 Evidence of Councillor Cathryn Bayton**

On 7 April 2023, I held a Microsoft Teams interview with Councillor Bayton. A copy of the note of interview is below.

#### **Interview with Councillor Bayton – 7 April 2023**

1. The interview was conducted on Microsoft Teams by Barbara Beardwell (BB). Persons present at the interview were BB and Councillor Cathryn Bayton (CB).
2. BB confirmed that she was a Solicitor and an independent investigator appointed by Mohammed Farooq, Monitoring Officer at the Council, to investigate a complaint made by CB under the Dudley Metropolitan Borough Council's (the Council) Members' Code of Conduct in relation to the alleged behaviour of Councillor Rob Clinton (RC) at a meeting of the Dudley Community Forum on Monday 7 November 2022.
3. BB confirmed she had received a copy of Cllr Bayton's complaint, together with RC's comments on the complaint. She explained that at this stage she intended to interview CB, RC, plus Cllr Jackie Cowell (JC) and Mayada Abuaffan, Acting Deputy Director of Public Health as persons present at the meeting. Should BB determine any further interviews are necessary she would discuss this with Mr Farooq. The process for the investigation will be as per the Council's arrangements for Dealing with Standards Allegations. Once BB has completed the investigation she will be producing a draft report. She would then send CB a copy of the draft report and provide her with an opportunity to comment on the draft report before it was finalised. The same process will apply with RC and Mr Farooq. It would however be BB's decision as to whether the draft report is amended to take account of any comments made. If following the investigation BB is of the view that there has not been a breach of the Code of Conduct then that will be the end of the matter, and CB and RC will be advised accordingly by Mr Farooq. On the other hand if BB is of the view that there has been a breach or potential breach of the Code of Conduct then Mr Farooq will write to CB and RC, and propose that the matter can be reasonably resolved without the need for a hearing, or alternatively that the matter should be referred for a hearing by the Standards Sub-Committee. BB explained that at this stage the investigation should be treated as confidential, and that CB should not discuss anything to do with the investigation with any other party, whether directly involved in the complaint or not. CB confirmed that this was all clear. CB confirmed that her

complaint was confined to what happened at the meeting of Dudley Community Forum on 7 November 2022.

4. CB confirmed that she was one of three Councillors for the St James Ward, and that her current term of office expires in May 2023.
5. BB asked CB as to the makeup of Dudley Community Forum. CB explained that the area comprised the St Thomas's, St James's, Castle and Priory, Netherton, Woodside and St Andrews, and Quarry Bank and Dudley Wood Wards. Each Ward had three Councillors making a total of fifteen. RC was one of the Councillors for the Quarry Bank and Dudley Wood Ward.
5. BB asked CB as to her understanding of the process for community grants. Was there a specific process? Also was there a difference between Community Forum grants which from the note supplied by RC appear to BB to be up to a maximum of £5,000 per year and where the applicant is (presumably) a voluntary or community organisation in Dudley, and grants made by Public Realm? BB asked whether grants under Public Realm are in effect Executive Member grants delegated to Officers. Also was there a limit of funding for Public Realm grants. BB explained that she had received in the papers from RC a copy of the Agenda for the Netherton, Woodside & St Andrews and Quarry Bank and Dudley Wood Community Forum meeting on 27 October 2022, and asked CB whether this was the previous Community Forum meeting at which the decision regarding the Quarry Bank Christmas lights was deferred, and which came back to the subsequent Community Forum meeting on 7 November 2022. BB asked CB under which grants scheme did she understand the application for the Quarry Bank Christmas lights fell.
6. CB stated that her understanding was that the grant at the Community Forum would have been to a maximum of £5,000. CB stated that the Community Forums had been re-designed 'last year', and that the Community Forum meeting on 7 November 2022 was the first one under the new format.
7. CB stated that no one, including the Officers, were clear on how the decision making took place. CB thought that the Community Forum only made decisions on community grants to a maximum of £5,000, and not decisions on Public Realm grants which were dealt with separately. CB stated that if the guidelines had been done properly for the Forum then they might not have ended up in the position they were in. CB stated she did not know how grants were made by Public Realm.
8. CB stated that historically a notional amount had been agreed for Christmas lights in the Dudley Community Forum area and that the rest would be made up by Public Realm, Officer to Officer. CB mentioned that Public Realm was now called Environment.
9. BB asked whether a decision had regarding the Christmas lights had been decided prior to the Community Forum meeting on 7 November 2022, and if so what was the purpose of the meeting.

10. CB stated that the Forum would not decide, that the Officers had designated a separate Grants Panel to make decisions and that it was never the intention that the Community Forum would make any decision on grant funding. CB stated that the Chair of the Community Forum would simply report the grant to the Forum. CB stated that the guidelines on Community Forums supplied by RC were for the Grants Panel, which met before the Community Forum. CB indicated that there was another set of guidelines for the Community Forums and that she would send BB a copy of these. BB also asked whether there were any rules of procedure for Community Forums. CB indicated that there were and that she would look them out or seek a copy from Mayada (Abuaffan).
11. The conversation then moved onto the Community Forum meeting of 7 November 2022. CB said it was much more informal than a formal meeting. There could be external presenters, members of the public, Councillors from all Wards in the Forum area, and Officers. Arrangements were very informal. BB asked whether there was a 'signing in' process and whether or persons who didn't live in the Forum area may attend. CB said that she didn't think there were any stipulations for members of the public or Councillors, and that she thought this fuelled some of the stuff on the night. BB asked CB as to the physical layout of the meeting. CB said it was in small table groups. There were half a dozen tables, including a table at the front for the Chair and the Vice-Chair. Other Councillors were there as Ward Councillors for the Forum area. BB asked how the Chair and Vice-Chair were elected. CB indicated they were elected for the municipal year at the Grants Panel meeting. CB did not remember a separate election at the Forum itself. BB asked where RC was sitting. CB said he was sat on her left on the table furthest away. BB asked who RC was sitting with. CB said with his partner Bvana Singh, Ms Cope, another man she didn't know and Mohammed Ali.
12. CB said that previously decisions were taken in the Forum, but that now decisions were all with the Grants Panel, decisions having been removed from the Forum in the new Forum arrangements. The Chair would go through the funding agreements for noting at the Forum. There were no decisions on the night of 7 November 2022.
13. BB indicated she had a copy of an email from Jackie Scott (JS) in the Deputy Chief Executive's office containing four options for the Quarry Bank Christmas lights, with costs accordingly. BB asked CB whether Members of the Forum would have been aware of this. CB said that Councillors might be aware, but the decision on the Christmas lights had not been made at the Grants Panel as there was confusion. The grant had not been decided by the Panel.
14. BB asked in this case what was the purpose of the Forum regarding the grant. CB said the Chair was simply reporting, and again said that if the terms had been clear and concise they probably wouldn't have ended up in this position.
15. BB asked was it then an information receiving item? CB said the Chair made it clear the item was not for debate, just for information.



16. BB asked that if there was a £5,000 limit, how come there was a quote of over £13,000? CB said that each Ward had a pot of money allocated each year, and that when the Forums were made the residue of money from the Wards went into one pot. CB thought the pot was around £100,000 but there were no guidelines as to how it could be accessed. CB stated that Councillors felt uncomfortable making decisions on other Wards. CB said she would send BB a copy of the Minutes of the first Grants Panel meeting.
17. BB asked whether the £13,000 plus application had been submitted by RC. CB said that there had always been a cap of £5,000, that the only thing the Minutes said was that there can be an exception. CB stated that the Quarry Bank Councillors felt that £13,000 was excessive.
18. BB said she understood the £13,000 application would have been an application to the Grants Panel, was CB saying this was a RC application to the Grants Panel not through a community group? BB said she understood Councillors had never been able to make applications. CB said that 'we' asked for clarity at the Grants Panel as to whether Councillors could make funding applications, but that 'we' never had clarity on this.
19. The interview then moved onto specific events at the Forum meeting. BB asked whether she was saying that Mr Ali putting his hand up was something anyone at the Forum could do. CB said that Mr Ali, Ms Corfield and Ms Cope were all members of the public, and the reason why she had raised people attending who weren't part of the geographical area, was that people who were very vocal as to who had Christmas lights were not part of the area, and that this fuelled some of the stuff on the night. CB agreed that there were no stipulations so far as the public or the Council as to who could attend a Forum meeting. CB said that she said that the public should wait until called and show respect. Things were not helped by the intermittent microphone. BB asked who Councillor Taylor was. CB said Elaine Taylor, one of the Councillors for Netherton.
20. BB asked whether RC was standing during the exchange with members of the public referred to in her complaint. CB said yes and that RC started shouting that he was being denied his democratic right, and that by this time it had descended into a bit of a free for all. CB stated that the Chair said she was moving on, but that she (the Chair) was unable to do so because of what was going on. BB asked whether RC had had the opportunity to speak before the Chair said she was moving on. CB said she wasn't sure, she couldn't remember Councillor Cowell (JC) who was chairing the meeting inviting RC to speak. BB asked whether then the exchange between Ms Corfield and Cllr Taylor referred to in her complaint was part of the 'free for all'? CB said that JC said that she was moving on, and that she (CB) did not think that at that time RC had had the opportunity to speak.
21. BB asked whether it was at that time (when the Chair said she was moving on) that RC started shouting. CB said that she thought that it was at that stage that RC was shouting that he was being denied his democratic right to speak.

- 22.BB said that in her complaint CB said RC was then advancing towards the Chair. CB said yes, but not at pace – she did not think RC was threatening but his action was designed to be intimidating. CB said RC did not respond to requests from the JC to sit, but that when Ali said he RC needed to stop pointing and return to his seat that RC did do so.
- 23.BB said that RC had indicated to her that he moved to the side of the table rather than advancing. CB was adamant RC moved forwards. She said there was a set of three tables with gaps between them and that RC advanced two thirds of the way to the table where she and JC were sitting. That RC's table was at the back of the room, the next was Councillor Corfield's, and then the table where the JC was. CB said RC went up as far as the end of Councillor Corfield's table – the end of the table closest to the Chair.
- 24.BB asked RC if she could remember exactly what RC was saying. CB said she couldn't remember exactly what RC was saying, but that he (RC) had put the application in correctly in his name. CB said she couldn't recall anything else. BB asked whether the JC had advised that as RC was a Cabinet Member he had the ability to source the money. CB said she thought JC said this to imply RC could get additional money through Public Realm.
- 25.BB asked whether RC said anything insulting – swearing and so on. CB said no, the issue for her was that RC refused to respond appropriately to the Chair's request. RC's behaviour was designed to be intimidating – he could have remained sitting not shouting, RC chose to advance albeit slowly, he was someone behaving in an intimidating manner. CB said that her subsequent email (of 27 January 2023) to Mr Farooq didn't add anything, but that she refuted RC's version that he didn't advance towards the Chair. CB agreed that when Councillor Ali said RC needed to stop shouting and return to his seat RC did do.
- 26.BB said that she was considering whether there was a breach of the Code of Conduct regarding treating other Councillors and members of the public with respect, and not bringing the role of a Councillor or the Council into disrepute. We then discussed two other specific allegations as per CB's complaint. Firstly, '*I impartially exercise my responsibilities in the interests of the local community.*' CB said that by making the application RC was using it as a political tool. CB referred to RC's newsletter enclosed with RC's response to the complaint saying it was being used as a political tool. Secondly '*I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.*' CB said that to agree £13,000 on Christmas lights when we have a cost of living crisis and the Council couldn't provide warm spaces across the Borough could not be justified when people could not afford to heat their homes or feed themselves.
- 27.The interview was then ended. CB then said she thought that two members of the public and Councillor Taylor had sent complaints direct to the Chief Executive the same night as the Forum meeting. CB reiterated that she had got an Agenda and Minutes of the first Forum meeting and guidance for the Forum which she would send to BB.

28. Following the interview with Councillor Bayton on 4 April 2023, I wrote to Councillor Bayton on 8 May 2023 asking a question. Councillor Bayton replied to me on 15 May 2023, answering my questions. My question (as shown in bullet points), and Councillor Clinton's response to my question (as shown in italics in blue) are contained below.

- Was there a meeting on the evening of 7 November 2022 of either the Labour Councillors for the Forum area (or the two Quarry Bank Labour Councillors (Cllr Cowell and Cllr Barnett) prior to the Forum meeting? If so were you present and what was the purpose of the meeting?

*There was a brief gathering of the Labour Councillors in an upstairs room. I did go along but didn't stay. I think it was for the QB councillors to advise on their stance on the funding as there had been ongoing discussions with officers. However, I don't see this has any relevance to the complaint about Rob Clinton's unacceptable behaviour in a public forum.*

### **9.2.3 Evidence of Councillor Jackie Cowell**

On 14 April 2023, I held a Microsoft Teams interview with Councillor Cowell. A copy of the note of interview is below.

#### **Note of Interview with Councillor Cowell – 14 April 2023**

1. The interview was conducted on Microsoft Team by Barbara Beardwell (BB). Persons present on the interview were BB and Councillor Jackie Cowell (JC).
2. BB confirmed that she was a Solicitor and an independent investigator appointed by Mohammed Farooq, Monitoring Officer at the Council, to investigate a complaint made by Councillor Cathryn Bayton (CB) under the Dudley Metropolitan Borough Council's (the Council) Members' Code of Conduct in relation to the alleged behaviour of Councillor Rob Clinton (RC) at a meeting of the Dudley Community Forum on Monday 7 November 2022.
3. BB confirmed that she had received a copy of CB's complaint, together with a copy of RC's e mail in response dated 20 January 2023 (plus three attachments), and also an email from JC dated 14 February 2023 in response to CB's complaint and RC's response. BB indicated that at this stage she intended to interview JC, CB, RC and Mayada Abuaffan, Acting Director of the Public Health at the Council, as persons present at the meeting. Should BB determine any further interviews were necessary BB would be discussed with

Mr Farooq. The process for the investigation would be as per the Council's arrangements for Dealing with Standards Allegations. At this stage the investigation should be treated as confidential and JC should not discuss anything to do with the investigation, with any other party, whether directly involved with the complaint or not. JC confirmed that this was all clear. JC confirmed that her comments as a witness to matters subject of the allegation were confined to events on the evening of 7 November 2022.

4. JC indicated that she was a Member of the Council, being one of three Councillors for the Quarry Bank and Dudley Wood Ward, and was a member of the Labour Group. Her present term of office expires in May 2023. JC was a Member of the Audit and Standards Committee on the Council and a past Chair of the Standards Committee. JC was also Chair of the Dudley Forum.
5. BB asked JC what her understanding was of the process for community grants. Was there a specific process. Also was there a difference between Community Forum grants which from the note supplied by RC appear to BB to be up to a maximum of £5,000 per year, and where the applicant is (presumably) a voluntary or community organisation in Dudley and grants made by Public Realm. BB asked whether grants made by Public Realm are in effect Executive Member grants delegated to Officers. Also was there a limit of funding for Public Realm grants. BB explained that she had received in the papers from RC a copy of the Agenda for the Netherton, Woodside & St Andrews and Quarry Bank and Dudley Wood Community Forum meeting on 27 October 2022, and asked JC whether this was the previous Community Forum meeting at which the decision regarding the Quarry Bank Christmas lights had been deferred, and which came back to the subsequent Community Forum meeting on 7 November 2022. BB asked JC under which grants scheme did she understand the application for the Quarry Bank Christmas lights fell.
6. JC said the Leader of the Council had recently changed the Community Grants process and that the process was not entirely clear. JC was part of the Grants Panel which met prior to the public meeting. The Christmas lights application was put to the Panel in RC's name, but the applicant had been changed to Public Realm by the time it got to the public Forum meeting. JC said they were not happy with the amount of £13,596. JC explained that all fifteen Councillors for the five Wards in the Community Forum sit on the Grants Panel, and that the Panel was not happy with the application being in RC's name. JC said that they had not seen this before, and that the usual process would be for an application to the Panel to be put in by the Director of Public Realm. JC said that this was not mentioned in the Panel notes. Some of the applications were circulated separately by email to Members. The application for the Christmas lights was deferred to the next meeting of the Forum (not the Panel).

7. JC then referred to an email dated 7 November 2022 from Jackie Scott, the Officer responsible for grants to Councillor Barnett, JC and RC, the three Ward Members for Quarry Bank, setting out a number of options for the Quarry Bank Christmas lights and suggesting Public Realm proceed with Option 4 (£4,799). JC confirmed that if there was a cap of £5,000 on voluntary and community grants, there was not a cap on grants from Public Realm, and that by the time the application for Christmas lights had come to the Panel it was a Public Realm grant.
8. BB asked if there was any conversation regarding the Christmas lights grants immediately before the Forum meeting of 7 November 2022. JC stated that there had been a discussion between the Labour Councillors for the Forum area (11 Members out of 15 Members). JC said that during the course of that meeting RC came in and asked her (JC) and Councillor Barnett to speak with him together with Mohammed Ali who was with him. RC showed them a map that was attached to Jackie Scott's email. RC said that it didn't have enough dots (lights), was incorrect and said we should defer the decision. Given the public pressure created by RC on Facebook, JC felt this was unworkable. JC said she looked at the note that she had been given by Jackie Scott, and said we've been given a quote by the Council for nine lights and that's what we've agreed to, saying that it was public money being spent. JC said that that was the end on the conversation and that they then went into the main Forum meeting.
9. BB asked who attended the Forum meeting. JC said the Councillors were there but not Councillor Zada who was unable to attend as he lived a considerable distance away. Councillor Zada was Leader of the Labour Group. Members of the Public were able to come along and participate.
10. BB asked whether there were any rules of procedure for the Forum meetings. JC said she did not believe there were any, that it was a more relaxed/informal approach. JC said that this was the first meeting of the new version. BB asked who voted on the election of the Chair. JC said it was those Councillors present, and that the same process applied for the Vice-Chair.
11. JC said there was a table at the front with a microphone on it, but the microphone was not working. The room layout was café style with about eight people on each table. Councillors were mixed up on the tables with the public, as were the Officers. Around the outside were other organisations, including 'Thrive into Work', YMCA, and Dudley Council. JC said she was on a table on her own, and that CB was on one of the other tables. There were six to eight tables in all. RC was sitting towards the back. BB asked how many tables would JC needed to have gone past to get to RC. JC said only a couple of tables.

12. BB asked where the Quarry Bank Christmas lights was on the Agenda. JC said she moved it to the first item to get it out of the way. JC said RC had been getting members of the public to come and that probably a lot of people would turn up so by getting it out of the way those who came just for the lights could go.
13. BB asked what happened when the item was called. JC said that the plan was that because it had been discussed before the meeting and the lights had been agreed, she made a statement that funding for the lights had been agreed at £4,799, as per Option 4. JC said that Mr Ali then demanded to know why we were not spending £13,000, to which JC replied we are not here to discuss it, it had already been agreed so JC was reporting it. JC said that Mr Ali continued to shout. RC then put his hand up. JC said that members of the public also wanted to speak and she wanted to take members of the public first. Mr Ali was waving at this time. RC continued to have his hand up. JC said a member of the public said to Mr Ali, RC and Mrs Cope who had come along with RC and who was also demanding to know what we were spending to treat the Chair with respect. JC said the RC was gesticulating and trying to interrupt. RC was standing at the back of his seat and was going on and on. JC couldn't remember the exact words but it was about denying the public what they wanted. JC said she said that this was not the time for discussion. JC said that RC became more aggressive, waving his hands and papers and came a couple of tables towards her, saying he was denied his democratic right. RC didn't get close to her and was not threatening her. RC moved forwards, definitely not sideways, as far as the table in front of him. JC couldn't remember exactly now.
14. BB asked whether apart from shouting and saying he was being denied his democratic right was there anything else. JC said no, it was just his general behaviour in front of the public, and no respect for the Chair. JC told RC that he was a Cabinet Member, and that if he wanted to spend more money he was one of the people with the ability to source that money. JC said that there was a lot of argument from Mr Ali.
15. BB asked where CB was in all this. JC said that CB took the 'mic'. JC said she thought it was a roving mic CB picked up off the table. JC said that the row had been ongoing for 5/10 minutes and eventually calmed down when it was made clear we weren't going to do anything. That they (RC and Mr Ali) got fed up. JC said that members of the public were really frustrated, it wasn't related to issues in their Ward, and a contrived argument. JC said that several of them came up to her and said they'd never seen anything like it, and it would put members of the public off from coming to a meeting. JC said that RC didn't show any respect to his fellow Councillors, to the Chair or to members of the public who by and large had nothing to do with the issue. RC was not behaving in a way for public confidence and that she thought a lot of members of the public were put off from coming again. BB asked whether JC was

referring to RC's position as a Councillor or the Council itself. JC said it was a bit of both – if you were a member of the public there for the first time it looked like chaos, not the sort of thing the public should have been exposed to.

16. BB then asked JC about two other allegations in CB's complaint, that is that '*impartially exercise my responsibilities in the interests of the local community*', and '*I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest*'. JC said that public resources were part of the Council. RC was trying to spend £14,000 rather than £5,000 on essentially the same thing, and that it was a breach if not acting in accordance with the general principles of public life and selflessness which all Councillors should show, and lacking leadership, and that it was worrying that RC was a Cabinet Member. The interview was then ended.
17. Following the interview with Councillor Cowell on 14 April 2023, I wrote to Councillor Cowell on 8 May 2023 asking a question. Councillor Cowell replied to me on 15 May 2023, answering my questions. My questions (as shown in bullet points), and Councillor Cowell's responses to my questions (as shown in italics in blue) are contained below.
  - Attached is a copy of an email from Jackie Scott at 10.44 on November 2022 to yourself, Cllr Barnett and Cllr Clinton, together with a subsequent email exchange the same day between Jackie Scott and Cllr Clinton. Following Jackie Scott's email did you have any separate email exchange with Jackie Scott on the matter that day or with Cllr Barnett? If so could you please let me have copies of all email(s) - I note that in your email of 14 February 2023 to Mr Farooq (last paragraph before 'Councillor Clinton's response), you say that '*a decision [on the Christmas lights] 'had been reached outside of the Panel – by admittedly a two to one majority over the QB lights. This was done during the day by email after it became apparent that there were other options and quotes on the table. We had not seen them before.*' Under what authority do you consider that decision had been reached?
  - At Paragraph 8 of the interview record you refer to a discussion immediately before the Forum meeting between the Labour Councillors for the Forum area regarding the Christmas lights, saying that during the course of such discussion Cllr Clinton came in with Mohammed Ali and asked yourself and Cllr Barnett to speak with him regarding the lights. Was there any separate discussion between the three of you (yourself, Cllr Barnett and Cllr Clinton) as the Ward Councillors? Either way did Cllr Clinton indicate at that time that the money referred to at Option 4 in Jackie Scott's email was wrong in that it was insufficient to provide 9 lights? Was it agreed that Jackie Scott should be asked to mention this at the Forum meeting that evening and that it should be minuted?

*Your bullet point 1 – Please see attached appendix 1 for emails*



*Note Dudley Your Home Your Forum 'On Street Christmas Decorations 2022'. This came out as part of the agenda for the Grant Panel held on 20<sup>th</sup> October.*

*Only one option for Christmas lights at £13,596.32 was presented in Cllr. Clinton's name.*

*I was elected as Panel Chair for the municipal year at this meeting with a general understanding that I would also Chair the Public Forums, though this was subject to a further vote at that first meeting in November.*

*Given the failure to agree to the request for £13,596.32, the application was deferred.*

*There were a number of issues that needed clarifying, including exactly who could vote – ie Ward members or all Forum members, was it a single funding pot or could it be split by Ward as had happened in the past and whether Cllr Clinton could apply for such funding in his name.*

*Given the confusion amongst Officers let alone Members, I did have some discussions with Jackie Scott around how we were going to proceed with the forum particularly given information that we had that the public were being encouraged to attend to push for the Christmas lights. It was thought that this could cause real problems if we had large numbers as the process doesn't include a public vote but is a decision of the Ward Councillors.*

*It also became apparent that there had in fact been three quotes generated for the lights and not just the 1 option of £13,596.32. Councillor Clinton had not disclosed the other quotes and they had not been made available to the Forum Officers concerned. This was a very odd situation. Had the three quotes been available there is a good chance that Councillor Barnett and I would have accepted option 3 at £5,599.*

*Jackie also advised that she had spoken to the Street Lighting Team to clarify the options and had also asked them to seek a cheaper option considering the concerns around costs.*

*This then gave us 4 options and I asked her to circulate the three Ward Councillors. I had spoken separately to Councillor Barnett once I became aware of the other options, and we agreed on option 4 at £4,799.*

*I asked Jackie to formally put all 4 options to the three Councillors by email, (see my email of 7/11 at 07:48), and with agreement from 2 out of 3, the decision was effectively approved. This is based on the fact that as I indicated above the process is for Councillor approval, and 2 out of 3 in favour is sufficient.*

*Your bullet point 2 – please see appendix 2 for relevant emails*





*As indicated above, I had spoken to Councillor Barnett. We both agreed to option 4. I had not seen Councillor Clinton's response until you forwarded it. There was no additional conversation between the 3 Ward Councillors other than when Councillor Clinton accompanied by Mohammed Ali approached us a few minutes before the public forum. He had the map of the locations which at that point I hadn't paid much attention to. He said that there were insufficient dots indicating lights and therefore we couldn't proceed. I took the view supported by Councillor Barnett that this was an issue related to a rather poorly produced diagram and that the quote we were given, if wrong, was an internal issue. The wording as you can see in the email does indicate the 9 lights at £4,799. I understood that the lights had been acquired for the larger display and therefore was a matter of budget codes. Given the attempt by Councillor Clinton to get large numbers of people to attend to push for lights, I didn't think we could defer again, and saw this as more shenanigans by Councillor Clinton.*

*The issue of precise location I saw as a separate issue. The principle was lights for those that undeniably did want them and how much we could reasonably pay from the public purse in the middle of a cost-of-living crisis. I had made a comment at the Grant Panel that I felt that people would be walking under the lights to get to the food bank.*

*Councillor Clinton had met on site with the Stret Lighting Team and was aware of the initial 3 options, but Councillor Barnett and I were only furnished initially with option 1 as sent out with the agenda for the Grant Panel. Had this been dealt with in a more comradely and less political manner we would never have got to this.*

#### **9.2.4 Evidence of Mayada Abuaffan**

On 4 April 2023, I held a telephone interview with Mayada Abuaffan. A copy of the note of interview is below.

##### **Note of interview with Mayada Abuaffan - 4 April 2023**

1. The interview was conducted by telephone by Barbara Beardwell (BB). Persons present on the call were BB and Mayada Abuaffan, Acting Director of Public Health (MA).
2. BB confirmed that she was a Solicitor and an independent investigator appointed by the Council's Monitoring Officer, Mohammed Farooq, to investigate a complaint made by Councillor Bayton (CB) under the Dudley Metropolitan Borough Council (the Council) Members' Code of Conduct in relation to the alleged behaviour of Councillor Rob Clinton (RC) at a meeting of the Dudley Community Forum on Monday 7 November 2022. BB said she

understood that MA had been present at the meeting and was a witness to what had happened. MA confirmed that this was correct.

3. BB confirmed with MA that she was in receipt of an e mail from BB dated 31 March 2023 in which BB had asked MA a number of questions about the Council's differing grants processes.
4. MA indicated that the grants process had changed around Christmas, and that Members were familiar with the old process but not familiar with the new process.
5. MA stated that the grant application for the Quarry Hill Christmas Lights had been approved outside the Dudley area Community Forum.
6. MA explained that the Community Forum consisted of five Wards and that there were three Councillors per Ward.
7. MA stated that the grant for the Quarry Hill Christmas lights was approved before the date of the Forum on 7 November 2022. She indicated that there was some confusion between the amount on the website and what was approved by the Grants Panel, and that there was an error in the documents.
8. MA stated that the purpose of the Forum was for community discussion and for the Forum to be informed of matters relating to the Forum.
9. MA confirmed that members of the public could speak at the Forum, and be interactive with Members of the Council. That it was more of a public meeting rather than a meeting held in public. Anyone could turn up, no one asks members of the public if they are members of that community, and that there was no signing in process.
10. We then went on to discuss events at the Forum meeting on 7 November 2022. MA stated that RC stood up. He was saying that the amount of money in the paper was different to what has been agreed, that the amount in the paper was wrong.
11. MA said that CB who was the Deputy Chair quietened things.
12. MA said that RC again said that the money approved was not the money in the paper.
13. MA said that RC walked two or three steps towards the Chair. RC was still two or three metres away from the Chair. MA stated that RC was angry and pointing out in a loud voice. MA stated that she was unused to observing that behaviour at a public meeting. MA thought RC was angry because of the error. MA couldn't remember if RC was pointing when he stood up. RC had a

paper in his hand. MA couldn't say whether RC was pointing at the Chair or at the paper.

14. MA said that CB then took over from the Chair, and said that this is what has been approved, and that we should accept what's been approved.
  15. MA confirmed that RC was present at the Forum meeting as a local Member, not a Cabinet Member. Councillor Bevan was Cabinet Member for Public Health and Wellbeing. That grant funding is with Public Health, not Councillor Ian Bevan. MA stated that Cllr Bevan doesn't see the funding which was devolved to Officers. Cllr Bevan was not the lead for Community Forum at this time. RC in this respect was just like any other Councillor.
  16. MA repeated that RC was angry. She stated that this was the first Forum she had been to where there had been that type of behaviour. MA said it was difficult for her. Steve Griffiths was also there. Steve was Jackie Scott's boss.
  17. MA said that after being warned RC sat down and the meeting moved on. When asked by BB why the Deputy Chair (CB) stepped up, MA said she didn't see that the Deputy Chair was undermining the Chair, rather she was supporting the Chair.
  18. MA said that the seating in the Forum was World Café style, people were sat at tables in groups. RC was sitting on a table with some other people. MA didn't know who they were.
  19. MA said that people weren't happy with questions on the Agenda, that there were many problems, not just RC. People were unhappy with the changes to the grants system.
  20. MA said that she would get a response to BB regarding the questions in BB's email. MA suggested that BB speak to Steve Griffiths.
  21. Following the interview with Mayada Abuaffan on 4 April 2023, I wrote to Mayada Abuaffan on 8 May 2023 asking a number of questions. Mayada Abuaffan replied to me on 16 May 2023, answering my questions. My questions (as shown in bullet points), and Mayada Abuaffan's responses to my question (as shown in italics in blue) are contained below.
- At Paragraph 16 you say that this was the first Forum meeting you had been to where there had been 'that type of behaviour', after stating that Cllr Clinton was angry. Can you expand on this please as to the detail/description of the behaviour you are referring to. *Sorry difficult for me to expand*. How many Forum meetings had you been to prior to the Forum meeting of 7 November

2022 (an approximate answer is fine)? *Two prior to this meeting. Halesowen had unhappy attendees with the world café format.*

- Separate to this at Paragraph 13 you say that you were ‘unused to observing that behaviour at public meetings’. What experience do you have of attending public meetings (again an approximate answer is fine). *Not many.*
- Re Paragraph 10 - were questions on the Christmas lights taken by the Chair prior to Cllr Clinton standing up, or while Cllr Clinton was standing up? Do you know who asked any such questions? *Sorry I can not remember.*
- At both Paragraphs 10 and 16 you refer to Cllr Clinton being ‘angry’. Can you give me some detail as to what Cllr Clinton was saying and/or doing – words/actions/body language? *difficult to remember.*
- Did Councillor Ali ask Cllr Clinton to stop pointing and return to his seat? Do you remember what he said? What did Cllr Clinton do? *Sorry I can not remember.*

22. In addition in her response, Mayada Affuaffan told me:

*“The fund is with Public Health not public realm, but Cllr Bevan was not the lead for community forum at that time. He is now.”*

### **9.2.5 Evidence of Jackie Scott**

On 24 May 2023 I held a Microsoft Team interview with Jackie Scott. A copy of the note of interview is below.

#### **Note of Interview with Jackie Scott – 24 May 2023**

1. The interview was conducted on Microsoft Teams by Barbara Beardwell (BB). Persons present at the interview were BB and Jackie Scott (JS).
2. BB confirmed that she was a Solicitor and an independent investigator appointed by Mohammed Farooq, Monitoring Officer at the Council, to investigate a complaint made by CB under the Dudley Metropolitan Borough Council’s (the Council) Members’ Code of Conduct in relation to the alleged behaviour of Councillor Rob Clinton (RC) at a meeting of the Dudley Community Forum on Monday 7 November 2022.
3. BB confirmed she had received a copy of a complaint made by Cllr Cathryn Bayton (CB) against Cllr Rob Clinton (RC). She explained that she was interviewing a number of persons present at the meeting, and that the process for the investigation would be as per the Council’s Arrangements for Dealing with

Standards Allegations, and that once BB has completed the investigation she would be producing a draft report. BB explained that at this stage the investigation should be treated as confidential, and that JS should not discuss anything to do with the investigation with any other party, whether directly involved in the complaint or not. JS confirmed that this was all clear.

4. JS confirmed that she was Business Partner to the Deputy Chief Executive, and also one of two Liaison Officers for the Dudley forum. The other Liaison Officer was Steve Griffiths (SG), Head of Democratic Services. JS said that Community Forum areas had recently merged. Previously, JS supported Netherton, Woodside & St Andrews, Quarry Bank and Dudley Wood. SG had Castle and Priory, St James's and St Thomas's. The liaison Officer role was a voluntary add-on to her day job, which she volunteered for to experience another side of the Council, in particular how Councillors interact with the community.
5. JS explained the difference between grants. JS stated that the Community Forum only deals with grants from the Community Forum funding pot. Public Health manage grant applications, Public Realm was a newly named Directorate covering street lighting and public works services. JS explained that years ago the Council would have funded Christmas lights through Directorate budgets rather than through the Community Forum process. JS stated that there had been a budget cut, she was not sure when, which removed the Christmas lights and trees budget from the directorate which is why requests currently come through what she referred to as a back door route through Community Forums.
6. JS stated that years ago Quarry Bank used to have Christmas lights, but they fell into disrepair and were deemed beyond repair.
7. JS stated that the applicant for the Quarry Bank Christmas lights was Cllr Clinton. JS stated that she didn't see the application, but had seen posts made by RC on Facebook. JS said she thought it was a 'political' application, for a Conservative Councillor to get something done rather than a joint Ward Councillor joint application to support the area. JS commented that further posts on Facebook posts had been shared by RC and indicated that an application had been made for Christmas lights which Labour Councillors were likely to reject, and was asking people to come along to the Forum meeting to support the application. JS stated that these were creating false expectations as grants were not determined by the Community Forum, they were determined by the Grants Panel. JS said that once posts were seen she had raised concern with SG and the Community Development Team that the community would be coming to the Community Forum meeting only to be disappointed when not allowed to speak in support of an application.
8. JS stated that the format of the Forum had recently changed completely for this particular meeting to try out a new World Café approach seeking views from the community on what was good about the area they live. Previously there had been a Public slot, a Councillors slot, and Police slot, with opportunities for the community to come along and raise issues they needed help on. The meeting of 7 November 2022 was the first Meeting under the new format. JS moved onto the Meeting of 7 November 2022 itself. JS stated that the World Café event included post-its and flip

chart sheets and pens on tables which she didn't believe would work well as forums have been the same format for years so people come along with fixed expectations. The Chair decided to update the Agenda issued by Public Health to ensure a 'listening to you' slot was included as that ensures the community can use their voice at the meetings. The Chair was Cllr Jackie Cowell (JC), she had been voted into this role at the previous meeting.

9. JS stated that the people who had come to support the Christmas lights application sat together on the table at the back of the room, the atmosphere felt a bit like a 'posse'. JS stated that she felt something was growing before the Meeting started. JS described the layout of the hall. It was a rectangular room set up as a workshop in world café style, there were six blocks made up of rectangular tables put together, with around ten chairs round each table, including a table at the front, with the other tables offset, and market stalls down the side of the room. The Meeting catered for about sixty people. JS stated that this seating arrangement didn't make it clear to the community who was leading the Meeting, you wouldn't know until JC the Chair, stood up and opened the meeting. JS stated that RC was sitting at the back of the room. On RC's table were people who had come to support the Christmas lights. In addition to the Community there was someone she thought she recognised from the Facebook page, she didn't know the person by name but believed him to be a political associate of RC. JS stated that the meeting was awful, and out of control, she didn't feel comfortable and was embarrassed by the behaviour of individuals in the room. During the meeting JS was sat next to SG and asked if they could stop the meeting, SG advised that it was for the Chair and Vice to control the meeting. JS stated a couple of days later it turned out the other Forums had failed due to the new format but the Dudley one was probably the worst given the arguments over Christmas lights. JS said she would send BB a sketch of the room, the tables and who was sitting where. JS stated that she thought the seating layout contributed to the Chair not having authority over the room.
10. JS moved onto the process for approval of grant applications which involves new Grant Panel meetings away from the public eye. JS stated that the Community Forum can't make a decision, that it was not possible to defer a funding application to the Forum. Grant Panels make decisions on funding, but in reality it's only Councillors for that particular Ward that vote on whether to support an application. The application had been deferred from the Grants Panel Meeting, because Councillors had concerns such as a Councillor can't make an application. JS stated that the grant application had been for more than £5,000 which is the usual funding limit and there was concern from the Labour Ward Councillors about the cost of living and energy crisis and what it would look like to spend too much on Christmas lights when residents would be walking under them on the way to food banks. Instead of refusing the application they deferred it to seek clarification on queries raised. JS stated that Public Realm would have been the supplier and RC was the applicant although on paperwork for the Grant Panel RC's application was combined with ongoing Ward funding for trees and lights which makes it confusing who the application actually is. JS stated she had never seen RC's application as

that would likely have been made to the Street Lighting team who then submitted a funding request via the Community Forum Grant Panel process. JS stated that the community have never been able to vote on funding applications.

11. JS stated she had had an email exchange with the 3 Ward Councillors to seek agreement to the deferred application ahead of the Forum meeting. She believed she had a response from all three Ward Councillors saying it was OK although on the night RC clarified that he still wanted the entire £13k funding from his original application. In response to concerns of approving funding over £5k the Street Lighting Team of Public Realm had provided a range of options for consideration i.e. less lights at a reduced cost. Two of the Ward Councillors were happy to support Christmas lights for up to £5,000 which was sufficient for the application to be announced as approved. Just before the meeting RC had pointed out to JS a discrepancy between six and nine lights, as the map didn't show nine lights. On a sliding scale it looked like more lights could be provided for less cost with the table of costs not matching the plans attached which showed where lights would be on street. JS alerted the Labour Councillors to this discrepancy before the meeting, she had found them upstairs having a pre-meeting. All the Labour Councillors were together except Cllr Elaine Taylor who couldn't get upstairs due to mobility issues. In hindsight, JS acknowledges that the discrepancy was her error, a typo within rushed emails, as she was trying to do the community job as well as the day job and might have spotted it if she had not been so busy. The Public Health Team had refused to deal with queries which JS believed was their role which left JS to pick these queries up to try and help. JS said there had been a verbal 'whip round' with the Ward Councillors before the Meeting.
12. JS moved onto events at the Meeting. JS stated that ordinarily the announcement of funding applications would be last on the Agenda but the Chair (JC) had put it to the front of the Agenda to allow the good news to be shared early on because of the hostile audience. The Chair (JC) announced funding approvals as an information item which included £5k for Christmas lights in Quarry Bank, she was reporting it to the audience and not asking for comment. JS stated that she couldn't remember who made the first comment, she thought it might have been RC given he was not happy to not be receiving the full £13k funding he'd requested. JS said she thought it started out as a reasonable request, pointing out the discrepancy between six and nine lights, but JC confirmed that the Grant Panel had approved funding of £5k already.
13. JS stated that after that she was not sure as to the chain as it was a sequence of events. JS stated there were lots of accusations thrown at the Chair, around stifling democracy, and why was Quarry Bank being short-changed as compared to other areas, that these were from the back table, lots of people were saying things, she was unable to recall exactly who was saying what as so many people were shouting over each other. JS stated that RC was on his feet and had moved from the back of the room to the front getting closer to the Chair. JS said that the Chair is a quietly spoken short woman, and RC was loud, on his feet, commanding the audience and creating an argumentative atmosphere. JS said that RC was loud and assertive, she was not sure if RC was shouting although others from his table

were. JS stated that RC was on his feet waving his hand, and there was a bit of jeering from the table in front of him. JS stated that no bad language was used. JS stated that the Chair confirmed that the funding item had been dealt with and that the meeting was progressing to the next item. Someone on the back table was shouting and by then the Chair had no control over the meeting. JS said it was the most appalling thing she had ever seen in what should have been a formal meeting between Councillors and their community. JS stated that after the meeting Councillor Ali had said he had been a Councillor for thirty years, and had never seen anything like it. JS thought the behaviour of RC was not quite bullying, but he was determined to have his say and was not taking instruction from the Chair.

14. JS stated that the Chair could not control the Meeting, that Councillor Taylor was saying 'calm down, respect the Chair'. JS stated that someone said, 'and you're a Cabinet Member and should know better'. JS stated that eventually CB as Vice-Chair picked up a microphone and said can we please calm this down and stop. JS stated that she didn't recall Cllr Ali saying anything, and none of the male Labour Councillors said anything. JS stated that she had been to Meetings previously and it was clear that to her it was the Chair who always controls the meeting and invites people to speak as well as to stop speaking if needed.

14. JS stated that RC was stopped by CB who said they were moving on. JS stated that for the next half hour the incident was all that people there were talking of, and a number of people – around five or six – left the room with those people stating they had only come to support Christmas lights. JS stated that she thought the incident would not have happened but for the Christmas lights – for RC anything less than £13,000 worth of lights was not acceptable.

JS stated that she believed that the Chief Executive had received some complaints about the incident, and that there was definitely some negative feedback shared with Public Health.

15. JS stated in summary that it started off as a series of unfortunate events which was escalated by a group of people thinking they could have their say. JS said RC could have done more to manage community expectations, and a lot of the trouble making might not have happened but for RC and Beverley Cope. JS said Beverley Cope had posted on Facebook so people thought they were coming to do well for the area, and this expectation turned into a problem on the night. JS stated that RC had opportunity to explain the process and manage expectations of people that he knew before the meeting or even on being seated with them at the meeting or RC to explain what it was about and it was a posse. JS stated that she was sure RC had not intended for the meeting to progress as it did but also didn't help to stop it.

16. JS said that the Council was now returning to previous arrangements for Community Forums as it was clear that the new approach had not worked. JS helped support JC to host the next meeting and even had a whistle to blow just in case there was a need to call the audience to order. JS commented that JC was anxious about the next meeting after her experience over the Christmas lights meeting.



17. During the course of the interview, Jackie Scott indicated that she would send me a number of documents. I wrote to Jackie Scott by email on 27 May 2023 requesting these. Jackie Scott responded by email on 30 May 2023 attaching a number of documents. A copy of this email exchange including the documents referred to in Jackie Scott's email is attached below.



E mail from Jackie  
Scott 30 May 2023 plu

### 9.3 FURTHER CORRESPONDENCE

Separate to the above interviews, on 31 March 2023 I wrote to Mayada Afuaffan, seeking clarity on a number of points relating the application for the grant for the Quarry Hill Christmas lights and governance of Council grants applications generally. On 6 April 2023 Mayada Abuaffan replied indicating that in he response she also sought the views of staff within Healthy Communities & Place – Healthy Communities, who were happy with the response. I copy of the email exchange is below. Questions asked by me are shown in bullet points, and responses received in italics in blue.

“So as to properly investigate the complaint it would be helpful to understand a number of points relating to the governance of grants are set out below:

- Is there a difference between applications made by voluntary or community organisations for grants for community forum funding, and grants made by Public Realm (which I understand is one of the Dudley Directorates)? *The opportunity to fund Christmas trees/decorations/lights through forums is historical. Due to budget cuts by the Environment Directorate, it was agreed that each Forum be provided with the discretion on whether to fund Christmas trees/decorations/lights in their relevant areas. This practice has now continued for a number of years. There are no formal applications submitted and Green Care (Public Realm) submit a spreadsheet containing trees/decorations/lights erected during the previous year together with the costs for the ensuing year to Members for consideration. Members then make recommendations on whether they wish to recommend approval or refusal. The applications from voluntary and community organisations are formal and need to adhere to the criteria. All applications/requests are considered by the relevant Councillors at Community Grant Panel meetings and a recommendation is made on whether the application/request should be approved/refused/deferred. In line with the delegation to the Director of Public Health final approval is authorised on grant applications/requests based on recommendations made by relevant Forum Councillors.*

- Is there a limit to funding which can be allocated under the two 'systems'? My understanding as to the former is that it is up a maximum of £5,000 per year. *There is no limit for requests to fund Christmas trees/lights/decorations. Relevant Grant Panels are provided with the discretion on whether they recommend approval or refusal of Christmas trees/lights/decorations. There is a limit of £5,000 for applications made by voluntary or community organisations. However, individual Community Grant Panels reserve the right to make exceptions depending on the circumstances of the application.*
- Under which grant process was the application for the Quarry Bank Christmas lights made? *All requests or formal applications are considered at Community Grant Panel meetings. Grant Panel meetings comprise all relevant Councillors for each Forum and they consider all grant requests.*
- Who made the application? *The cost for Quarry Bank Christmas lights was one of many included in the spreadsheet from Green Care (Public Realm) based on what had previously been erected in the Borough.*
- What was the process for approval of the application, for example, are there set arrangements approved by Cabinet under which applications must be considered? *The request was considered by the Community Grant Panel meeting which was set up and convened for consideration of all grant applications. This is in line with the new structure approved by Council in July 2022. Please see Council Minutes and Development of Community Forums Report. Subsequently, a decision memo was signed off by the Acting Director of Public Health to set up the Grant Panel meetings. Please see Decision Memo*
- What is the role of the three ward Councillors in the process? *Although all Ward Members are able to vote on whether they wish to recommend to approve/refuse/defer grant applications/requests, some Community Grant Panels have agreed local arrangements. For example, only relevant Ward Members should make a recommendation on applications specific to their Ward. This is the case for Dudley Forum.*
- How are Community Forums constituted in terms of Members? Do they have Standing Orders or approved procedures? *Please see Article 10 in the Council's Constitution Your Home, Your Forum - Constitution*

- Are Community Forums open to the public (or just residents within the relevant Community Forum area)? *Forums are open to local residents. We do not refuse members of the public that are from outside of the Forum's locality.*
- Who can speak at Community Forums, and in what order? *This is at the discretion of the Chair.*
- So far as the Quarry Bank Christmas lights go what was the purpose of the Community Forum meeting? Was it to approve funding, or a public engagement exercise? *The Quarry Bank Christmas lights request was deferred at the Grant Panel meeting but a decision was taken by Members via email communication with the Liaison Officer prior to the Forum meeting. Therefore, the matter was not on the agenda for discussion at the Forum meeting.*

## 9.4 FURTHER COMPLAINTS RECEIVED

As will be noted Jackie Scott supplied me with copies of two further complaints received by email in connection with the matter, one being an email dated 7 November 2022 from Councillor Elaine Taylor to Democratic Services, Jackie Scott and Kevin OKeefe, the second being an email also dated 7 November 2022 dated from a Pam Mason, leader of the 2<sup>nd</sup> Dudley St Francis Brownies sent to the Community Forums. These are included within the documents supplied by Jackie Scott in her email to me of 30 May 2023 referred to above. However, I think it is helpful to include the text of these emails, which is shown in blue below.

### 9.4.1 COMPLAINT FROM COUNCILLOR ELAINE TAYLOR

"Cllr Elaine Taylor  
07 November 2022  
Democratic Services; Jackie Scott; Kevin OKeefe  
Mohammed Farooq (Law and Governance)

*Dear Kevin, I feel I am justified in writing to you with a complaint at the shambles created at the Dudley area community forum meeting held at Wellington Rd Community Centre Monday 7th November.*

*The meeting was opened & the agenda was being followed as per normal.*

The chair & vice chair were democratically elected.

As cllrs we all introduced ourselves, only Cllr Clinton made a point of saying he was a tory Cllr. The chair pointed out he was also a cabinet member.

Sadly 2 of the Cllr in the room were rude & disrespectful to the chair & indeed other members of this committee.

I feel certain comments made were illegal & require investigation.

All councillors know the criteria to apply for funding at these meetings, we also know as cllrs we cannot apply in our own rights & applications have to come from the community or a community group, we also know there is a cap on the funding being applied for. This is done for transparency & policy.

Cllr Clinton himself applied for a huge £13k for Xmas lights in Quarry Bank High St.

Earlier on in the day the 3 Quarry Bank councillors had received the full application which gave 4 options for the said lights, using their discretion instead of refusing the application they agreed to award £4k for these lights & at the present time felt this was sufficient use of allocated funds.

Cllr Clinton incited members of the public by saying Labour cllrs were stopping them having these lights, he also said the officer was wrong with the advice given, this line of attack was premeditated to cause eruptions. Thus, causing the public to challenge why only £4k was allocated.

This application was not even up for discussion, it had already been agreed on.

As I said Cllr Clinton challenged the chair & was disrespectful to her & your officer's present at the meeting.

Cllr Clinton went on to say as he was a cabinet member, he would present this to cabinet & get the full funds allocated. This is downright illegal.

Lots of other derogatory words were said to the chair & other members of this committee.

I would hope you have received several complaints from this meeting & a full investigation is held.

There were several outside organisations present who were amazed at the comments a cabinet member was making. They even challenged his conduct on the chair's behalf as he refused to come to order.

I heard several members of the public condemning the actions from Cllr Clinton & Cllr Corfield.

I await your response to this email.

Kind regards

Cllr Elaine Taylor

Netherton woodside and St Andrews ward"

#### 9.4.2 COMPLAINT FROM PAM MASON 2<sup>ND</sup> DUDLEY ST FRANCIS BROWNIES

**From:** \_\_\_\_\_  
**Sent:** 07 November 2022 21:08  
**To:** Community Forums <[Community.Forums@dudley.gov.uk](mailto:Community.Forums@dudley.gov.uk)>  
**Subject:** [EXTERNAL EMAIL] Tonight's meeting  
**Importance:** High

**CAUTION:** This email originated from outside of the council. Do not click links or open attachments unless you are sure the content is safe.

You don't often get email from [pamnjimmason@blueyonder.co.uk](mailto:pamnjimmason@blueyonder.co.uk). [Learn why this is important](#)

"Hi

I run a local brownie group on a Monday night from 18.00 to 19.30.

I left my group early tonight to attend the forum with the guide leader who also left her guide meeting to attend.

We entered the room and wondered what we had walked into.

There was voices raised, shouting and no respect for the other attendees of the

We as volunteers lead by example and we do not want to be associated with people who certainly do not have respect for each other .

It appears it wads over the Christmas lights in Quarry Bank.

We are sorry but we felt so uncomfortable we left the meeting.

Pam Mason

2nd Dudley St. Francis Brownies. "

## 10. FINDINGS OF FACT

From the above I conclude:

- The application for the Quarry Bank Christmas lights was an application made by Councillor Clinton, which fell to be managed by Public Realm, one of the Council's Directorates, and to be determined at a Community Grants Panel. The original application amount was for funding of around £13,000. While it appears under the Council's grants arrangements applications fall to be determined by all Ward Councillors within the area of the respective Community Grants Panel area, it appears in some cases a practice existed whereby only those Members within whose Ward an application falls make recommendations on the Grant. This applied in the case of the Grants Panel considering applications from the St Thomas's, St James's Castle and Priory, Netherton, Woodside & St Andrew's, and Quarry Bank & Dudley Wood Wards. The application had been considered at the Grants Panel meeting on 20 October 2022, but had been deferred as a number of queries had arisen with regard to governance requirements relating to the grant application. Although a limit of £5,000 applied in the case of applications made by community or voluntary organisations, in principle there was no limit to grant applications determined by the Grants Panel.
- The application was not an application made by a voluntary or community organisation. The Dudley Community Forum had no decision-making powers in relation to the grant, and therefore whilst the outcome of the application for funding of the Quarry Bank Christmas lights would be reported at the Dudley Community Forum meeting on 7 November 2022, the application could not be determined by the Dudley Community Forum meeting. Thus, the application for the Quarry Bank Christmas lights was not for determination at the Forum meeting. It appears however that there was an expectation on the part of Councillor Clinton that the application for the Quarry Bank Christmas lights would be discussed between the three Quarry Bank and Dudley Wood Ward Councillors on the evening of the meeting before the meeting took place.
- Arrangements for the determination of grant applications had recently changed, and there was some confusion on the part of Councillors as to the approval process. It appears clear to me though that Community Grants Panels were responsible for the approval of grants, albeit that in practice this might have been done by the relevant Ward Members rather than the full Panel. It also appears clear to me that while there might in principle be no reason preventing discussion or debate of any decision regarding a grant application at a Community Forum to which members of the public could contribute, any actual decision relating to a grant application rested with the relevant Councillors.
- An email was circulated by Jackie Scott to Councillors Clinton, Cowell and Barnett on the day of the Community Forum meeting on 7 November 2022, setting out four options for the Quarry Bank Christmas lights, asking them which of the four options (if any) they were able to support. Email correspondence subsequently took place between Councillor Clinton and Jackie Scott and between Jackie Scott and Councillors Cowell, Barnett and Clinton as outlined in their statements. It appears to me that 'Option 4' which would provide 9 pole mounted displays at a

cost of £4,799 for Year 1 was the preferred option of Councillors Cowell and Barnett.

- Councillor Clinton did not specify in his email exchange with Jackie Scott which of the four options he supported, and I think it was incorrect to infer from the email exchange Councillor Clinton had with Jackie Scott that Councillor Clinton was in support of Option 4. Following his email exchange with Jackie Scott, Councillor Clinton came across what he thought was an error in the table included in Jackie Scott's email, in that it was stated that Option 4 would provide 9 lights when in fact it would only provide 6 lights. Councillor Clinton raised this point with Councillors Cowell and Barnett at a meeting which was taking place between the Community Forum Labour Group Councillors prior to the meeting, and asked that the decision be deferred. This was refused apparently on the basis that two of the three Quarry Bank and Dudley Wood Ward Councillors (Councillor Cowell and Councillor Barnett) were in favour of Option 4 and that any discrepancies in the number and position of the lights to be provided could be sorted out later.
- It appears that there are no 'rules of procedure' as to the conduct of proceedings at Community Forum meetings. Therefore, the normal common law rules would apply, and the order of the Agenda and any decision as to who might speak on an item (both Councillors and members of the public) would rest with the Chairman of the meeting who was Councillor Cowell. This is confirmed by Mayada Abuaffan who told me that members of the public can speak at a forum meeting, and that it is more of a public meeting rather than a meeting held in public.
- The format of Community Forum meetings had recently changed, and this was the first Community Forum meeting to be held under the new arrangements. Rather than a formal meeting layout it was 'world café style', with a table at the front for Councillor Cowell as Chairman of the meeting, and a number of other square tables each sitting a number of attendees in no particular order, together with various displays around the room.
- Prior to the Community Forum meeting on 7 November 2022, Councillor Clinton posted a number of Facebook posts, encouraging members of the public to come along to the meeting. From these Facebook posts I find that firstly Councillor Clinton deliberately raised an expectation that the application for the Quarry Bank Christmas lights would be determined at the Forum meeting, and secondly that members of the public would somehow be able to participate or somehow influence the decision regarding the grant application. I find that both these inferences were incorrect, and that Councillor Clinton knew this to be the case.
- In any event, whatever the correct process for the determination of community grants, I am concerned with events at the Community Forum meeting on 7 November 2022, and not the detailed governance arrangements relating to the grants process.
- Councillor Clinton attended the Community Forum meeting, together with Muhammed Ali who was a prospective Conservative candidate for one of the seats in the Quarry Bank and Dudley Wood Ward at that time occupied by Councillor

Cowell up for election in May 2023, together with a number of other persons who it appears were specifically there to support the application for the Quarry Bank Christmas lights. Councillor Clinton was seated at a table towards the rear of the hall with these other persons. Councillor Cowell was seated at a table at the front of the hall facing the other tables.

- A decision was made by Councillor Cowell as Chairman of the Forum meeting to report the decision on the Quarry Bank Christmas lights first on the Agenda, in view of the number of people it were appeared were present at the meeting specifically for this item.
- When the Quarry Bank Christmas lights item was called, members of the public were invited first by Councillor Cowell to speak. A number of persons had their hands up, including Mr Ali the prospective Quarry Bank and Dudley Wood Councillor and Councillor Clinton. The atmosphere in the room became heated, voices in particular being raised by a number of persons present at the meeting on the same table as Councillor Clinton. It is not clear to me whether Councillor Clinton was called to speak by Councillor Cowell, or whether Councillor Clinton interjected without being called to speak, but in any event Councillor Clinton got to his feet waving his papers.
- Accounts vary as to events which followed. Councillor Clinton states that he was being ignored and that he moved from *'to the side of table he was sitting on in the walkway so that he could be seen and not block the view of those sitting behind him'* and was *'waving his papers'* as a way *'to get attention'* [from Councillor Cowell]. Councillor Cowell states that Councillor Clinton was *'waving his hands and papers and came a couple of tables towards her'*, and that he [Councillor Clinton] *'moved forwards, definitely not sideways, as far as the table in front of him'*. Councillor Bayton states that Councillor Clinton, was *'shouting, waving his papers and pointing his finger at the chair and advancing towards the chair'*. This account of events is corroborated by Jackie Scott, who states that Councillor Clinton was *'loud, on his feet, commanding the audience and creating an argumentative atmosphere'*, and that Councillor Clinton had *'moved from his seat toward the front getting closer to the Chair'*. Mayada Abuaffan also states that Councillor Clinton *"walked two or three steps towards the Chair.....that RC [Councillor Clinton] was angry and pointing out in a loud voice....that she was unused to observing that behaviour at a public meeting."*
- By this time there was a lot of shouting from other persons present at the meeting, and Councillor Cowell lost control of the meeting which degenerated into a shouting match. Order was only returned when Councillor Bayton took over control of the meeting. I find that while this was not all due to Councillor Clinton, this was encouraged by Councillor Clinton's behaviour, and without Councillor Clinton's interjection, manner of addressing the Chair, and his encouragement prior to the meeting for persons to attend the meeting to participate in the decision making, this would not have happened. I take note of the fact that it appears to be accepted that there was a discrepancy as to the number of lights the grant funding would provide, but I find that the proper place for this to be resolved was outside of the meeting.



- In this regard I note the two separate complaints received on the evening of the meeting, firstly from Pam Mason, leader of a local Brownie group received at 21.08 hrs, who states *“we entered the room and wondered what we had walked into. There were voices raised, shouting and no respect for the other attendees..... we as volunteers lead by example and we do not want to be associated with people who certainly do not have respect for each other.”* and secondly from Councillor Elaine Taylor received at 23.57 hrs, who states *“There were several outside organisations present who were amazed at the comments a cabinet member was making. They even challenged his conduct on the chair’s behalf as he refused to come to order”*. While Councillor Taylor is a member of the Labour Group on the Council I place some weight on the fact her complaint was made on the same evening of the meeting and I do not find her complaint to be politically motivated in this regard. I have no evidence at all that the complaint from Pam Mason was politically motivated.

## **11. REASONING AS TO WHETHER THERE IS A BREACH OF THE CODE OF CONDUCT**

### **11.1 MEMBERS’ CODE OF CONDUCT**

The test in deciding whether or not there has been a failure to comply with the Code of Conduct is objective: would a reasonable person aware of all the material facts and ignoring all immaterial factors consider on the balance of probabilities there has been a breach of the Code?

The relevant Paragraphs of the Code of Conduct which I consider relevant to my investigation are Paragraph 5.1 and Paragraph 5.5, set out again below for ease of reference.

#### ***General Conduct***

##### ***5.1 Respect***

*As a Councillor:*

- *I treat other Councillors and members of the public with respect.*
- *I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.*

*Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.*

*In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.*

*In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the Police. This also applies to fellow Councillors, where action could then be taken under the Members' Code of Conduct, and local authority employees, where concerns can be raised with the Chief Executive, Monitoring Officer or appropriate Director.*

### **5.5 Disrepute As a Councillor:**

- *I do not bring my role or local authority into disrepute.*

*As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.*

*You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct*

## **11.2 OFFICIAL CAPACITY**

Paragraph 4 of the Code of Conduct reads:

### **Application of the Code of Conduct**

*This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a Co-opted Member. It continues to apply to you until you cease to be a Councillor.*

*This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:*

- *you misuse your position as a Councillor*
- *your actions would give the impression to a reasonable member of the public, with knowledge of all the facts, that you are acting as a Councillor.*  
*The Code applies to all forms of communication and interaction, including:*
  - *at face-to-face meetings*
  - *at online or telephone meetings*

- *in written communication*
- *in verbal communication*
- *in non-verbal communication*
- *in electronic and social media communication, posts, statements and comments*

It is first necessary to determine whether or not Councillor Clinton was acting in his official capacity when he attended the Dudley Community Forum meeting on 7 November 2022, and in matters relating to the application for the Christmas lights at Quarry Bank. In my view, at all material times Councillor Clinton was acting in his capacity as a Councillor. Councillor Clinton has not sought to argue otherwise. This involved him engaging with Officers and other Members in matters relating to the grant for the Christmas lights, Facebook posts encouraging members of the public to turn up at the Community Forum meeting, and Councillor Clinton's conduct at the Community Forum meeting on 7 November 2022.

'Capacity' was considered in the Standards Case of *'Livingstone v Adjudication Panel for England [2006] EWHC 2533 (Admin)*, (Livingstone Judgement), by Mr Justice Collins. On the facts of the case, Collins J found that the then-mayor of London Mr Livingstone's comments to a journalist as he was *leaving* [my emphasis] the building after a function were not sufficiently connected to his position as Mayor so as to engage the Code of Conduct, and *'did not and could not reasonably be regarded as being uttered in his official capacity'* (Paragraph 20). Collins J rejected the finding of the case tribunal that Mayor Livingstone's conduct had brought his office into disrepute on the basis it was important to maintain the distinction between the man and his public office, even in the case of high-profile individuals, making it clear in his judgment that a distinction must be drawn between the individual as a public office holder and as an individual.

The Livingstone judgement was considered in some detail in the case of *(R) Mullaney v Adjudication Panel for England [2009] [EWHC] 72 Admin* (Mullaney Judgement), where Charles J recognised that applying the term *'is inevitably fact sensitive and whether or not a person is so acting inevitably calls for informed judgement by reference to the facts of the given case'*.

Also relevant are two Adjudication Panel decisions, firstly the decision of the *Adjudication Panel for England in APE 0458 Sharratt*, in which the tribunal observed:

*'The dedication of many councillors to activities in public life means that often their social and professional lives are shaped by their roles as councillors and in turn shape how they approach those activities. However while they may always be conscious of their office as councillor and carry out a wider range of activities in which that is a factor in their thinking, no reasonable observer would conclude that they are carrying out the business of the office of councillor; a*

*test which, in the light of the decision in Livingstone, should be narrowly construed’.*

And secondly in *Bartlett, Milton Keynes Council [2008] APE 0401* in an appeal from a decisions of the local standards committee. In the Case Tribunal’s view, the Livingstone judgement established that for a councillor to be acting in an official capacity:

- (a) The councillor should be engaged in business directly related to the Council or constituents; and
- (b) The link between the councillor’s office and the conduct should have a degree of formality.

A further consideration is whether a councillor, although not conducting Council business, could be said to be acting as a representative of the Council. For example, a councillor attending a conference as a delegate on behalf of their authority would not directly be conducting the business of the authority, but could be said to be there representing the Council and hence expected to abide by the Code. In another case Judge Ward considered the meaning of the phrase ‘acting as a representative’ in Upper Tribunal Case No. *GLSE/1111/2010 MC v Standards Committee of LB Richmond*. Judge Ward drew an important definition between the term ‘councillor’ and ‘representative of his authority’; for Judge Ward a member acting, claiming to act or giving the impression that he was acting as a councillor is not on its own sufficient to find them within official capacity. For a member to be found within capacity when not directly conducting the business of their authority, they would have to either be formally acting as a representative of their authority or, in cases involving freedom of expression, purporting to be speaking as the ‘voice’ of their Council rather than just as an individual councillor.

In considering whether Councillor Clinton was acting in an official capacity, I have also taken into consideration the Standards Board for England Case Review 2010, updated on 11 October 2011 (‘Case Review Guidance’), which asks the question, ‘When does the Code of Conduct apply?’, and states:

*‘Most of the Code’s provisions only apply to activities performed whenever members act in an official capacity. This means whenever members conduct the business of their authority, or act, claim to act or give the impression they are acting in their official capacity or are representing their authority.*

*Otherwise the Code does not affect a member’s private life.*

*Whether a member has been representing an authority or acting in a private capacity is something which must be established because it is crucial to whether or not the code applies at all. Ideally this will be established when assessing a complaint. However, sometimes it will only become clear during an investigation.*

*Although only activities linked to the functions of a member's office are covered by the Code if what they do is disreputable a member cannot argue that by misusing their office they are not acting as a councillor and are, therefore, not caught by the provisions of the Code. So, a member who uses a council computer provided to him for council use but who uses it to download child pornography during his private time cannot escape the scope of the Code by arguing that he was not acting as a councillor when he did so.*

*The Code itself does not provide any further guidance on official capacity (but see development in case decisions in this area referred to below). However, there are circumstances when it is clear that the Code operates. These include any meetings of the authority, its executive or any of its committees or sub-committees. Participating in such meetings plainly involves carrying out the business of the authority. When an elected member exercises powers delegated to them as a member of the authority's executive, or holds a surgery for residents of their ward, the member is clearly performing the business of the office to which they have been elected. Members' face-to-face dealings with officers about the business of the authority will almost always mean they are conducting the business of their office under paragraph 2(1)(a) of the Code.*

*Similarly, members of police or fire authorities will be conducting the business of their office when they attend formal meetings with police or fire officers, or make formal visits to police or fire stations.*

*The scope of representing an authority is potentially very wide. Standards for England believes that this will cover situations where a member is appointed or nominated by their authority to another body, such as a board of directors or trustees. Members will need to distinguish between occasions where they are invited to a meeting or function as an individual, and those where they are invited because of their position as a member of the authority.*

*In the latter situation, they will be acting as a representative of the authority.*

*Any investigation will need to establish who invited a member to be there, in what capacity that invitation was extended and for what purpose.'*

While Standards Board for England has been abolished, its guidance is still referred to by the Courts in determining the outcome of proceedings relating to conduct matters –as in the case of *R (on the application of Robinson) v Buckinghamshire Council* [2021] EWHC 2014 (Admin) discussed at Paragraph 10.2 below.

Bearing the above in mind,

I conclude that the Facebook posts Councillor Clinton made, encouraging members of the public to turn up at the Community Forum meeting on 7 November 2022, his correspondence with Officers relating to the grant, and his attendance and actions at

the Community Forum meeting were all made in Councillor Clinton's capacity as a Councillor.

**I therefore DO CONCLUDE that Councillor Clinton was acting in his capacity as a Member of the Council at the time of the incident and thus Paragraph 4 of the Code of Conduct is engaged.**

Having established that Councillor Clinton was acting in his official capacity at the time of the incident, I now go on to consider whether or not by his actions Councillor Clinton failed to treat other Councillors and members of the public with respect, and/or whether by his actions Councillor Clinton brought his Office or the Council into disrepute.

### **11.3 DISRESPECT**

Q 15 of the Case Review Guidance stresses 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'.*

The LGA Guidance advises that:

*'Disruptive behaviour can take many forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as bullying and demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour'*

And that:

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And that:

## **11.4 DISREPUTE**

Disrepute is defined in at Q 43 of the Case Review Guidance as: ‘a lack of good reputation or respectability’, and ‘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:

*Reducing the public’s confidence in that member being able to fulfil their role; or*

*Adversely affecting the reputation of members generally, in being able to fulfil their role. ‘*

Additionally Q 42 of the Case Review Guidance states:

‘A case tribunal or standards committee will need to be persuaded that the misconduct is sufficient to damage the reputation of the member’s office or authority, as opposed simply to damaging the reputations of the individual concerned’.

The Case Review Guidance is referred to in the case of *Robinson v Buckinghamshire Council* as recently as 2021, in her judgement Mrs Justice Lang stating:

*‘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.*

*A case tribunal or standards committee will need to be persuaded that the misconduct is sufficient to damage the reputation of the member’s office or Authority, as opposed simply to damaging the reputation of the individual concerned.’*

The Standards Board for England Case Review guidance is repeated in the Local Government Association guidance, *'Guidance on Local Government Association Model Councillor Code of Conduct' July 2021 (LGA Guidance)*.

*'Conduct by a councillor which could reasonably be regarded as reducing public confidence in their local authority being able to fulfil its functions and duties will bring the **authority** into disrepute'. On the other hand, 'In the context of the Code of Conduct, a councillor's behaviour in office will bring their **role** into disrepute if the conduct could reasonably be regarded as either:*

- 1. reducing the public's confidence in them being able to fulfil their role; or*
- 2. adversely affecting the reputation of their authority's councillors in being able to fulfil their role.'*

The LGA Guidance referred to above goes on to say:

***'What distinguishes disrepute to "your role or local authority" from disrepute to you as a person?***

*The misconduct will need to be sufficient to damage the reputation of the councillor's role or local authority, as opposed simply to damaging the reputation of the individual concerned.*

*Certain kinds of conduct may damage the reputation of an individual but will rarely be capable of damaging the reputation of the role of councillor or the reputation of the authority.*

*Here are some of the situations that might tip the balance in favour of disrepute to the role of councillor or to the authority in particular cases:*

- 1. Situations where councillors have put their private interests above the public interest, which they are expected to promote as councillors, and therefore reduced the standing of their role. For example, councillors using their position to secure a secret personal profit.*
- 2. Similarly, situations where a councillor defies important and well-established rules of the authority for private gain.*
- 3. Where a councillor engages in conduct which directly and significantly undermines the authority's reputation as a good employer or responsible service provider.'*

The Case Review Guidance gives a number of case examples of consideration of 'disrepute', including in case examples LGS/2010/0521, where a district councillor produced a leaflet prior to elections, the purpose of the leaflet being *'to inform the residents of current issues at both Brentwood Borough and Essex County Councils'*. The front page of the leaflet contained the following passage:

*'The Council Offices are looking more and more like the Marie Celeste – empty Planning Department, empty Highway Department, empty Finance Department, empty Chief Executive's office – where will it end! The rooms were full and bustling*



*with activity when the Lib Dems ran the Council, and we still successfully balanced our budget’.*

The tribunal found that there had been no attempt to justify an interference with the councillor’s right to say what he did in the leaflet. It appeared that the issue was a matter of political party interest and debate. It was appropriate for such issues to be canvassed in the electoral process. There was no evidence that his right to raise the issue was outweighed by any public interest. It was open to those holding opposing views to express them in the same way. The tribunal found that the councillor did not breach the Code of Conduct.

A number of examples are quoted in the LGA guidance, including the below:

*‘The chair of a local authority made a deeply inappropriate remark at a local authority meeting that was reported in the local media and was accused of bringing his role and authority into disrepute. It was clear in both the meeting and the local media reporting that other councillors expressed concerns about his comments and found them inappropriate. It was found that he had not brought his authority into disrepute but that he had brought his role into disrepute.’*

The list above is not however exhaustive and there are many other possible examples, each case determining on its individual facts. In applying the Code of Conduct to the circumstances of an alleged breach of ‘disrepute’ it is not necessary for the member’s actions to have actually diminished public confidence, or harmed the reputation of the authority. The test is whether or not the conduct could ‘reasonably be regarded’ as having these effects. The conduct must be sufficient to damage the reputation of the Member’s office or the Council, not just the reputation of the individual.

While it was acceptable for a Councillor to canvass political opinion and make political Facebook or other social media posts, I find that Councillor Clinton’s encouragement of members of the public to attend the Dudley Community Forum meeting on 7 November 2022 ‘to get this passed’ and inference that it was a public meeting in which funding for the Quarry Bank Christmas lights would be determined (as opposed to being reported) was seeking political support and political advantage for Councillor Clinton as a Councillor. In her evidence Jackie Scott describes that the people who had come to support the Christmas lights application sat together on a table at the back of the room, and that the atmosphere felt a bit like a ‘posse’. Councillor Clinton was clearly frustrated at what he saw was an error in the amount of grant and number of lights the grant would provide. In these circumstances it is understandable that he would wish to get this clarified. However whether or not the grant being reported at the meeting was the correct amount is not relevant. Cllr Clinton did not need public support at the meeting to get his application passed.

However, the threshold for behaviour so as to bring a Councillor’s office or authority into disrepute has to be set at a level which allows for the passion and fervour which often accompanies political debate or exchanges relating to decisions made by a Council, while maintaining proper standards of public life. As indicated above, conduct which might be sufficient to damage the reputation of the individual concerned is not necessarily sufficient to damage the reputation of a member’s

officer or authority. I do not find that Councillor Clinton's actions at the Community Forum meeting on 7 November 2022 were such as to meet the threshold required to find that Councillor Clinton diminished his office or brought the reputation and standing of the Council into disrepute.

**I therefore DO NOT CONCLUDE that Councillor Clinton conducted himself at the meeting of the Dudley Community Forum on 7 November 2022 so as to bring either his office or authority into disrepute, and therefore that Councillor Clinton did not breach Paragraph 5.5 of the Council's Code of Conduct.**

#### **11.4 OTHER PARAGRAPHS OF THE CODE OF CONDUCT CONSIDERED**

I have considered whether any other paragraphs of the Council's Code of Conduct are engaged by the complaint. I conclude however that no other paragraphs of the Code of Conduct are relevant to this investigation. It should be noted that the paragraphs quoted at Paragraph 26 of the note of interview with Councillor Bayton referred to at page 19 of this report are not provisions of the Code of Conduct itself, rather they are part of the principles underpinning the Code of Conduct.

#### **12.COMMENTS ON THE DRAFT REPORT**

Councillor Clinton commented: *"the only real constructive comment i would like to make is the report seems to be overly one sided and a little politically subjective as non of the other people mentioned have been interviewed for their perspective. Which would have brought a balance to the discussion"*.

Councillor Bayton did not comment on the draft report.

#### **13.FINDING**

In summary, on the basis of evidence available to me, and on the balance of probabilities, I find that Councillor Dr Rob Clinton, breached Paragraph 5.1 of the Dudley Metropolitan Borough Council's Members' Code of Conduct.

#### **14. RECOMMENDATION**

On this basis of this conclusion, I make the following recommendation:

**That the Monitoring Officer considers this report in accordance with the Council's procedure for considering a complaint that a Member has breached the Code of Conduct.**