

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Monitoring Officer	Report Number: JAC18
To: Joint Audit and Standards Committee	Date of meeting: 4 November 2013

COMPLAINTS MONITORING REPORT

1. Purpose of Report

1.1 To report on Code of Conduct complaints received or determined in the last quarter.

2. Recommendation

2.1 That the content of this report be noted.

3. Financial Implications

3.1 No direct costs have been incurred in the handling of complaints.

4. Risk Management

4.1 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Complaints are not handled promptly.	Low	Negligible	Monitoring of complaints
Decisions are not sound	Low	Significant	Apply adopted procedures

5. Consultations

Usually an 'independent person' appointed under the Localism Act 2011 has or will be consulted on each complaint.

6. Equality Analysis

6.1 Not relevant to this report

7. Shared Service / Partnership Implications

7.1 The same processes are applied across both Councils.

8. Key Information

8.1 Complaint Ref 36435 – Thorndon Parish Council

- 8.1.1 Parish Councillor 'A' had declared a pecuniary interest in his neighbour's planning application when it was considered at a Parish Council meeting. At the meeting, a full dispensation was granted to Councillor 'A' to allow him to speak, participate and vote on the item. Councillor 'A' had emailed the parish clerk in advance of the meeting to request the dispensation. Councillor 'A' spoke and voted in favour of the application.
- 8.1.2 Mid Suffolk District Council subsequently granted the planning permission.
- 8.1.3 When the site was being cleared to implement the planning permission, Councillor 'A' approached the neighbour to query where the proposed garage was to be built. It emerged that part of the garage would be on a thin strip of land owned by Councillor 'A'. A neighbour dispute arose and Councillor 'A' offered to sell the piece of land to the neighbour.
- 8.1.4 A complaint under the Suffolk Local Code of Conduct was made by the neighbour against Councillor 'A' on the basis that he should not have been allowed to speak and vote on the planning application at the Parish Council meeting. Further, that Councillor 'A' had failed to mention the positioning of the garage until after the grant of planning permission and the plans had been approved.
- 8.1.5 The former Monitoring Officer assessed the complaint in consultation with one of the 'independent persons' from the countywide pool. Having examined the email trail that took place prior to the Parish Council meeting, it was clear that Councillor 'A' had sought advice from the parish clerk on the interest and whether it was possible to participate in the item. The clerk had in turn sought advice from the Suffolk Association of Local Councils to the effect that a dispensation could be sought. This information was relayed to Councillor 'A' who then made the application. The Monitoring Officer and 'independent person' noted that Councillor 'A' had acted entirely appropriately in seeking advice and declaring a pecuniary interest at the parish council meeting. Further, Councillor 'A' had applied for the dispensation in writing as required by the Localism Act 2011. Whilst it was surprising on the facts and also taking into account the limited grounds on which a dispensation may be granted that a full dispensation had been approved, it was nonetheless possible for this to have occurred. Councillor 'A' had complied with the proper procedures and no breach of the Code could have arisen.
- 8.1.6 The Monitoring Officer has issued advice to the Parish Council on the consideration and grant of dispensations for future reference and also asked SALC to issue guidance to parish/town councils on the criteria to be applied.
- 8.1.7 In relation to the second part of the complaint, the Monitoring Officer and 'independent person' took into account that the only relevant considerations when the Parish Council considered the planning application were the planning merits which would not include ownership details. It was also noted that Councillor 'A' claimed not to have been aware that the garage building would infringe the boundary line until the neighbour started to clear the land and advised of its precise location. This was corroborated by information on the Mid Suffolk planning application file. In particular, the submitted drawings show the garage entirely on the applicant's land and when the Planning Officer checked the position of the garage he was assured it did not infringe the boundary line. Accordingly, there was no reason to believe that Councillor 'A' knew the boundary would be infringed or that he had misused his position as a councillor in anyway.

8.1.8 As a consequence of the above, the decision was taken that no further action was needed on the complaint. The decision has been issued to the complainant, to Councillor 'A' and the parish clerk. The complaint has been closed.

8.2 Complaint Ref: 36348 – Elmswell Parish Council

8.2.1 A complaint was received that Councillor "B" of the Elmswell Parish Council brought live ammunition to a Parish Council meeting.

8.2.2 The above- allegation was strenuously denied by Councillor "B". Despite extensive enquiries made by the Deputy Monitoring Officer he could find no independent corroboration of any of the facts relating to this complaint.

8.2.3 This matter was referred back to the complainant to pursue a complaint via Suffolk Constabulary if thought appropriate. Nothing more has been heard and so this complaint has been closed.

8.3 Complaint Ref: 36449 – Needham Market Town Council

8.3.1 A complaint was made that Councillors "C" and "D" of the Needham Market Town Council had breached the Suffolk Local Code of Conduct in relation to the way that Needham Market Town Council dealt with the Complainant's application for planning permission to erect a four bedroom detached house in Needham Market.

8.3.2 The complaint was investigated by the Deputy Monitoring Officer who found that this planning application was considered firstly at a meeting of the Town Council's Planning Section and then by a meeting of the full Town Council.

8.3.3 The complainant had become concerned with the actions of Councillor "C" who was a member of the Planning Section of the Town Council. The complainant considered that Councillor "C" changed his/ her mind between conclusion of the Planning Section meeting and a meeting of the full Town Council. Councillor "C" appears to have gone against the original recommendation of the Planning Section meeting to support the Complainant's application when the matter came before the full meeting of the Town Council.

8.3.4 When enquiries were made, Councillor "C" explained the role of the Planning Section of the Town Council.

8.3.5 The complainant also complained about the actions of Councillor "D" of the Town Council. This was in relation to the way that Councillor "D" dealt with complaints made especially concerning the alleged actions of the Town Clerk.

8.3.6 This aspect of the complaint was investigated by the Deputy Monitoring Officer. Councillor "D" has explained his/her actions in relation to the complainant's concerns. No evidence was found that Councillor "D" had in any way breached of the Code of Conduct

8.3.7 The Deputy Monitoring Officer came to the conclusion that the complainant was under a fundamental misapprehension as to the role of the Town Council in relation to applications for planning permission and especially as to the role of a Parish/ Town Councillor in relation to such applications. Although Councillor "C" could well have changed his/ her mind between the meeting of the Town Council Planning Section and the meeting of the Town Council itself that did not represent a breach of the Suffolk Local Code of Conduct for Members either potential or actual.

8.3.8 Although communication between the Town Council and the complainant could possibly have gone into further detail, the Deputy Monitoring Officer did not see anything that leads him to conclude that either Councillor has any case to answer for any breach of the Code of Conduct.

8.3.9 The Deputy Monitoring Officer has explained to the complainant that the final decision on any application for Planning Permission rests with in this case with this Council as the Local Planning Authority for the District concerned. The District Council will of course take account of the comments made by the Town/ Parish Council but this is only one of many factors in deciding whether or not to approve a planning application.

8.3.10 The decision has been issued to the complainant, to Councillors ‘C’ & ‘D’ and to the Town Clerk. This complaint has now been closed.

8.4 Complaint Ref: 37209 – Mellis Parish Council

8.4.1 A complaint was received that Councillor “E” of the Mellis Parish Council revealed confidential information to a third party despite having received that information on a strictly confidential basis.

8.4.2 Before the complaint could be investigated in detail Councillor “E” resigned from the Mellis Parish Council. In the light of this resignation this complaint has been closed.

9. **Appendices**

None.

10. **Background Papers**

Complaint files.

Authorship:
Jonathan Reed,
Senior Solicitor and Deputy Monitoring Officer

01449 724677
Jonathan.reed@midsuffolk.gov.uk