



STANDARDS COMMITTEE LOCAL HEARING 1/2012

17TH - 20TH JANUARY 2012

SUMMARY DECISION NOTICE

Subject Member: Cotswold District Councillor Esmond Jenkins

Complainants: (i) Mr. Max Thomas and (ii) Ms. Philippa Lowe

Complaint Reference: 1/2012

Committee Hearing Membership: Independent Members Mr. Martin Jauch (Chairman), Mr. Ian Hilton and Mrs. Joan Longhurst; and District Councillor Mark Wardle

Legal Adviser: Ms. Sara Freckleton (Tewkesbury Borough Council)

Ethical Standards Officer: Ms. Jennifer Rogers represented by Ms. Galina Ward

Clerk of the Hearing: Mr. Derek Chiplin (Cotswold District Council)

Date of the Hearing: 17th - 20th January 2012

Date of the Ethical Standards Officer Report: 27th October 2011

Summary of the Complaints:

That Councillor Jenkins was aggressive and verbally abusive to Mr Thomas's employee, Mr William Gibney, when Councillor Jenkins visited the country park on 22nd February 2011.

That Councillor Jenkins misused his position as councillor to advise a business competitor of Watermark in a boundary dispute between the two companies.

That Councillor Jenkins used his position as a councillor to make malicious statements to the press and to spread misinformation that is intended to denigrate the name of Mr Thomas's company, Watermark.

That Councillor Jenkins used his position as councillor to try to change officer advice on development issues despite living in close proximity to the sites in question.

That Councillor Jenkins used his position as councillor to persuade the council to withdraw an enforcement notice placed on holiday lodge occupiers when he was representing the occupiers in their dispute with the council in his professional capacity as a notary public.

That Councillor Jenkins was verbally abusive to others, including an officer of the council, at a site visit to the Cotswold Country Park and Beach (the country park) on 22nd February 2011.

That Councillor Jenkins has subjected officers to unreasonable and excessive personal criticism and has made unsupported accusations about officer conduct.

That Councillor Jenkins' attitude to officers is aggressive and threatening, and this is demonstrated both verbally and by email.

That Councillor Jenkins' conduct towards officers has damaged officer morale and harmed the ability of officers to provide a proportionate and cost-effective service.

That Councillor Jenkins has been involved either directly or indirectly with the publication of press articles which imply some wrongdoing by the council and by individual officers.

Relevant Section(s) of the Code of Conduct:

2(1), you must comply with this Code whenever you:-

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

3(1) You must treat others with respect.

(2) You must not:-

.....

- (b) bully any person;

.....

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

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

6 You:-

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

.....

8(1) You have a personal interest in any business of your authority where either:-

- (a) it relates to or is likely to affect:-

.....

- (ix) any land in your authority's area in which you have a beneficial interest;

-
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:-
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

.....

10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

10(2) You do not have a prejudicial interest in any business of the authority where that business:-

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8;

.....

Standards Committee Findings of Fact

The Committee agreed with the facts set out in the Ethical Standards Officer's report to which no disagreement had been made by Councillor Jenkins and these are shown in plain font.

In respect of the Ethical Standards Officer (ESO) findings of fact with which Councillor Jenkins disagreed at the commencement of this Hearing, the Committee's findings of fact are shown below in bold font.

- 5.1 **Allegation at 1.1.1 that Councillor Jenkins used his position as Councillor to try to change Officer advice on development issues despite living in close proximity to the sites in question**
 - 5.1.1 In 2008 CWPS and a quarrying company called Cullimores applied to the county council for permission to extract gravel from land at Spratsgate Lane.
 - 5.1.2 The site at Spratsgate Lane is immediately adjacent to the boundary of Councillor Jenkins' property, Old Manor Barn, Shorncote. His home is one of twelve homes in the hamlet of Shorncote, and is the nearest home to the proposed quarry Councillor Jenkins was a vocal local objector to the Spratsgate Lane quarrying application in 2008 and 2009, before his election to the council. Quarrying at Spratsgate Lane would have a significant detrimental impact on the home life of Councillor Jenkins and his family and on his use of his property for a number of years because of the likely noise pollution, the possibility of dust pollution, and the flooding risk.
 - 5.1.3 Councillor Jenkins has curtailed the commercial redevelopment of part of his property as a consequence of the possibility that quarrying may now go ahead at this site.

- 5.1.4 Quarrying of gravel at Spratsgate Lane would also have a detrimental impact on approximately twenty other local residents in the hamlet of Shorncote, to a degree dependant on how far they live from the quarry site and how exposed their individual properties are to dust noise and flooding risk.
- 5.1.5 In March 2010 Councillor Jenkins applied for a judicial review of the council's decision notice on Spratsgate Lane, as a private citizen.
- 5.1.6 Councillor Jenkins was present as a councillor at the county council site visit to Spratsgate Lane on 15 July 2010.
- 5.1.7 Officers who corresponded with or met with Councillor Jenkins to discuss his issues with officer advice on Spratsgate Lane did so on the basis that he was a councillor.
- 5.1.8 Between November 2009 and July 2010, Councillor Jenkins wrote to and met with Officers in his role as Ward Councillor to try to persuade Officers to strengthen the Council's objections regarding the dust noise and flooding risks that quarrying at Spratsgate Lane would pose to his property and others close to the site. He also wrote to and met with Officers in his role as Ward Councillor to try to persuade Officers to change their advice on interpretation of policies concerning the possible future use of the land adjacent to his property.**
- 5.1.9 In March 2010, Councillor Jenkins had taken legal action as a private citizen seeking to quash the Officer recommendation and to require the Council to recommend a strong objection to the Spratsgate Lane planning application. Councillor Jenkins subsequently corresponded and then met with the Council's Head of Legal Service and Strategic Director, which the Officers believed to be in his role as Ward Councillor, to discuss their differing views about the Mineral Plan and the Local Plan but, in the absence of any agreement on the interpretation of those policies, Councillor Jenkins and the Officers agreed to differ.**
- 5.1.10 Councillor Jenkins attended a county council site visit in July 2010 in his role as Ward Councillor and local resident and queried with his Council's Environment Officer whether there could be an additional objection to the application on dust pollution grounds.**
- 5.2 Allegation at 1.1.2 – that Councillor Jenkins used his position as councillor to persuade the council to withdraw an enforcement notice on holiday lodge occupiers when he was representing the occupiers in their dispute with the council in his professional capacity as a notary public
- 5.2.1 The council has given planning permission for a number of holiday lodge developments in the Water Park. These are subject to a planning condition which requires the lodges to be used "as holiday accommodation only and not as a permanent or primary residence."
- 5.2.2 Mr and Mrs Main own a holiday lodge. They were served with an enforcement notice in 2009. The council had information from Watermark that led the council to believe that Mr and Mrs Main were living full time in their lodge.
- 5.2.3 Mr and Mrs Main appealed to the Planning Inspector against the enforcement notice.

- 5.2.4 The council enforcement officer uncovered evidence that Mr and Mrs Main were using the lodge for business use. The evidence of business use of the lodge, together with the occupancy evidence, was put before the Planning Inspector. The Planning Inspector dismissed Mr and Mrs Main's appeal.
- 5.2.5 Councillor Jenkins helped Mr and Mrs Main to make a statutory declaration to the council about their income and taxes to the council. He witnessed this in his capacity as a notary public.
- 5.2.7 Councillor Jenkins met with officers as a councillor to discuss Mr and Mrs Main's case with them.
- 5.2.8 Councillor Jenkins acted as an advocate for Mr and Mrs Main in his role as their councillor. He did not represent them for a fee or in a professional capacity.
- 5.3 Allegation at 1.1.3 - that Councillor Jenkins was aggressive and verbally abusive to Mr Nigel Adams at a site visit to the Country Park on 22nd February 2011; and allegation at 1.2.1 - that Councillor Jenkins was aggressive and verbally abusive to Mr. William Gibney at the same site visit
- 5.3.1 Councillor Jenkins and Mr. Adams had significantly different expectations about access arrangements and who was to attend the visit to the Country Park on 22nd February 2011.**
- 5.3.2 Councillor Jenkins believed that the main purpose of the visit was to carry out measurements of the infill. Councillor Jenkins expected Mr Davey to be present
- 5.3.3 Mr. Adams intended to meet with Mr. Knight of the Environment Agency, Councillor Jenkins and two Parish Councillors.**
- 5.3.4 Mr. Adams had not made arrangements for Mr. Davey to attend.**
- 5.3.5 Mr. Adams understood from Councillor Jenkins' earlier statements to him that there was public access to the Lake 31 infill site.**
- 5.3.6 The failure to gain access to the site for the purpose of measurement of the infilling caused Councillor Jenkins to be angry and frustrated.**
- 5.3.7 Councillor Jenkins asked Mr. Gibney to 'open the bloody gate' when attempting to persuade Mr. Gibney to allow him access to the site.**
- 5.3.8 Mr. Gibney found Councillor Jenkins' body language threatening.**
- 5.3.9 Councillor Jenkins appeared to be extremely angry with Mr Adams when he found out that Mr Davey would not be present on 22 February. Councillor Jenkins said he was furious. *(ESO paragraph no. 5.3.8)*
- 5.3.10 Councillor Jenkins expected Mr. Adams to arrange for an immediate enforcement action at Lake 31, or face disciplinary action.**
- 5.3.11 Councillor Jenkins criticised and threatened Mr. Adams, in front of Mr. Knight, Mr. Gibney and Councillor Sleeman, with facing disciplinary action.**

- 5.4 Allegation at 1.1.4 - that Councillor Jenkins has subjected Officers to unreasonable and excessive personal criticism and has made unsupported accusations about Officer conduct

Internal Audit

- 5.4.1 In August 2010, Councillor Jenkins raised concerns with Mr. Neudegg and Mr. Adams at the alleged ability of developers such as Watermark to influence the Council by making deals behind the scenes; about rumours of freemasonry amongst Councillors and Officers; and about Watermark's involvement in the Council's enforcement of planning conditions against holiday lodge owners. He alleged that Officers were being improperly influence by Watermark and others.**
- 5.4.2 The chief executive asked the council's internal auditor Mr Milford to carry out an enquiry into whether there was any evidence of any improper conduct by either councillors or officers in relation to the Water Park and CWPS.
- 5.4.3 Councillor Jenkins refused to give any evidence to the audit enquiry because Mr Milford had not let Councillor Jenkins influence the scope of the enquiry, as Councillor Jenkins believed he had been promised.
- 5.4.4 The enquiry did not find any evidence of improper conduct by councillors of officers.
- 5.4.5 Councillor Jenkins does not accept the outcome of the internal audit enquiry and has now read the report.**

Spratsgate Lane

- 5.4.6 Councillor Jenkins suggested to senior Officers on more than one occasion in 2009 and 2010 that Planning Officers might not give impartial advice on the Spratsgate Lane matter because of improper relationships with developers (such as freemasonry).**

Mr and Mrs Mains

- 5.4.7 The Planning Inspector upheld the council's enforcement notice served on Mr and Mrs Main
- 5.4.8 The Planning Inspector accepted the enforcement officer's evidence about Mr and Mrs Mains business use of their holiday lodge and found that as a fact they were in breach of their holiday use planning condition.
- 5.4.9 The Planning Inspector accepted the occupancy evidence the council put forward based on Watermark's records and other records, but found in the light of Mr and Mrs Mains evidence that it did not amount to a breach of the holiday use planning condition.
- 5.4.10 Councillor Jenkins' allegation that CDC Enforcement issued a trumped up Enforcement Notice based on information provided by Watermark is not supported by the facts.**
- 5.4.12 Mr. Field advised deferring a decision to withdraw the Enforcement Notice, having received correspondence from Watermark indicating that there was no change in circumstances. Mr. Fields' advice on withdrawal was subsequently supported by internal and external legal advice.**

5.4.13 Councillor Jenkins did not substantiate his allegations that Mr. Field and Mr. Bowsher had allowed their decisions regarding Mr. and Mrs. Mains to be unduly influenced by Watermark.

Lake 31

5.4.15 Councillor Jenkins opposed the cable ski on Lake 31 because he wanted to prevent what he saw as unwelcome development; he believed Watermark had corruptly obtained ownership of the Park; and he believed that a cable ski would have a negative impact on his and his family and the community's enjoyment of the Park.

5.4.16 The lake edge improvement works at Lake 31 needed to be done before the cable ski could begin operating on Lake 31.

5.4.17 From July 2010 officers consistently advised the parish council and Councillor Jenkins that there was no enforceable breach of planning control while lake edge improvement works were still in progress at Lake 31.

5.4.18 In January 2011, Officers agreed with Councillor Jenkins that the area of infilling exceeded that which was permitted for the completed work but Councillor Jenkins believed the extent of that excess to be more extensive than the Officers' view.

5.4.19 Ms Lowe agreed that Mr Davies would monitor the progress of the work to ensure Watermark brought the finished project into compliance with the approved plans.

5.4.20 Officers advised Councillor Jenkins on 25th January 2011 that there was no enforceable breach of planning control at that time.

5.4.21 Councillor Jenkins strongly disagreed with the Officers' view of the reasonableness of Watermark's method of carrying out the lake improvement works.

5.4.22 Councillor Jenkins did not accept that the volume of infill at the Lake 31 site was not an issue that the council could take into account for enforcement purposes.

5.4.23 Councillor Jenkins strongly disagreed with the quality of the officers' judgement on the question of whether enforcement was possible or expedient.

5.4.24 The parish council shared Councillor Jenkins' concerns about the council's response to the Lake 31 infilling. The parish council felt the officers were not taking parish council complaints seriously.

5.4.25 Officers were not required to take enforcement action at Lake 31 in accordance with Councillor Jenkins' view that enforcement action should be taken.

5.4.26 Officers were consistent and transparent in setting out their enforcement advice on Lake 31, willing to take account of and engage with all the issues that Councillor Jenkins and other raised, albeit not at the pace which Councillor Jenkins expected.. They were open about the steps that they would and would not take on behalf of the Council.

- 5.4.27 On 3 February 2011 Councillor Jenkins made allegations of officer misconduct against Mr Davies and Mr Napper to Mr Neudegg, the chief executive, and asked for the officers' removal from the Lake 31 case.
- 5.4.28 On 7 February 2011 Councillor Jenkins alleged to Nigel Adams that there was clear evidence of collusion between the developer and officers regarding Lake 31. Councillor Jenkins alleged that there was overt corruption in which more than "one or two rogue individuals" were implicated.
- 5.4.29 Councillor Jenkins' allegation by inference was that CDC Officers were, by their actions or omissions, assisting a developer to do something illegal.**
- 5.4.30 Councillor Jenkins was calling for Mr. Davies and Mr. Napper to be removed from the case.**
- 5.4.31 Councillor Jenkins failed to comply with the council's member officer protocol by going directly to Mr Neudegg and Mr Adams with allegations about Mr Davies and Mr Napper's conduct.
- 5.4.32 Councillor Jenkins emailed Mr Adams on 9 February with personal criticism, which Mr Adams took as an attack on his integrity. That email was copied to Mr Neudegg.
- 5.4.33 On 10 February 2011 Mr Neudegg told Councillor Jenkins that the tone of his emails was disrespectful and his unfounded allegations about officer collusion were of serious concern.
- 5.4.34 On 10 February Mr Neudegg offered Councillor Jenkins the council's complaints process or the option of putting evidence to the council's internal auditor as routes for dealing with his concerns about officer advice or officer conduct.
- 5.4.35 Councillor Jenkins did not use the complaints process or provide evidence to the Internal Auditor.**
- 5.4.36 On 2 March 2011 Councillor Jenkins copied Private Eye magazine into an email to Mr Neudegg in which Councillor Jenkins criticised a named senior officer's competence and the competence of identifiable enforcement officers. Councillor Jenkins also implied a link between the officer conduct that he was criticising and known fraud in the Water Park.
- 5.4.37 On 4 March 2011 in an email to Mr Neudegg and other officers, copied to a parish councillor, Councillor Jenkins criticised the work of each of the officers who had reported back on the Lake 31 infilling.
- 5.4.38 On 4 March in an email to Mr Neudegg, Councillor Jenkins said he had suggested Mr Neudegg suspend Mr Davies and Mr Napper, and noted Mr Neudegg had not done so.
- 5.4.39 On 7th March 2011 Councillor Jenkins emailed senior Officers, Councillors, the Environment Agency and the Police and claimed that Officers had given dishonest advice.**
- 5.4.40 Councillor Jenkins involved himself directly in an enforcement investigation by repeatedly visiting the site to gather evidence, contrary to the council's planning protocol.

- 5.4.41 The contents of the enforcement officers working log do not corroborate Councillor Jenkins allegations of collusion between officers and Watermark at Lake 31 as he suggests.
- 5.5 Allegation at 1.1.5 - that Councillor Jenkins attitude to Officers is aggressive and threatening and this is demonstrated both verbally and by email
- 5.5.1 Many of Councillor Jenkins' communications with Mr. Neudegg, Mr. Adams and senior Councillors have been critical and abrasive in tone. They have included rude remarks and personal criticism of the Chief Executive and Leader. Councillor Jenkins did not generally copy these emails to anyone other than senior Officers or senior Members.**
- 5.5.2 In 2010 Councillor Jenkins brought a legal action against Ms Helen Donnelly, a planning officer, naming her as defendant in a claim for judicial review of an officer recommendation.
- 5.5.3 The Judicial Review claim against the Officer report was discontinued.**
- 5.5.4 Ms Donnelly was distressed as a result of Councillor Jenkins legal action against her and says she has become fearful of future dealings with him.**
- 5.5.5 Councillor Jenkins said he did not intend to cause the distress he caused to Ms Donnelly.
- 5.5.6 On 2 March 2011 Councillor Jenkins sent an email to Ms Donnelly in response to her email to ward councillors about a proposed delegated decision.
- 5.5.7 Councillor Jenkins' email on 2nd March contains no personal abuse or criticism of Ms Donnelly. It was perceived as discourteous by Ms Donnelly and others, given its abruptness and the omission of any greeting or salutation. The email was copied to the original recipients of Ms Donnelly's email and to Ms Donnelly's Head of Service and the Chief Executive.**
- 5.5.8 Ms Donnelly was distressed by Councillor Jenkins' 2nd March email to her, in the context of the Judicial Review proceedings.**
- 5.5.9 Councillor Jenkins has expressed a lack of confidence to Mr Napper's managers that Mr Napper can be trusted to give fair and unbiased advice on planning applications involving developers.
- 5.5.10 Mr Napper concluded that his conduct was scrutinised in the internal audit enquiry because Councillor Jenkins has voiced suspicions about Mr Napper's integrity.
- 5.5.11 Councillor Jenkins referred to Mr. Napper as "Napper" in Mr. Napper's presence at a Meeting on 25th January 2011.**
- 5.5.12 Councillor Jenkins' behaviour towards Mr. Napper on 25th January was perceived by Mr. Napper as angry and hostile and by Ms Lowe as being disrespectful.**
- 5.5.13 Ms Donnelly and Mr. Napper have felt bullied by Councillor Jenkins as a result of his approach to them and their work. They view his behaviour as aggressive and his criticisms of their conduct as unreasonable and unfair.**

- 5.5.14 On 25th January, following the Meeting, Councillor Jenkins was asked by Ms Lowe to stop using only Officer surnames in his dealings with, and about those Officers with others, on the basis that Officers found this disrespectful.**
- 5.5.15 Councillor Jenkins did not accept that it was reasonable for officers to object to his decision not to use their whole name.
- 5.5.16 Councillor Jenkins says he sometimes uses surnames as neutral shorthand to describe his colleagues and friends.
- 5.5.17 Councillor Jenkins' emails to officers show a pattern of using the officer's surname alone in those emails where he is questioning or criticising the officer's conduct or competence.
- 5.5.18 Councillor Jenkins continued to use officer surnames alone in some of his emails after Ms Lowe asked him to stop this on 25 January.
- 5.6 Allegation at 1.1.6 - that Councillor Jenkins' conduct towards Officers has damaged Officer morale and harmed the ability of Officers to provide a proportionate and cost-effective service
- 5.6.1 Councillor Jenkins' method and manner of challenging officer decisions has in the opinion of Ms Lowe, Mr Neudegg, Mr Fotherby and Mr Adams placed an exceptionally high demand on officer time, at a cost to the council.
- 5.6.2 Councillor Jenkins' unwillingness to use the appropriate processes has in the opinion of Mr. Neudegg made it difficult for Officers to address or resolve his complaints in a proportionate and cost effective way.**
- 5.6.3 There was no expectation on behalf of the senior Officers that they would not bring Councillor Jenkins' criticisms of junior officers to the attention of those officers.**
- 5.6.5 The morale of Officers in Ms Lowe's service has, in her opinion, been affected by Officer knowledge of Councillor Jenkins' allegations.**
- 5.6.6 Ms Lowe, Mr. Field and Mr. Napper are concerned that Officers will work in an atypical and resource-heavy way in an attempt to anticipate and neutralise Councillor Jenkins' criticisms. They believe that this poses a risk to the effective provision of the Council's Planning Service.**
- 5.7 Allegation at 1.1.7 – that Councillor Jenkins has been involved either directly or indirectly with the publication of press articles which imply some wrongdoing by the council and by individual officers
- 5.7.1 A Private Eye story in February 2011 quotes Councillor Jenkins' views on the events at the 22 February site visit to Lake 31 and sets out Councillor Jenkins' argument that the council has failed to deal with unlawful tipping.
- 5.7.2 Councillor Jenkins said he is not the source of regular Private Eye stories that have criticised named councillors and county councillors and implied that councillors and officers have not dealt properly with apparent wrongdoing in the Water Park.
- 5.7.3 I have seen no evidence from which I could conclude that Councillor Jenkins is a source for the relevant Private Eye stories.

- 5.8 Allegation at 1.2.2 – that Councillor Jenkins has misused his position as councillor to advise a business competitor of Watermark in a boundary dispute between the two companies
- 5.8.1 Mr Pendlebury of Waterland had a legal dispute with Watermark over where the boundary falls between their leasehold properties. The freeholder of the land is the county council.
- 5.8.2 Councillor Jenkins knew Mr Pendlebury as the owner of a business in the country park before Councillor Jenkins was elected.
- 5.8.3 Councillor Jenkins drew Mr Pendlebury attention to the boundary problem. Mr Pendlebury instructed his own solicitors.
- 5.8.4 When Mr Pendlebury needed to go into hospital he asked Councillor Jenkins to take a power of attorney to represent Mr Pendlebury and give instructions to his solicitors while he was incapacitated.
- 5.8.5 Councillor Jenkins' involvement with Mr Pendlebury and Waterland's dispute with Watermark has been in a private capacity and not in his role as a councillor.
- 5.9 Allegation at 1.2.3 - that Councillor Jenkins has used his position as a Councillor to make malicious statements to the Press and to spread misinformation that is intended to denigrate the name of Mr. Thomas' Company, Watermark
- 5.9.1 There has been a considerable amount of local press coverage in which Councillor Jenkins is quoted making criticisms of Watermark's actions or the failures of other bodies to act.
- 5.9.2 The majority of those stories concern Councillor Jenkins' views on the performance of the public bodies regarding Watermark's sublease, Watermark's management of the Country Park or Mr. Grant's fraud on the Cotswold Water Park Society. A small number of the Press stories concern Councillor Jenkins' views as a Councillor on Watermarks' development activities in the Water Park and the Council's regulation of those activities.**
- 5.9.3 Mr Thomas has also had press coverage of his response on behalf of Watermark to set out his company's view of the matter, putting counter-arguments to what has been claimed by Councillor Jenkins.

Committee Decision on whether Councillor Jenkins failed to comply with the Cotswold District Council Code of Conduct

1. The Committee agreed with the Ethical Standards Officer that when assisting Mr. Pendlebury in his dispute with Watermark the Code of Conduct did not apply.
2. The Committee decided that Councillor Jenkins did not fail to comply with paragraph 3 (1) of the Code of Conduct in respect of:-
 - a. his behaviour towards Mr. Gibney on 22nd February 2011
 - b. his behaviour towards Ms. Donnelly when commencing legal action in March 2010 and when corresponding by e-mail on 2nd March 2011
 - c. his behaviour towards Mr. Napper on 25th January 2011

3. The Committee decided that Councillor Jenkins failed to comply with paragraph 3 (1) of the Code of Conduct in respect of:-
 - a. his behaviour towards Mr. Nigel Adams on 22nd February 2011
 - b. his e-mail correspondence of the 2nd and 7th March 2011
4. The Committee decided that Councillor Jenkins did not fail to comply with paragraph 3 (2)(b) of the Code of Conduct in respect of:-
 - a. his behaviour towards Mr. Nigel Adams on 22nd February 2011
 - b. his general allegations against Development Officers and criticisms of their advice
5. The Committee decided that Councillor Jenkins failed to comply with paragraph 3 (2)(d) of the Code of Conduct in sending e-mails suggesting or alleging failure of officers to give impartial advice
6. The Committee decided that Councillor Jenkins failed to comply with paragraph 5 of the Code of Conduct in respect of:-
 - a. bringing his office into disrepute in his behaviour towards Mr. Adams on 22nd February 2011
 - b. bringing his Authority into disrepute in making allegations of Officer misconduct
7. The Committee decided that Councillor Jenkins did not fail to comply with paragraph 5 of the Code of Conduct in making public statements about Watermark.
8. The Committee decided that Councillor Jenkins did not fail to comply with paragraph 6(a) of the Code of Conduct in respect of:-
 - a. making representations on behalf of Mr. & Mrs. Main
 - b. his participation in meetings and correspondence about the Spratsgate Lane application

Sanctions:

Having found that Councillor Jenkins had failed to comply with the Cotswold District Council Code of Conduct by:

- being disrespectful to officers
- compromising officers impartiality and
- bringing your office and the Council into disrepute.

the Committee decided to issue a formal censure to Councillor Jenkins for his use of unsubstantiated allegations and his excessively robust and intemperate behaviour towards officers of the Council.

The Committee requires Councillor Jenkins, within 14 days of the 20th January 2012, to provide a written apology to Nigel Adams in a form that is satisfactory to Mr. Adams. This apology must be copied to the Standards Committee.

In noting that Councillor Jenkins has not received any formal training on the Council's Code of Conduct, the Standards Committee requires Councillor Jenkins to attend training on the Cotswold District Council Code of Conduct. This training is to be carried out, as soon as it can be arranged, by the Monitoring Officer or nominee together with a member of the Standards Committee.

Recommendations to Cotswold District Council

1. Cotswold District Council Member / Officer Protocol

- a. It is recommended that the Member / Officer Protocol be reviewed at the earliest possible opportunity to ensure that there is:-
 - i. Clarity as to the roles and responsibilities of Members and Officers
 - ii. An effective mechanism whereby a perceived breach of the respective Codes of Conduct or of the Protocol by either party can be resolved and that the mechanism includes an early intervention process
- b. To arrange for training by Members and Officers on the Member / Officer Protocol to ensure that it is embedded within the Council

2. Cotswold District Council Member Induction Process

It is recommended that the Member Induction Process be reviewed (to be applied to bi-elections as well as induction following full elections) and should include:-

- a. A comprehensive training session for members on the CDC Code of Conduct and Member / Officer Protocol
- b. Informal meetings with relevant officers in the Planning Service where issues of local importance can be identified and discussed in the context of the planning legislation, before being more formally addressed by the Council in its decision-making processes

3. Members' interests

When considering its arrangements to satisfy the provisions of Chapter 7 of the Localism Act 2011 (Standards), it is recommended that the Council approves a requirement that any decisions taken under section 33 of the Localism Act (granting dispensations) should include a mechanism for consultation with the independent member(s) as part of the decision-making process.

4. Planning Service Peer Review Action Plan

The Council is asked to consider expediting any outstanding actions arising from the Action Plan which was approved by the Cabinet in July 2011 consequent upon the Planning Service Peer Review.

Appeal

The Subject Member has the right to appeal against the decision by applying in writing to the First-Tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal and for suspension of the sanctions imposed until any appeal is determined. Such request must be made within 28 days of receipt of this Decision Notice.

Dated this 23rd day of January 2012

Martin Jauch
Chairman of the Standards Committee Hearing