

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Hearings Sub-Committee - Epping **Date:** 25 January 2011
Forest Standards Committee

Place: Committee Room 2, Civic Offices, **Time:** 7.30 - 8.45 pm
High Street, Epping

Members Present: R Crone (Independent Member)(Chairman), Councillor Mrs A Grigg (District Council Appointee) and J Guth (Independent Member)

Other Councillors:

Apologies:

Officers Present: C O'Boyle (Monitoring Officer), G Lunnun (Allegations Determination Manager) and S G Hill (Local Assessment Officer)

Also Present: H Sainsbury (Investigating Officer appointed by the Monitoring Officer)

7. QUORUM

The Chairman reported that as the three members of the Sub-Committee were all present, the meeting was quorate.

8. WELCOME AND INTRODUCTIONS

The Chairman welcomed those present, introduced himself and invited others to introduce themselves and explain their roles at the meeting.

The Chairman advised that the purpose of the meeting was to consider alleged breaches of the Epping Forest District Council's Members' Code of Conduct by Councillor J Collier. The meeting noted that Councillor Collier had stated that he would not be present at the meeting to put his case.

9. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor Mrs A Grigg declared a personal interest in Agenda Item 6 (Local Assessment Case 1/2010) by virtue of being a member of the same political party as the member subject to the complaint. The Councillor determined that her interest was not prejudicial and that she would remain in the meeting for the consideration of the issue.

10. MINUTES

The Sub-Committee was advised that Mr G Welch (former Independent Member of the Standards Committee) who had chaired the last meeting of the Hearings Sub-Committee had approved the draft minutes of the meeting held on 26 July 2010.

RESOLVED:

That the minutes of the meeting of the Sub-Committee held on 26 March 2010 be taken as read and signed by the Chairman as a correct record.

11. EXCLUSION OF PUBLIC AND PRESS

The Chairman advised that both Councillor Collier and Ms Salisbury, Investigating Officer had stated that they had no objection to the meeting being held in public with full copies of the agenda and reports being made available to members of the public and the press. The Monitoring Officer drew attention to the redaction of certain figures in some of the appendices to the Investigating Officer's report. She advised that these figures had no bearing on the matter before the Sub-Committee.

The Sub-Committee considered the views of Councillor Collier and Ms Salisbury. Account was also taken of the advice issued by Standards for England regarding the admission of the press and public to meetings of this nature. The Sub-Committee decided that there was nothing in the Investigating Officer's report which was either confidential or exempt information as defined in the Local Government Act 1972.

RESOLVED:

That the public and press be not excluded from the meeting.

12. LOCAL ASSESSMENT CASE 1/2010**(a) Procedure**

The Chairman informed the meeting that an allegation about the conduct of Councillor Collier had been investigated on behalf of the Monitoring Officer by Ms H Salisbury who was present at the meeting to present her report.

The Chairman outlined the procedure to be adopted at the meeting. He indicated that the process would follow closely the model procedure of Standards for England and he outlined the three key stages of the hearing. First consideration of the facts of the matter, followed by consideration of whether, in the light of the facts, there had been a breach of the District Council's Members' Code of Conduct; and finally, if the Sub-Committee found that there had been a breach, consideration of the sanctions, if any, which were considered appropriate. He indicated that the Sub-Committee might go into private session to discuss its findings after taking evidence in public, but that the Sub-Committee's findings would be announced in public session at the end of each key stage of the hearing. Ms Salisbury signified her agreement to the procedure outlined.

The Chairman drew attention to the following documents which had been circulated:

- (a) the report of the Investigating Officer;
- (b) appendices to the report of the Investigating Officer (restricted circulation); and
- (c) the pre-hearing process summary.

(b) Findings of Fact**Investigating Officer's Submissions**

The Chairman invited Ms Salisbury to introduce her Investigating Officer's report and to outline the facts of the case as set out in that report.

Ms Salisbury advised that she had been instructed by the Monitoring Officer of Epping Forest District Council, acting on behalf of the Epping Forest District Standards Committee to conduct an investigation into a complaint by Mr R Palmer, Director of Finance and ICT of Epping Forest District Council about the conduct of Councillor J Collier, a member of that Council. Ms Salisbury advised that Councillor Collier had been paying arrears relating to Council Tax and National Non-Domestic Rates from his member's allowance on a public house of which he had been a tenant. His residential property had benefited from an exemption from Council Tax as it had been unoccupied and in relation to enquiries from the Revenue Division of the Council, Councillor Collier had not provided a forwarding address. Two visits and a number of telephone calls had been made to Councillor Collier by officers in the Revenue Division in respect of these matters. Councillor Collier had also made an application for Council Tax benefit but had failed to provide documentation requested by the Council. Ms Salisbury continued that when Councillor Collier's application for Council Tax benefit had been refused, he had written to the Benefits Section stating that he thought the refusal was improper and had been caused by an officer, who was deliberately preventing him from receiving his proper entitlement.

Ms Salisbury suggested that if members of the Sub-Committee had received and read her report in advance of the meeting she would orally summarise matters rather than make a very detailed presentation. Members of the Sub-Committee confirmed that they had received and read the report in advance and that she should proceed as suggested.

Ms Salisbury reported that in the early part of 2009, Councillor Collier and his wife had been the tenants of the Welsh Harp Public House and they had also owned 88 Crooked Mile, Waltham Abbey which had been let to a tenant. At that time Mr Barry Collins had been the Senior Recovery Officer in the District Council's Finance and ICT Directorate. On 11 July 2009, the tenant had left 88 Crooked Mile and the Council had issued a Notice of Exemption from Council Tax from that date on condition the property remained empty and unfurnished. Members noted that by July 2009, both Rates and Council Tax had been in arrears and the Council had obtained a liability order from the Magistrates' Court. As Councillor Collier had been a member of the District Council, Mr Collins had managed his case personally and had visited him at the Welsh Harp on 17 July 2009. Councillor Collier had agreed to have his member's allowance from the Council paid directly into his Rates and Council Tax account in order to clear the arrears. He had also advised that he intended to end his tenancy of the public house.

Ms Salisbury continued that Councillor Collier had notified the Council that the Welsh Harp had been vacated on 27 October 2009. He had not provided a forwarding address but had stated that his mail was being redirected and he had provided a mobile telephone number. On 28 October 2009, Mr Collins had visited the Welsh Harp to obtain a forwarding address from Councillor Collier and to give him a revised figure for the rates due on the property. Members noted that Councillor Collier had provided an address of a property (said to have been his sister-in-law's property) which had not existed and had subsequently given the address of another property. A letter sent by the Council to the latter property had been returned and the occupant of the property had stated that he had lived at the property for 17 years and did not know Councillor Collier.

Ms Salisbury advised that on 19 November 2009, Councillor Collier had applied for Jobseeker's Allowance, giving his address as 88 Crooked Mile. His details had been forwarded to the Benefits Section of the Council as an application for Council Tax Benefit, requested to start on 27 September 2009. The information submitted had included a statement of Mrs Collier's savings and income.

The meeting noted that on 19 and 23 November 2009 Mr Collins had travelled along the Crooked Mile in the early evening on Council business. He had noticed lights on and vehicles parked at 88 Crooked Mile which he knew was owned by Councillor Collier and which at the time was exempt from Council Tax because it was unoccupied. Mr Collins had asked the Council's bailiff to call at the property to establish if it was occupied. When visiting the property on 25 November 2009 the bailiff had met Councillor Collier who had reacted in an angry and abusive manner.

Ms Salisbury reported that Councillor Collier had regarded the approaches seeking a forwarding address and the bailiff's visit as harassment by Mr Collins.

The meeting noted that the exact date when Councillor Collier and his wife had returned to live at 88 Crooked Mile had not been ascertained except that it had been at the latest, early January 2010.

Ms Salisbury reported that on 23 November 2009, the Council had acknowledged Councillor Collier's application for Council Tax Benefit and had asked for proof of Jobseeker's Allowance, two monthly wage statements for Mrs Collier and statements of all accounts held by them for the last two months.

On 27 November 2009 the Council had issued a revised Council Tax bill for 88 Crooked Mile for the period 6 October 2009 to 31 March 2010 and a revised Council Tax Exemption Notice for the period 11 July 2009 to 5 October 2009.

On 3 December 2009, Councillor Collier had sent two wage slips for his wife to the Council. He had stated that his benefit application was still being processed and that he had no statements of accounts. He had also returned the revised Council Tax bill for re-evaluation. Ms Salisbury advised that at this time Mr Collins had been unaware of Councillor Collier's application for Council Tax Benefit.

Ms Salisbury continued that on 10 December 2009, the Council had sent two letters to Councillor Collier, one seeking why he had not applied for benefit during the period 27 September 2009 to 23 November 2009, and one asking for proof of Councillor and Mrs Collier's capital. On 13 December, Councillor Collier had replied stating that they had no capital. On 21 December 2009, the Council had asked for recent statements for all bank and building society accounts within seven days failing which the application for Council Tax Benefit would be refused. On 23 December 2009, Councillor Collier had sent by first class post two original bank statements and the original copy of his application for Jobseeker's Allowance, asking for them to be returned. These documents had not been received by the Council's Benefits Section and neither Councillor Collier nor the Council had contacted the Post Office to try to trace the documents. On 7 January 2010, the Council had written to Councillor Collier stating that his application for Council Tax Benefit had been refused because he had failed to provide enough information. Ms Salisbury advised that Mr Collins had played no part in the Council's consideration of Councillor Collier's application for Council Tax Benefit.

The Sub-Committee noted that on 11 January 2010, Councillor Collier had written to the Benefits Section of the Council referring to his letter of 23 December 2009. The letter dated 11 January 2010 was the basis of the complaint which had been referred for investigation. Ms Salisbury reported that the letter had been written on paper headed "Mr

and Mrs J F Collier”, and had been signed by J F Collier. Beneath the signature had been printed “Epping Forest District Councillor, Waltham Abbey Town Councillor”. Ms Salisbury advised that at interview Councillor Collier had stated that he had pre-printed the template for his letter which had been set up with the description mentioning both Councillor positions, before printing the letter. He had advised that he normally deleted that description for personal letters. The Sub-Committee noted that in the letter dated 11 January 2010, Councillor Collier had said that he felt the refusal of Council Tax Benefit had “an underlying and underhanded ring to it” and that he was being harassed by “a senior member of your Department”. Ms Salisbury advised that this had been a reference to Mr Collins. She stated that Councillor Collier had referred to the harassment as being the repeated requests for a forwarding address, the personal visit by the bailiff and the failure to return the documents posted on 23 December 2009. The Sub-Committee noted that Councillor Collier had concluded the letter by stating “it is plain to see that there are underlying tactics to make it as difficult as possible for me to obtain a just entitlement and I will be taking this matter further, and I will certainly take advice as whether this matter can be brought up at the next full Council meeting with the relevant Portfolio Holder” (sic).

Ms Salisbury submitted that the words used by Councillor Collier implied, and were intended to imply, that Mr Collins had acted maliciously in seeking information from Councillor Collier in relation to Council Tax affairs and that Mr Collins had also maliciously contributed to the refusal of Council Tax Benefit to Councillor Collier. She continued that Councillor Collier had expressed the intention to take advice about raising a question in Council with the aim of causing Mr Collins and possibly other officers to fear a complaint, and thus to influence the way they dealt with Councillor Collier in relation to his tax and benefit affairs.

Ms Salisbury advised that Councillor Collier had not taken steps to carry out the intention of seeking advice about raising a question at a Council meeting.

Ms Salisbury reported that the Council officers dealing with Councillor Collier’s rates, Council Tax and Council Tax Benefit had not treated Councillor Collier differently to their normal procedures. She reported that Councillor Collier had not been entitled to Council Tax Benefit because of Mrs Collier’s earnings.

Ms Salisbury concluded by stating that Councillor Collier had not disputed the facts as set out in her report but had made a number of comments which had been listed on the pre-hearing process summary which was before the Sub-Committee.

Questions put to the Investigating Officer

The Chairman asked Ms Salisbury if Councillor Collier had accepted the decisions made on his benefit application. Ms Salisbury stated that she believed this to be the position and that the letter sent to Mrs J Twinn, Assistant Director of Finance and ICT by Mrs Collier on 23 January 2010 had concluded the matter.

Mr Guth asked Ms Salisbury if she had been concerned about the inability of Councillor Collier to recall the address of his sister-in-law. Ms Salisbury advised that she had been worried that Councillor Collier had twice given the wrong address but she had been unable to conclude whether this had been deliberate. She pointed out that this had provided reasonable grounds for Council officers proceeding as they had.

Mr Guth asked why Councillor Collier had not provided his Crooked Mile address. Ms Salisbury advised that after leaving the Welsh Harp Public House, Councillor Collier had not returned to the Crooked Mile address immediately as damage caused to the property by the tenants was being repaired.

Mr Guth enquired why it had taken between July and October for the repair work to be carried out. Ms Salisbury said that she had not enquired about that timescale. She continued that Councillor Collier had not provided details of the repair works and had only stated that he had not been living at the Crooked Mile property. She advised that again this established grounds for Mr Collins continuing to investigate matters.

The Chairman consulted other members of the Sub-Committee and advised that it would not be necessary for the Sub-Committee to consider the findings of fact in private session.

Sub-Committee's Conclusions

The Chairman reported that the Sub-Committee accepted all of the findings of fact in the Investigating Officer's report.

(c) Whether or not the Member had breached the Code of Conduct

Investigating Officer's Submissions

The Chairman announced that the Sub-Committee would now consider whether in the light of the facts, there had been a breach of the District Council's Members' Code of Conduct. In response to an invitation from the Chairman, Ms Salisbury summarised the issues as set out in her report.

Ms Salisbury advised that the Code of Conduct did not apply to members of local authorities at all times, but only when acting in an official capacity as set out in paragraph 2 of the Code.

She submitted that it was first necessary to consider under paragraph 2(1)(a) of the Code, whether in writing the letter of 11 January 2010, Councillor Collier had been conducting the business of the Council or his office, for example in relation to a member of the public that he was representing. She submitted that since the letter had dealt entirely with Councillor and Mrs Collier's personal details, Councillor Collier had not been representing a member of the public or conducting the business of the Council or his own office.

Ms Salisbury then drew attention to paragraph 2(1)(b) of the Code and in particular the three elements of that paragraph.

Ms Salisbury advised that the fact of printing "Epping Forest District Councillor, Waltham Abbey Town Councillor" beneath his signature, did not, in itself, establish that Councillor Collier had been acting in his official capacity. She drew attention to the case of Bartlett, Milton Keynes Council (2008) APE0401. In that case Alderman Bartlett had visited a branch of the Open College network, had held himself out as a councillor and had asked for information. It had been held that he had not been acting in an official capacity.

Ms Salisbury reported that Councillor Collier had pointed out that his letter, although signed by him alone, had been on notepaper headed with the name of himself and his wife. Councillor Collier had argued that this meant that the letter had come from both of them and had been written by him as an individual, rather than as a councillor. He had also stated that he had been expressing an intention to do something which any member of the public could have done under the Public Questions item on full Council meeting agenda. Ms Salisbury continued that Councillor Collier had stated that the letter had been printed on a template which had been fully formatted with a heading and description of signature in place on a printed sheet. He had stated that for personal letters he would normally delete the two lines describing himself as a councillor but had not done so on this occasion. Ms Salisbury pointed out that it was strange that Councillor Collier should

use a letter template for his work as a councillor that also bore his wife's name in the heading.

Ms Salisbury reported that Councillor Collier had admitted that his intention in sending the letter had been to influence Mr Collins to put less pressure into pursuing the payment of Council Tax. However, he had pointed out that while that had been his intention in sending the letter he had not signed it as a councillor for that purpose. Ms Salisbury stated that she had not been persuaded by Councillor Collier's argument. She had noted the discrepancy between a letterhead referring to him and his wife and a signature bearing the descriptions of Councillor. She had noted that Councillor Collier had readily admitted that he normally deleted the description of Councillor for personal correspondence and that his object in writing the letter had been to make Mr Collins or other officers fear a complaint and to change the way in which they acted because of that fear. Ms Salisbury submitted that in her view Councillor Collier would expect his status to heighten the fear of a complaint among officers and that he was likely to have referred to it for that purpose. She advised that on the balance of probabilities she had concluded that Councillor Collier had been claiming to act as a representative of the Epping Forest District Council and the Waltham Abbey Town Council. Ms Salisbury continued that she had been reinforced in this view by the fact that Councillor Collier had not simply stated that he had considered submitting a complaint but that he had considered raising a question in full Council, a public meeting, and raising it through the relevant Portfolio Holder, the Councillor who would work most closely with the Finance and ICT Department. Ms Salisbury stated that in her opinion Councillor Collier had implied that he had detailed knowledge of how the Council worked and that he wanted to use this to cause the greatest embarrassment. She pointed out that Councillor Collier had stated that any member of the public could have done what he had intended to do. She submitted that whilst that might well be true it did not change the fact that Councillor Collier had indicated that he would do it in his role as Councillor. She pointed out that in practice he would not have been able to ask such questions in a Council meeting as he would have had a prejudicial interest.

Ms Salisbury advised that in considering paragraph 2(1)(b) of the Code, it was clear that Councillor Collier was not in fact acting as a representative of either Council when he had written the letter dated 11 January 2010. The letter had been received by experienced Council officers and she did not consider as a matter of fact that he had given them that impression. However, she had reached the view that by describing himself as he had, together with the mention of Council procedures, his action could be distinguished from the Milton Keynes case and she had concluded that Councillor Collier had been claiming to act as a representative of the Council. Accordingly on the balance of probabilities she had concluded that Councillor Collier had been acting in an official capacity when he had written and sent his letter of 11 January 2010 and that the Code of Conduct therefore applied to that action.

Ms Salisbury advised that if the Sub-Committee agreed with her conclusion that the Code applied it would be necessary to consider whether there had been a breach of the Code.

Ms Salisbury drew attention to Paragraph 3(1) of the Code which required that a member must treat others with respect. She pointed out that in considering this issue the Sub-Committee was only concerned with the letter dated 11 January 2010 and not other matters raised in the documents before them. She reminded the Sub-Committee that Councillor Collier had referred to an underlying and underhanded approach to the decision reached by officers and had referred to tactics which had made it as difficult as possible for him to obtain a just entitlement. Ms Salisbury reported that the letter had been sent to the "Benefit Section" of the Council and had not been seen by Mr Collins until she had provided him with a copy as part of her investigation. She pointed out however that guidance given by Standards for England, noting a decision of the

Adjudication Panel for England, was that someone could be the victim of disrespect, even though they did not witness it. Ms Salisbury submitted that if Councillor Collier had felt that his affairs had not been properly handled there had been other steps which he could have taken. The most obvious would have been to raise the matter with the Director of Finance and ICT, or with the Chief Executive. She drew attention to Standards for England guidance on when and how it was appropriate to criticise officers, both in relation to paragraph 3 of the Code and to bullying.

Ms Salisbury reported that while Councillor Collier had not raised his complaints in a public meeting or in a published attack, neither had it been made in private correspondence. The letter of 11 January 2010 had been addressed generally to the Benefits Section and it could be expected to be seen by junior as well as senior officers. It had not been sent to Mr Collins but had been intended to be read by other officers. It had contained an implied accusation that Mr Collins had maliciously pursued Councillor Collier in relation to his Council Tax and Rates affairs and had maliciously and wrongly tried to prevent him from obtaining Council Tax Benefit. In other words it contained a slur on Mr Collins' professional integrity.

Ms Salisbury stated that she had concluded that by his letter of 11 January 2010, Councillor Collier had failed to comply with paragraph 3.1 of the Code of Conduct by failing to treat Mr Collins with respect.

Ms Salisbury pointed out that the letter had constituted a single incident although there had been other examples of abusive behaviour towards officers not included in the complaint. She drew attention to guidance from Standards for England that a single incident could be sufficient for bullying to be established. However, she had taken into account that the letter had been written in disappointment and anger, which if not justified, was understandable. She had also taken account that Councillor Collier had not pursued the intention expressed in his letter. On balance therefore she had concluded that Councillor Collier had not failed to comply with paragraph 3(2)(b) of the Code as he had not bullied Mr Collins or any other officer.

Ms Salisbury reported that paragraph 3(2)(d) regarded compromising the impartiality of those who worked for the Council. She drew attention to Standards for England's Case Review of 2007 which described the conduct covered by that paragraph. She advised that she had found that Councillor Collier, as he had admitted, had intended by his letter of 11 January 2010 to influence the way Mr Collins had dealt with him in relation to his Council Tax and Rates affairs. She pointed out that the Code prohibited doing anything which compromised or was likely to compromise the impartiality of those who acted for the Council. In other words this part of the Code referred to the effect, and the likely effect of an action, rather than the intention behind it. Ms Salisbury stated that she did not believe the letter had any effect on the way Mr Collins had carried out his duties, nor that it was ever likely to do so. Accordingly she had concluded that Councillor Collier had not failed to comply with paragraph 3(2)(d) of the Code.

Ms Salisbury continued that the Code of Conduct prohibited actions which could reasonably be regarded as bringing the office or authority of a member into disrepute. She advised that the standard for disrepute was an objective one and it was what a reasonable observer would consider disreputable. She submitted that it was also necessary to distinguish between conduct which had brought the individual councillor into disrepute, and that which smeared all councillors or the Council of which he was a member. Ms Salisbury stated that she was satisfied that Councillor Collier's behaviour would bring him personally into disrepute. However, given the relatively limited circulation of his letter, his own particular personal circumstances at the time, and the fact that he took no further steps to carry out his stated intention, she did not consider that he had

brought either his office or the Council into disrepute. Accordingly, she had found that Councillor Collier had not failed to comply with paragraph 5 of the Code of Conduct.

Ms Salisbury reported that paragraph 6(a) of the Code of Conduct, insofar as it was relevant, stated that a member must not use or attempt to use his position as a member improperly to secure for himself an advantage. She pointed out that she had already concluded that Councillor Collier intended in his letter of 11 January 2010 to influence Mr Collins' behaviour towards him, which she considered to be improper. However, taking into account that Councillor Collier had not proceeded with the actions set out in that letter she had seen no evidence that he had used his position as a Councillor to contact senior members or the Portfolio Holder, or to do anything that any of the member of the public could not have done. Accordingly she had found that Councillor Collier had not failed to comply with paragraph 6(a) of the Code of Conduct.

Ms Salisbury summarised her findings. She advised that she had found that Councillor Collier had failed to comply with Paragraph 3(1) of the Council's Code of Conduct but that he had not failed to comply with any of the Paragraphs 3(2)(b), 3(2)(d), 5 and 6(a) of the Code of Conduct.

Questions put to the Investigating Officer

Mr Guth asked Ms Salisbury to elaborate on her conclusion that the Code of Conduct applied by virtue of paragraph 2(1)(b). Ms Salisbury accepted that this was a very finely balanced case but that she had concluded that Councillor Collier in writing the letter had displayed knowledge known to a councillor even though a member of the public could have obtained this knowledge.

The Chairman sought the views of Ms Salisbury on the final phrase of paragraph 2 "and references to your official capacity are construed accordingly". Ms Salisbury drew attention to the case of Alderman Bartlett which she had quoted. She pointed out that Councillor Bartlett had demanded information which had not been public. The Adjudication Panel had found that he had not been acting on behalf of constituents but that by describing himself as a Councillor had not been sufficient to find that he had been acting in an official capacity. She accepted that the Sub-Committee could follow that decision but she had taken a different view in view of the wording under the signature on the letter and the references in the letter as to how the matter might be pursued.

The Chairman advised that the Sub-Committee would consider in private session, whether in the light of facts, there had been a breach of the Members' Code of Conduct. The Sub-Committee left the meeting together with Miss O'Boyle and Mr Lunnun.

Sub-Committee's Conclusions

The Sub-Committee returned to the meeting.

The Chairman advised that consideration had been given as to whether in writing the letter of 11 January 2010 Councillor Collier had been conducting the business of the Council or his office. They had concluded that since the letter dealt entirely with Councillor and Mrs Collier's personal affairs, that he had not been representing a member of the public or conducting the business of the Council or his own office.

The Chairman announced that the Sub-Committee had appreciated that the question as to whether paragraph 2(1)(b) had been engaged were very finely balanced. Account had been taken of the case of Bartlett, Milton Keynes Council (2008) APE0401. The Sub-Committee had also noted that the letter dated 11 January 2010, although signed by Councillor Collier alone, had been on notepaper headed with the name of him and his

wife. The Sub-Committee had considered whether this meant that the letter came from both of them and had been written by Councillor Collier as an individual, rather than a Councillor. The Sub-Committee had also considered whether the intention to do something expressed in the letter was something which any member of the public could have done under the Public Questions item on the Council agenda. The Sub-Committee had questioned why Councillor Collier should use a letter template for his work as a Councillor that bore his wife's name in the heading. Account had also been taken of the fact that Councillor Collier had admitted that his intention in sending the letter had been to influence Mr Collins to put less pressure into pursuing him for the payment of Council Tax. The Sub-Committee had considered whether the reference to raising a matter at a full Council meeting had implied a detailed knowledge of how the Council worked and whether Councillor Collier had wanted to use this knowledge to cause the greatest embarrassment.

The Chairman advised that the Sub-Committee had concluded that Councillor Collier had not been acting as a representative of either Council when he had written the letter on 11 January 2010; the letter had been received by experienced Council officers and it was not considered, as a matter of fact, that he had given them that impression.

Account had been taken of the fact that Councillor Collier had not sent the letter on District Council headed notepaper provided to Councillors for official correspondence. Also it had been noted that although the letter had "Epping Forest District Councillor, Waltham Abbey Town Councillor" printed beneath the signature, in making representations in the context of the letter Councillor Collier had not made reference to those positions other than to explain that his Councillor's allowance had been used to pay for his outstanding Council Tax.

The Chairman advised that the Sub-Committee had concluded that the ability to raise the issue at a full Council meeting was a step available to a member of the public and was not restricted to Councillors only.

The Chairman continued that the Sub-Committee had found this case to be very finely balanced but that on the balance of probabilities they had concluded that Councillor Collier had not been claiming to act as a representative of either the two Councils when he had written the letter on 11 January 2010. Accordingly, the Sub-Committee found that the Members' Code of Conduct did not apply.

The Chairman advised that in the light of the finding in relation to paragraph 2(1)(b) the other matters did not fall to be considered.

The Chairman also advised that the Sub-Committee had considered whether this case necessitated making any recommendations with a view to promoting high standards of conduct among councillors generally.

RESOLVED:

- (1) That Councillor Collier was not acting in an official capacity when he wrote and sent his letter dated 11 January 2010 to the District Council's Benefits Section;
- (2) That having regard to (1) above no further action be taken in relation to this matter; and

(3) That in order to promote high standards of conduct among Councillors generally, the Monitoring Officer be asked to remind all Councillors to use completely separate letter headings for official and personal correspondence.

CHAIRMAN