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Appendix 2

Oldham Council

Weightmans reference: SG/433873/5

**Report of an investigation into an allegation concerning the conduct of Councillor Warren
Bates of Oldham Council**



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Summary

1. A complaint was made by John Crompton, alleging that Councillor Warren Bates, an elected member of Oldham Council ("the Council"), failed to comply with the Council's Code of Conduct ("the Code") by trying to obtain his personal email address and approaching him in a public place on two separate occasions.
2. I have investigated whether Councillor Bates engaged in the behaviour alleged, whether in so doing he was acting in an official capacity and whether he failed to comply with the Code, specifically paragraphs 3.1, 3.2 and 5.
3. As a result of the investigation, I conclude that Councillor Bates was acting in an official capacity.
4. My finding is that there has been a failure to comply with the Code in respect of one of the allegations only and that there was no failure in respect of two of the allegations.

Relevant Legislation

5. The Localism Act 2011 repealed and replaced the old legislation governing standards of conduct for elected members with effect from July 2012. Under the 2011 Act, the Council:
 - a. is under a duty to promote and maintain high standards of conduct;
 - b. must adopt a Code of Conduct which is consistent with the statutory principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
 - c. must have in place arrangements for investigating allegations of failure to comply with the Code, and taking decisions about them, including appointing one or more Independent Persons, one of whose views must be sought before a decision is made, and one of whose views may be sought by the member against whom an allegation is made.
6. On the 3 July 2012 the Council's Standards Committee adopted a new Code of Conduct ("the Code") and Guidance, and Arrangements for Dealing with Complaints ("the Arrangements") (SG1).
7. The Arrangements provide for the Council's Monitoring Officer to decide whether a complaint should be accepted for investigation, dealt with informally or rejected. If the former, the Monitoring Officer will appoint an investigating officer. The investigating officer will follow any guidance issued by the Monitoring Officer, which will follow the principles of proportionality and the cost effective use of Council resources, and be interpreted in line with those principles. The investigating officer will normally ensure that the member who is the subject of the complaint receives a copy of the complaint, send copies of his or her draft report to the complainant and the subject member for comment, take those comments into account and send a final

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report to the Monitoring Officer.

8. If the investigating officer finds that there is no failure to comply with the Code, the Monitoring Officer will consult the Independent Person, review the report and if satisfied, confirm the finding. He or she will then notify the complainant and the subject member. If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, he or she may ask the investigating officer to reconsider the report and the conclusions.
9. If the investigating officer finds that there has been a failure to comply with the Code, the Monitoring Officer will review the report, consult the Independent Person, and either send the matter for a local hearing before the Council's hearing panel or seek local resolution. Such resolution may include the subject member accepting that their conduct was unacceptable and offering an apology and/or other remedial action. If the suggested resolution is accepted, the Monitoring Officer will report the matter to the Standards Committee but will take no further action. If the complainant or the subject member refuses local resolution or to engage with the agreed outcome the matter will be referred for a local hearing.
10. So far as material, the Code provides as follows

1.1. This Code applies to you as a member of the Council.

1.2. It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council.

....

2. Scope

2.1. Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you:

- a) conduct the business of the Council (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 the Council;
- c) and references to your official capacity are construed accordingly.

2.2. This Code does not have effect in relation to your conduct other than where it is in your official capacity.

...

3.1. You must treat others with respect

3.2. You must not...

(b) bully any person

(c) intimidate any person who is or is likely to be:

(i) A complainant...

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

The contents of this report and any accompanying documents are confidential and must not be disclosed.

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Councillor details

11. Councillor Bates has been a member of the Council since May 2014.
12. Councillor Bates stated that he received training in relation to the Code in 2014 and 2015. The Council's member training attendance records show that Councillor Bates attended training on the Code on 1 July 2014 and 17 June 2015.

Background

13. Mr Crompton submitted a complaint to the Council's Monitoring Officer on 15 June 2015. The complaint set out three specific allegations which are set out below.
14. The incidents which give rise to the complaint occurred in April–May 2015. This followed shortly after the Council considered a previous complaint relating to Councillor Bates' behaviour towards Mr Crompton. It is not necessary to consider the details of that complaint but it is relevant to note that on 1 April 2015 the Council censured Councillor Bates following a finding by the Standards Hearing Sub-committee that Councillor Bates had failed to comply with the Code in his behaviour towards Mr Crompton.
15. The complaint sets out three allegations:-
 - a. In April 2015, Councillor Bates sought to obtain Mr Crompton's personal email address from Penny Kenworthy, Acting District Co-ordinator and Leslie Garner.
 - b. On 16 April 2015 Councillor Bates approached Mr Crompton in Manchester City Centre and began plying him with questions.
 - c. In early May 2015 when Mr Crompton was walking home in Failsworth he was approached by Councillor Bates. Councillor Bates had been walking in the same direction as Mr Crompton but on the other side of the road. Councillor Bates then walked ahead of Mr Crompton and "doubled backed" glaring at Mr Crompton as he walked past him.

The evidence obtained

16. The following witnesses were interviewed during the investigation.
 - John Crompton (SG2)
 - Councillor Bates (SG3)
 - Penny Kenworthy (telephone) (SG4)
 - Lesley Garner (telephone) (SG5)

All agreed the written records.

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Evidence of John Crompton

17. Mr Crompton explained that he has been the Chair of the Failsworth Historical Society ("FHS") since January 2003.
18. He explained that he had had a lot of contact with Councillor Bates on the streets near his home. He explained that Councillor Bates lives fairly close to him in Failsworth. He stated that it has all been verbal harassment that he has received from Councillor Bates, there has been nothing violent except his attitude. He stated that he did not do anything about this when Councillor Bates was a member of the public but now that he had become a councillor, he felt that it was unacceptable.
19. Mr Crompton stated that in the past, Councillor Bates had collected him from his home on a number of occasions so he did not know why Councillor Bates had asked for his contact details. Mr Crompton had explained that he had not been told why Councillor Bates wanted his email address. He explained that after Penny Kenworthy had refused to provide Councillor Bates with his email address, Councillor Bates had contacted his deputy at the FHS, Leslie Garner, and left a message on his voicemail asking for the email address. He stated that this would have been early in April 2015.
20. Mr Crompton stated that on 16 April 2015, he was in Manchester on his own. He stated that he saw Councillor Bates who was talking to two or three other men. He stated that, as he was walking along, Councillor Bates approached him. Mr Crompton stated that he ignores Councillor Bates when he is "ranting" at him so he carried on and did not pay any attention to what he was saying. He told me that Councillor Bates' manner was very aggressive. He said that Councillor Bates was "chunners" in his ear immediately behind him and followed him for 30 to 40 yards until he gave up. Mr Crompton stated that he simply carried on walking and did not respond at all to Councillor Bates.
21. Mr Crompton explained that he subsequently found out that Councillor Bates was concerned about an issue involving a Bangladeshi restaurant in Failsworth which had taken some railings down to make a disabled access. Mr Crompton stated that he understood that Councillor Bates had been asking about this and that was the reason he said he wanted Mr Crompton's email address. Mr Crompton stated that he did not understand why Councillor Bates would need his email address in relation to this as he could simply ask the council officers what was happening.
22. Mr Crompton stated that the third issue which he had raised in his complaint arose on the week before the general election took place in May 2015. He stated that he had been travelling to collect his pension, as he did every Monday morning. He stated that on his return, he left the Failsworth Metrolink Station to walk along Hardman Street towards his home when he saw Councillor Bates. He stated that he assumed that Councillor Bates would be delivering leaflets for UKIP as it was so close to the general election. He stated that Councillor Bates' partner was also standing for UKIP in the local election. Mr Crompton explained that he got off the tram and had a shopping bag in each hand. He stated that as he was walking towards his home, he was conscious of someone behind him on the other side of the street. He stated that

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as the person drew level with him, he became aware that it was Councillor Bates. Mr Crompton stated that at this point, he had to walk past three blocks of terrace houses to get to the turning into the street where he lived. He stated that Councillor Bates passed him on the other side of the street and then crossed over and double backed, so that he was walking towards Mr Crompton. He stated that Councillor Bates was glaring at him all of the time that he did this. He stated that Councillor Bates then passed by him with his shoulder very close to Mr Crompton's shoulder. Mr Crompton stated that when he reached the turning into his street, he looked back and as he suspected, Councillor Bates was still glaring at him. Mr Crompton stated that he just shook his head and began to walk up his street. He stated that Councillor Bates shouted something at him but he was about 20 yards away and he could not make out what Councillor Bates had said.

23. Mr Crompton stated that he reported these incidents to the police and they advised him that they had spoken to Councillor Bates.

Evidence of Councillor Bates

24. Councillor Bates was accompanied by Mr Joseph Fitzpatrick. Councillor Bates told me that he was elected as a councillor in May 2014. He is a member of the Licensing Panel. He has been a community activist for 20 years. He stated that he has been to training provided by the council on the code of conduct for councillors. He stated that he has attended two such training sessions. He confirmed that he understands that he is obliged to comply with the code of conduct for members when he is acting as a councillor.
25. Councillor Bates stated that he did contact Penny Kenworthy, Acting District Coordinator for Failsworth and Hollinwood District. He stated that he contacted her to ask for the address of the FHS. He stated that he was asking for the address of the society and not for the personal address of John Crompton. Councillor Bates explained that he was asking the council for the email address of the FHS because some residents had complained to him about an alteration to a building in the area. He stated that the alteration related to the railings outside a restaurant which had caused some concern. He stated that he had raised the concern with planning officers of the Council who had advised him that the decision to approve the alterations had been made under delegated powers. He wanted to know whether there had been consultation with the FHS and that was why he was trying to obtain contact details.
26. Councillor Bates explained that when Ms Kenworthy advised him that she did not have an address for the FHS he contacted Leslie Garner as he had his contact details. He stated that he was not seeking Mr Crompton's personal details but merely wanted to contact the FHS to find out what involvement it had in the planning issue which he was looking into.
27. Councillor Bates stated that in relation to the second part of the complaint, Mr Crompton was lying again. He stated that it had not happened in the way set out in the complaint. He explained that Mr Crompton came towards him. He stated that he was with one other person, not two or three as Mr Crompton said in the complaint. He explained that he was in Market Street, Manchester which was packed. He

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explained that he spotted Mr Crompton when he came within 10 yards of him. He told the person he was speaking to that Mr Crompton was someone that he was trying to contact, so he approached Mr Crompton and explained that he was trying to contact him. He stated that he told Mr Crompton that he wanted to talk to him about FHS. He stated that Mr Crompton completely ignored him and, after a short time, he gave up and Mr Crompton carried on walking.

28. Councillor Bates explained that on the third occasion set out in the complaint, he had cause to do work on behalf of the council as councillor for the ward and was out on duty on that day. He stated that the way that Mr Crompton described his behaviour was a lie. Councillor Bates stated that he had no need to glare at Mr Crompton. He stated that he was carrying out his role as a ward councillor at the time. I asked Councillor Bates if it was correct that he had walked in the same direction as Mr Crompton but on the opposite side of the road, had then gone in front of Mr Crompton and effectively double backed to walk past him. Councillor Bates stated that if that had happened, it was because he was observing something and had to go back to look at it, he made reference to pigeons making a mess. He stated that if he did do it, it was nothing to do with Mr Crompton and the way that Mr Crompton had described the incident was lying. He stated that he had not stood and glared at Mr Crompton or shouted anything at him.
29. I asked Councillor Bates whether, in the light of the fact that this occurred very shortly after he had been censured by the Council for another complaint relating to Mr Crompton, it was sensible to approach Mr Crompton in the way that he had done. Councillor Bates explained that he was so passionate about getting details of FHS on behalf of the residents that he did not think about the previous standards complaint; all he wanted was the contact details so that he could take issues up on behalf of the residents. He explained that he thought that Mr Crompton would have simply said, "right Warren, I'll send you some details". He stated that if that amounted to breaking the code or the law, then he certainly did not know that. Councillor Bates stated that he admitted he had walked alongside Mr Crompton but that he had always acted in a reasonable way and was simply asking for contact details.
30. Councillor Bates stated that following these incidents he had been visited by the police. He stated that the police had told him that no further action would be taken by them.
31. Mr Crompton stated that Councillor Bates' behaviour towards him makes him feel unsafe and anxious. He explained that he has issues with his health and the level of concern is such that council officers have made arrangements for him to be taken home after meetings that Councillor Bates may also be attending to avoid any confrontation and to protect him. He stated he just wants to achieve an area of his life without anxiety or conflict.

Evidence of Penny Kenworthy

32. Ms Kenworthy is employed by the Council as a District Co-ordinator. She explained that Councillor Bates had contacted her asking for the email address of the Failsworth Historical Society (FHS). She stated that she had advised Councillor Bates that the

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Council does not have an email address for the FHS because it does not have one. She stated that she was also contacted by the Council's Monitoring Officer, Paul Entwistle requesting that she provide Councillor Bates with the FHS's email address. She stated that she advised Mr Entwistle that the FHS does not have an email address.

33. After the interview Ms Kenworthy forwarded to me copies of emails which she had exchanged with Councillor Bates and Mr Entwistle on the issue (SG6).

Leslie Garner

34. Mr Garner explained that Councillor Bates had left a message on his voicemail. He stated that he no longer had the voicemail message as it automatically deleted after 28 days. He stated that as far as he could recall Councillor Bates had said that he was trying to contact John Crompton and asked if he (Mr Garner) could provide Mr Crompton's contact details. Mr Garner stated that as far as he could recall it was Mr Crompton's contact details and not those of the FHS that Councillor Bates was asking for.
35. Mr Garner stated that he found it strange that Councillor Bates was asking for Mr Crompton's details because he was sure that they would be on FHS's letter heading or could be obtained from the library. Mr Garner stated that he did not respond to Councillor Bates' message.

Findings of fact

36. Although most of the relevant facts are agreed, there are some conflicts of evidence. As far as possible, I have come to a conclusion on them. I do not consider that further enquiries would be proportionate or cost effective.
37. Firstly, I find that Councillor Bates, in contacting Penny Kenworthy and Lesley Garner, was attempting to contact the FHS because he wished to find out what involvement if any the FHS had in a planning application in the area.
38. Secondly, I find that Councillor Bates approached Mr Crompton in Market Street in Manchester and, in doing so he, was attempting to engage him in a conversation about the planning application referred to above.
39. Thirdly, in relation to the third occasion referred to in the complaint, I find that Councillor Bates did deliberately cross the road in order to confront and intimidate Mr Crompton. I find that he did glare at Mr Crompton. His explanation for why he crossed the road, that he must have been crossing to look at some pigeon mess, was utterly unconvincing and implausible. In respect of this issue, I found Mr Crompton a much more reliable witness and believe that his version of events is what truly happened.
40. Fourthly, I find that Councillor Bates' behaviour towards Mr Crompton has had a negative effect and contributes towards Mr Crompton's anxiety.

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Reasoning as to whether there is a breach of the Code.

41. The relevant paragraphs of the Code which I have considered during my investigation are paragraphs 3.1, 3.2 and 5.
42. The test in deciding whether or not there has been a breach of the Code is objective: would a reasonable person aware of all the material facts and ignoring all immaterial factors consider that there has been a breach of the Code?
43. Paragraph 2.1 provides that, subject to paragraphs 2.2 and 2.3 the code of conduct only applies to the conduct of a member acting in an official capacity and not at any other time. This means when a member is:
 - a. conducting the business of their authority (which includes the business of the office to which they are elected or appointed); or
 - b. acting, claiming to act or giving the impression that they are acting as a representative of their authority.
44. I have considered whether Councillor Bates was acting in an official capacity. I consider that Councillor Bates was acting in an official capacity at all times in relation to the matters under investigation. This is because he told me that he was acting in his role as a ward councillor in relation to the first two parts of the complaint because he was seeking to obtain information about a planning application in the ward because he had concerns about it as a councillor. In relation to the third allegation, he told me that he was engaged in Council business at the time.
45. In relation to the first two incidents set out in the complaint I do not believe that there has been any failure to comply with the Code. Councillor Bates' explanation is reasonable and consistent with what I was told by Ms Kenworthy. The FHS plays an active role in his ward and a desire to contact the FHS to ascertain what role, if any, it had in a planning application in a conservation area is a reasonable thing for a councillor to do. It is understandable, given that this happened so soon after Councillor Bates was censured by the Council, that Mr Crompton might feel that Councillor Bates had an ulterior motive, particularly in the light of the incidents which occurred shortly afterwards. However, considering the incident on its facts I do not believe that in acting as he did there was any failure by Councillor Bates to comply with the Code.
46. In respect of the second incident I also believe that there was no failure to comply with the Code. The evidence of Councillor Bates is consistent with Mr Crompton's version of events. This was a chance encounter. Councillor Bates had been trying to contact the FHS about the planning issue. He happened to see Mr Crompton and knew that he was the Chair of the FHS so he approached him to ask him about it. Although Mr Crompton described Councillor Bates' manner was very aggressive there is limited evidence to suggest that Councillor Bates was threatening or intimidating. In the complaint Mr Crompton referred to Councillor Bates, "plying him with questions" and "protesting" that he could not contact him. In my view on balance there is not sufficient evidence to find that Councillor Bates' behaviour on this occasion was

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excessive or unreasonable. He simply told Mr Crompton that he wanted to contact him. Mr Crompton ignored him and Councillor Bates moved away after a relatively short period.

47. This second incident occurred relatively shortly after the censure of Councillor Bates as a result of the previous complaint. It may not have been very sensible of him to approach Mr Crompton in those circumstances. It clearly annoyed Mr Crompton. Councillor Bates would no doubt have been better advised in pursuing his enquiries with the council officers who made the planning decision he was concerned about. However, there is no evidence to suggest that in approaching Mr Crompton as he did Councillor Bates failed to show him respect, was seeking to bully or intimidate him or brought the Council or his office in to disrepute.
48. The incident contained in the third part of the complaint is very different from the first two. Councillor Bates deliberately crossed the road to confront Mr Crompton. This was again a relatively short time after the censure of Councillor Bates. Mr Crompton had made it clear to Councillor Bates on 16 April 2015, if it was not clear well before that, that he did not wish to talk to Councillor Bates. Any sensible person would have sought to avoid confrontation with Mr Crompton in these circumstances but Councillor Bates went out of his way to provoke it.
49. The justification which Councillor Bates gave as to why he crossed the road to walk past Mr Crompton was not in any way believable or credible. I found Mr Crompton to be a credible witness and a sincere person. I have no doubt that the incident occurred as Mr Crompton described it and that Councillor Bates did glare at him and walk past him very close. I have no doubt that Mr Crompton found this intimidating and it was Councillor Bates intention that it should have this effect.
50. In acting in this way, particularly so soon after the previous complaint was concluded, Councillor Bates failed to show respect to Mr Crompton thus failing to comply with paragraph 3(1) of the Code.
51. In acting in this way in my view any reasonable person would, Councillor Bates was bullying Mr Crompton by acting in this way and thus has failed to comply with paragraph 3 (2) (b).
52. I have also considered whether the actions of Councillor Bates amount to a failure to comply with paragraph 3 (2) (c) of the Code. In my view Councillor Bates was seeking to intimidate Mr Crompton in acting as he did. Mr Crompton was a witness in the earlier complaint. In my view even though that complaint had concluded, the protection afforded by paragraph 3 (2) (c) of the Code to witnesses and complainants endures for a period after the complaint has concluded. It would be absurd if a member could intimidate complainants with impunity the moment a complaint concluded. The behaviour of Councillor Bates seems calculated to intimidate Mr Crompton and, therefore, in my view constitutes a failure to comply with this paragraph of the Code.

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53. In acting in such a way towards a respected member of the community this also amounted to a failure to comply with paragraph 5 of the Code and it brings the Council and the office of councillor into disrepute.

Comments on the draft report

54. I sent copies of my draft report to Councillor Bates and Mr Crompton on 5 August 2015. Mr Crompton responded stating that he had no comments on the draft. Councillor Bates responded with the following comments:

I am disappointed but not surprised at your final conclusion regarding my alleged breaking of the Council code of conduct.

You say page 11 paragraph 47, 48, 49, that after my previous Complaint by 83 year old Mr Crompton against me, that part of the discipline procedure was that "I don't speak to him" .

Then you say Mr Crompton said that I cut across his path whilst he was out walking" nothing was said, " yet you say that provoked him, cutting across his path , so therefore the code was broken?.

Mr Goacher if you listen to the recorded version of your interview with me you will here that the 83 year old said "I Glared at him from a distance" he found "that provoked him " in his opinion that was the issue and by doing so broke the code of conduct.

I have stated from the start after reading your interview with the resident he was "telling lies" also when the police came to my home they accepted my explanation and no action to be taken.

I suggest that before you send your report in to the Monitoring Officer further discussions must take place to clear his lies against me during my role on the street as a elected Cllr for the ward.

55. I do not consider that the comments made by Councillor Bates give rise to any reasons to amend the report or reconsider my findings.

Finding

56. My finding is that there has been a failure to comply with Oldham Council's Code of Conduct.

57. I am sending a copy of this report to Councillor Bates and referring my report to Mr Entwistle, the Council's Monitoring Officer.

Simon Goacher, Partner
Weightmans LLP

13 August 2015

The contents of this report and any accompanying documents are confidential and must not be disclosed.

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Schedule of evidence

SG1	Oldham Council Code of Conduct for Members and Guidance and Arrangements for dealing with complaints about the Code of Conduct for Members
SG 2	Record of interview of John Crompton
SG3	Record of interview of Councillor Bates
SG4	Record of interview of Penny Kenworthy
SG5	Record of Interview of Leslie Garner
SG6	Email correspondence supplied by Penny Kenworthy

Oldham Council

Weightmans reference: SG/433873/5

**Report of an investigation into an allegation concerning the
conduct of Councillor Warren Bates of Oldham Council**

SG 1

a) MEMBERS CODE OF CONDUCT

Code of Conduct for Members and Guidance

1. Introduction

The Council is determined to provide excellent local government for the people of the Borough. It promotes and maintains high standards of conduct by Members and Co-opted Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011.

2. General Principles of Conduct for Members and Co-opted Members

The Code and the Guidance are based on the following General Principles.

2.1 General Principles

Members and co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

2.2 Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2.3 Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

2.4 Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

2.5 Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

2.6 Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

2.7 Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

2.8 Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

2.9 Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

2.10 Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

2.11 Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

3. Training

3.1 Each Member must attend annual training on the Code of Conduct / ethical standards, in addition to any current requirements to receive other training.

3.2 Records of attendance will be maintained by the Constitutional Services team and any apparent failure to attend annual training will be notified in the first place to the Member concerned and if not rectified at the next

available session, will be referred to the Standards Committee for further action.

THE CODE OF CONDUCT

Part 1 General provisions

1. Introduction and interpretation

1.1 This Code applies to you as a member of the Council.

1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years. In this Code - "meeting" means any meeting of:

- a. the Council
- b. any of the Council's committees or sub-committees, joint committees or joint sub-committees; "member" includes a co-opted member and an appointed member
- c. the Executive or any Committee of the Executive

2. Scope

2.1 Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you:

- a. conduct the business of the Council (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 the Council,
- c. and references to your official capacity are construed accordingly.

2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.

2.3 Where you act as a representative of the Council -

- a. on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- b. on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

3.1 You must treat others with respect.

3.2 You must not:

- a. do anything which may cause your authority to breach the Equality Act 2010;
- b. bully any person;
- c. intimidate or attempt to intimidate any person who is or is likely to be:
 - i. a complainant,
 - ii. a witness, or
 - iii. involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- d. do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

4. You must not:

- a. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - i. you have the consent of a person authorised to give it;
 - ii. you are required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - iv. the disclosure is:
 - a) reasonable and in the public interest; and
 - b) made in good faith and in compliance with the reasonable requirements of the Council; or
- b. prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council 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; and
 - b. must, when using or authorising the use by others of the resources of your authority:
 - i. act in accordance with the Council's reasonable requirements; and
 - ii. ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - c. must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. Decisions

- 7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- a. The Council's chief finance officer; or
 - b. The Council's monitoring officer,
- where that officer is acting pursuant to his or her personal statutory duties.
- 7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2 - Disclosable pecuniary interests

8. Notification of disclosable pecuniary interests

- 8.1 Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

[Note: Existing members and co-opted members of the Council to notify the Monitoring Officer of disclosable pecuniary interests within 28 days of the adoption of the Code]

- 8.2 A 'disclosable pecuniary interest' is an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.

- 8.3 "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992 (a).
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the Council -
Land	(a) under which goods or services are to be provided or works are to be executed: and
Licences	(b) which has not been fully discharged.
Corporate Tenancies	Any beneficial interest in land which is within the area of Oldham MBC.
Securities	Any licence (alone or jointly with others) to occupy land in the area of Oldham MBC for a month or longer.
	Any tenancy where (to your

	<p>knowledge) -</p> <p>(a) the landlord is the Council; and</p> <p>(b) the tenant is a body in which you or your partner has a beneficial interest.</p> <p>Any beneficial interest in securities of a body where -</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of Oldham MBC and</p> <p>(b) either -</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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8.3 For the purposes of the above

- a. "a body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest.
- b. "director" includes a member of the committee of management of an industrial and provident society.
- c. "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income, and
- d. "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

9 Non participation in case of disclosable pecuniary interest

9.1 If you are present at a meeting [of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, or the executive or committee of the executive] and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- a. You must not participate in any discussion of the matter at the meeting.
- b. You must not participate in any vote taken on the matter at the meeting.
- c. If the interest is not registered, you must disclose the interest to the meeting.
- d. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

10 Offences

10.1 It is a criminal offence to:

- a. Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- b. Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- c. Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
- d. Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- e. As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- f. As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in a matter, taking any steps in relation to such a matter.
- g. Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

- 10.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Part 3 - Other interests

11 Notification of personal interests

- 11.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must, within 28 days of:

- a. this Code being adopted by or applied to your authority; or
- b. your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11.2 below for inclusion in the register of interests.

- 11.2 You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a. any body of which you are in a position of general control or management and to which you are appointed or nominated by your authority;
- b. any body -
 - i. exercising functions of a public nature;
 - ii. directed to charitable purposes; or
 - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are in a position of general control or management;
- c. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25, or

12 Disclosure of interests

- 12.1 Subject to paragraphs 12.4 to 12.7, where you have a personal interest described in paragraph 11.2 above or in paragraph 12.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

- 12.2 You also have a personal interest in any business of your authority where 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 other council tax payers, ratepayers or inhabitants of the electoral ward, affected by the decision;

- 12.3** In paragraph 12.2, a *relevant person* is -
- a. a member of your family or any person with whom you have a close association; or
 - b. any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - c. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - d. any body of a type described in paragraph 11.2(a) or (b).
- 12.4** Where you have a personal interest in any business of the Council which relates to or is likely to affect a body described in paragraph 11.2(a) or 11.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 12.5** Where you have a personal interest in any business of the Council of the type mentioned in paragraph 11.2(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 12.6** Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 12.7** Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- 13** **Non participation in case of prejudicial interest**
- 13.1** 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 and where that business -
- a. affects your financial position or the financial position of a person or body described in paragraph 12.3 ;or
 - b. relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.

- 13.2 Subject to paragraphs 13.3 and 13.4, where you have a prejudicial interest in any business of your authority:**
- a. You must not participate in any discussion of the matter at the meeting.
 - b. You must not participate in any vote taken on the matter at the meeting.
 - c. If the interest is not registered, you must disclose the interest to the meeting.
 - d. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- 13.3 Where you have a prejudicial interest in any business of the Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.**
- 13.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your authority in respect of -**
- a. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - b. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; and
 - c. any ceremonial honour given to members.
- 13.5 Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.**

14 Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of the Council (or of a sub-committee of such a committee) where:

- a. that business relates to a decision made (whether implemented or not) or action taken by the executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and

- b. at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken, you may attend the meeting of the overview and scrutiny committee for the purpose of explaining the reasons for the decision, or answering questions or giving evidence relating to the business, but you cannot participate otherwise in the discussion or in any vote on the matter.**

Part 4 - General Matters relating to Parts 2 and 3

15. Register of Interests

Subject to paragraph 16 any disclosable pecuniary interests or personal interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

16. Sensitive Interests

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. In these circumstances, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

17. Dispensations

The Council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest.

OLDHAM BOROUGH COUNCIL

Arrangements for dealing with complaints about the Code of Conduct for Members

1. Introduction

- 1.1 This procedure applies when a complaint is received that a Member, Co-opted Member or Parish Council Member has or may have failed to comply with the Code of Conduct for Members.
- 1.2 The person making the complaint will be referred to as "the complainant" and the person against whom the complaint is made will be referred to as the "Subject Member".
- 1.3 No member or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.
- 1.4 A flow chart of the process is detailed at Appendix 3.

2. Making a complaint

- 2.1 A complaint must be made in writing either by post or e-mail to; Borough Solicitor, Oldham Council, Civic Centre, West Street, Oldham, OL1 1UL or paul.entwistle@oldham.gov.uk
- 2.2 The Monitoring Officer will acknowledge receipt of the complaint within five working days of receiving it and, at the same time, write to the subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council also) with details of the allegations (subject to any representations from the complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The subject member may, within five working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued the initial assessment of the complaint.

3. Initial Assessment of Complaint

- 3.1 The Monitoring Officer will review the complaint and following consultation with the Independent Person, take a decision (initial assessment) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.

3.2 If appropriate, the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected;

- Whether a substantially similar allegation has previously been made by the complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
 - i. The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations and
 - ii. Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.
- Whether the complaint appears to be malicious, vexatious, politically motivated or fit for fit;
- Whether the complaint suggests that there is a wider problem throughout the Authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response.

The Monitoring Officer will consult with the Independent Person and then give a decision on how the complaint will be dealt with. The Monitoring Officer may in exceptional circumstances refer the question of how to proceed to a sub-committee of the Standards Committee.

4. Additional Information

4.1 The Monitoring Officer may require additional information to come to a decision and may request information from the subject Member. Where the complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Clerk of the Parish Council of the complaint and seek the views of the Clerk of the Parish Council before

deciding whether the complaint merits formal investigation or other action. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the subject member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the subject Member or the Authority (in appropriate cases) makes a reasonable offer of local resolution, but it is rejected by the complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 4.2 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority in addition, to any action taken pursuant to the Code of Conduct.

5. Confidentiality

- 5.1 If a complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.
- 5.2 As a matter of fairness and natural justice the subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if on request from the complainant, or otherwise, they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the complainant's identity being disclosed.
- 5.3 If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, they will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the subject Member.

6. Investigation

- 6.1 The Monitoring Officer will appoint an investigating officer where a complaint merits formal investigation. The investigating officer may be a Council officer, an officer from another Council, or an external investigator.
- 6.2 The investigating officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of Council resources and shall be interpreted in line with these principles.

6.3 The investigating officer will ensure that the subject Member receives a copy of the complaint – subject to the Monitoring Officer decision on confidentiality.

6.4 At the end of their investigation, the investigating officer will produce a draft report and will send copies of that draft report to the complainant and to the subject Member, for comments. The investigating officer will take such comments into account before issuing their final report to the Monitoring Officer.

7. Investigating Officer finding of no failure to comply with the Code of Conduct

7.1 Where the Investigating Officer's report finds that the Subject Member has not failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.

7.2 The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of the Parish Council, where the complaint relates to a Parish Member), with a copy of the decision and the Investigating Officer's report).

7.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

8. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct

Where the Investigating Officer's report finds that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then having consulted the Independent Person either send the matter for local hearing before the hearing panel or seek local resolution.

8.1 Local Resolution

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Subject Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Parish Council (if appropriate) for information, but will take no further action. If the Complainant or the Subject Member refuses local resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a local hearing without further reference to the Complainant or the Subject Member.

8.2 Local Hearing

Where, in the opinion of the Monitoring Officer, local resolution is not appropriate or the Complainant and/or Subject Member refuses to accept local resolution, then the Monitoring Officer will report the Investigating Officer's findings to the Hearing Panel which will conduct a local hearing before deciding whether the Member has failed to comply with a Code of Conduct and, if so, what action (if any) to take in respect of the Member.

9 Constitution of the Hearing's Panel

The Hearing's Panel is a sub-committee of the Council's Standards Committee. The Council have decided that it will comprise of at least one of the independent Members co-opted to the Standards Committee and two members of the Council drawn from at least two different political parties. Where the complaint is about a Parish Council Member, the hearings panel will include at least one of the Parish Council Members co-opted to the Standards Committee.

The independent person is invited to attend all meetings of the hearings panel and their views must be sought and taken into consideration before the hearings panel takes any decision on whether the Member's conduct constitutes a failure to comply with the code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

10. The Independent Person

The independent person must be a person who has applied for the post following advertisements of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of the Council at a meeting of the full Council.

A person is not eligible for appointment if they:

- are, or have been within the past five years a Member, co-opted Member or officer of the Council;
- are, or have been within the past five years a Member, co-opted Member or officer of a Parish Council within the Borough; or
- are a relative or close friend of a person within bullet points 1 or 2 above.

For this purpose, "relative" means that:

- Spouse or civil partner;
- Living with the other person as husband and wife or as if they were civil partners;
- Grandparents of the other person;
- A lineal descendant of a grandparent of the other person;

- A parent, sibling or child of the person within the above bullet points;
- A spouse or civil partner of a person within the above bullet points; or
- Living with a person within the above bullet points or as husband and wife or as if they were civil partners.

12. Action

Where a hearings panel find that a Member has failed to comply with the code of conduct, the Council has delegated to the hearings panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the hearings panel may –

- Publish its findings in respect of the Member's conduct;
- Report its finding to Council (or to the Parish Council) for information;
- Recommend to Council that the Member be censured;
- Recommend to the Members group leader (or in the case of ungrouped members) recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;
- Recommend to the leader of the Council that the Member be removed from the Executive, or removed from their portfolio responsibilities;
- Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;
- Recommend to Council (or recommend to the Parish Council that the Member be removed) from all outside bodies, appointments to which they have been appointed or nominated by the Council (or by the Parish Council);
- Withdraw (or recommend to the Parish Council that it withdraws (facilities provided to the Member by the Council such as a computer, website and/or e-mail and internet access); or
- Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and sub-Committee meetings or place such restrictions on access to staff as may be reasonable in the circumstances.

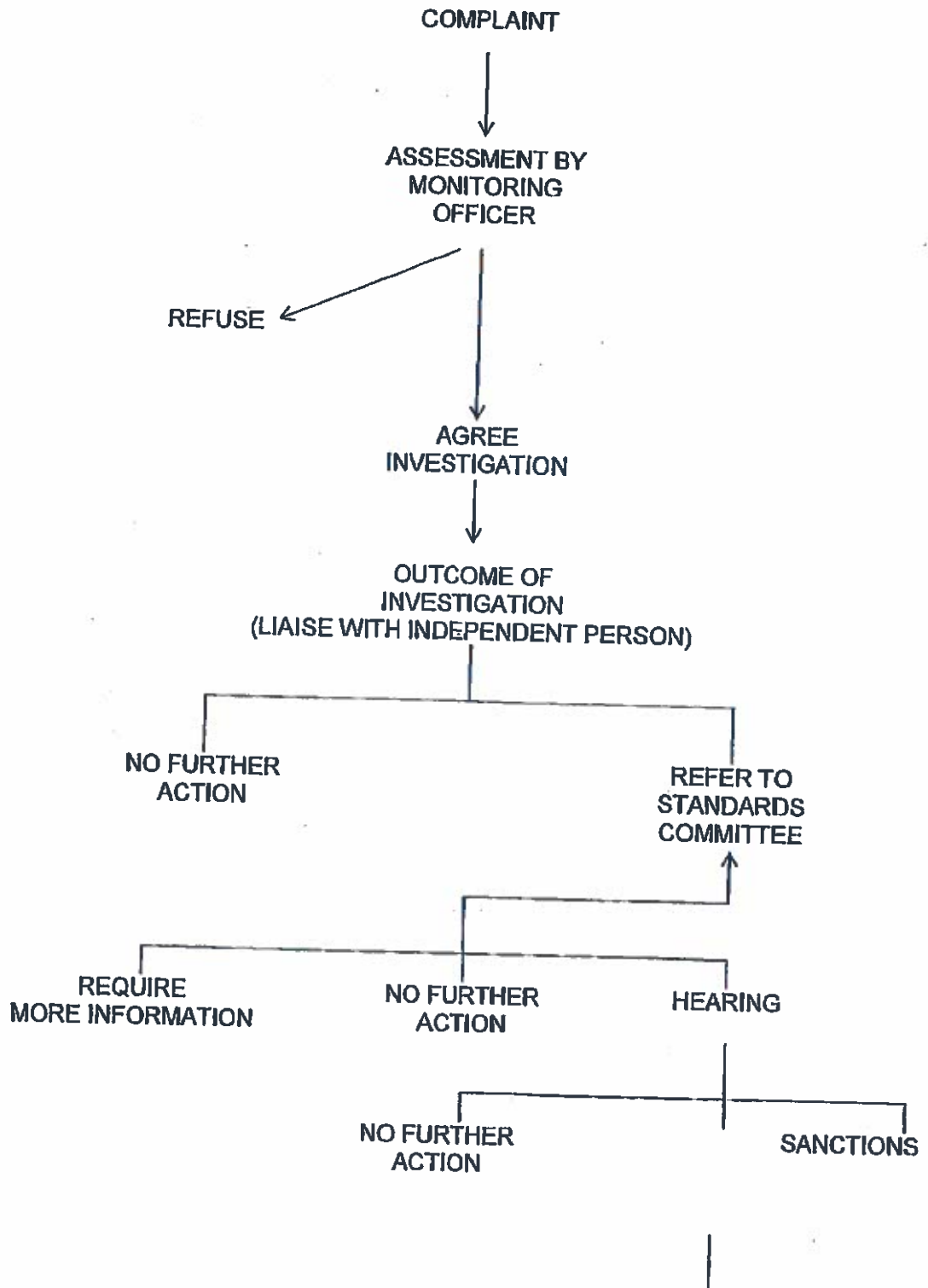
13. Revision of these Arrangements

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the hearings panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective threat and fair consideration of any matters.

14. Appeals

Subject to judicial review or a decision of a local ombudsman, there is no right of appeal against the decision of a Monitoring Officer or of the hearing panel.

FLOW CHART COMPLAINTS



Oldham Council

Weightmans reference: SG/433873/5

**Report of an investigation into an allegation concerning the
conduct of Councillor Warren Bates of Oldham Council**

SG 2

Complaint about Councillor Warren Bates, Oldham Council.

Note of interview with John Crompton, 15 July 2015.

1. The interview was conducted by Simon Goacher, Weightmans LLP (SG).
2. SG outlined the process that would follow and explained that, although ultimately if the matter reached the standards committee, it could decide to hear the evidence in public, the investigation should be treated as confidential.
3. John Crompton (JC) confirmed that he had submitted the complaint to the Oldham Council (the Council) and the content of the complaint was accurate. JC explained that he had made a previous complaint about Councillor Bates (WB) which related to an incident which had occurred at one of the district executive meetings. He explained that, as a result of the complaint, WB was censured by the council in April 2015.
4. JC explained that he had had a lot of contact with WB on the streets. He explained that WB lives fairly close to him in Failsworth. He stated that it was all verbal harassment that he received from WB, there was nothing violent except his attitude. He stated that he did not do anything about this when WB was a member of the public but now that he had become a councillor, he felt that it was unacceptable.
5. In the past, WB had collected JC from his home on a number of occasions. JC explained that he had not been told why WB wanted his email address. JC explained that after Penny Kenworthy (PK) had refused to provide WB with his email address, WB contacted JC's deputy at the Failsworth Historical Society (FHS), Leslie Garner, and left a message on his voicemail asking for the email address. He stated that this would have been early in April 2015.
6. JC stated that on 16 April 2015, he was in Manchester on his own. He stated that he saw WB who was talking to two or three other men. He stated that, as he was walking along, WB approached him. JC stated that he ignores WB when he is ranting at him so he carried on and did not pay any attention to what he was saying. He told me that WB's manner was very aggressive. He said that WB was "chunnering" in his ear immediately behind him and followed him for 30 to 40 yards until he gave up. JC stated that he simply carried on walking and did not respond at all to WB.
7. JC explained that he subsequently found out that WB was concerned about an issue involving a Bangladeshi restaurant in Failsworth which had taken some railings down to make a disabled access. JC stated that he understood that WB had been asking about this and that was the reason he said he wanted JC's email address. JC stated that he did not understand why WB would need his email address in relation to this as he could simply ask the council officers what was happening.
8. JC stated that the third issue which he had raised in his complaint arose on the week before the general election took place in May 2015. He stated that he had been travelling to Oldham or Manchester to collect his pension, as he did every Monday morning. He

stated that on his return, he left the Failsworth Metrolink Station to walk along Hardman Street towards his home when he saw WB. He stated that he assumed that WB would be delivering leaflets for UKIP as it was so close to the general election. He stated that WB's partner was also standing for UKIP in the local election. JC explained that he got off the tram and had a shopping bag in each hand. He stated that as he was walking towards his home, he was conscious of someone behind him on the other side of the street. He stated that as the person drew level with him, he became aware that it was WB. JC stated that at this point, he had to walk past three blocks of terrace houses to get to the turning into the street where he lived. JC stated that WB passed him on the other side of the street and then crossed over and double backed, so that he was walking towards JC. He stated that WB was glaring at him all of the time that he did this. He stated that WB then passed by him very close with his shoulder very close to JC's shoulder. JC stated that when he reached the turning into his street, he looked back and as he suspected, WB was still glaring at him. JC stated that he just shook his head and began to walk up his street. He stated that WB shouted something at him but he was about 20 yards away and JC could not make out what he had said.

9. JC stated that he reported these incidents to the police. He stated that a detective constable came and took details from him of the incidents which had occurred. He stated that he and the police officer discussed a policy of action and the police gave him three options. JC stated that he told the police that he did not want serious action taken against WB or him being "put away". He stated that he just wanted this behaviour to cease. JC explained that if people are around when he sees WB, then WB does not do anything but, if JC is on his own, WB will rant and rave at him. JC stated that it was agreed with the police officer that WB would be given a verbal warning and told that he had to stop this behaviour and that, if he didn't, another warning would be issued and that, if he still persisted, he would be taken into custody. JC stated that he agreed to a warning being given informally and that he didn't want any animosity to continue. JC stated that a PC Ian Lloyd went to see WB. He stated that PC Lloyd told him that he had left WB in no uncertainty as to how he should behave. JC stated that the police told him to keep a diary of what was happening so he has done.

10. JC explained that he has been the chairman of the Failsworth Historical Society since January 2003. He explained to SG the good work that the society has done since it was formed in 2003. JC stated that WB's behaviour makes him feel unsafe and anxious. He explained that he has issues with his health and the level of concern is such that council officers have made arrangements for him to be taken home after meetings that WB may also be attending to avoid any confrontation and to protect him. He stated he just wants to achieve an area of his life without anxiety or conflict.

Simon Goacher, Weightmans LLP
24 July 2015

I agree that this is a true and accurate record of the interview.

Signed.....*John Crompton*..... Date 28th July 2015.

John Crompton

Oldham Council

Weightmans reference: SG/433873/5

**Report of an investigation into an allegation concerning the
conduct of Councillor Warren Bates of Oldham Council**

SG 3

Complaint about Councillor Warren Bates, Oldham Council.

Note of interview with Councillor Bates, also present Joseph Fitzpatrick.
16 July 2015

1. The interview was conducted by Simon Goacher, Weightmans LLP (SG).
2. SG outlined the process that would follow and explained that, although ultimately if the matter reached the standards committee, it could decide to hear the evidence in public, the investigation should be treated as confidential.
3. Councillor Bates (WB) is an elected member of Oldham Council ("the Council"). He has been a councillor since May 2014. He is a member of the Licensing Panel. He has been a community activist for 20 years. WB stated that he has been to training provided by the council on the code of conduct for councillors. He stated that he has attended two training sessions. He confirmed that he understands that he is obliged to comply with the code of conduct for members when he is acting as a councillor.
4. WB stated that he did contact Penny Kenworthy (PK), Acting District Coordinator for Failsworth and Hollinwood District. He stated that he contacted PK to ask for the address of the Failsworth Historical Society (FHS). He stated that he was asking for the address of the society and not for the personal address of John Crompton (JC). WB explained that he was asking the council for the email address of the FHS because some residents had complained to him about an alteration to a building in the area. He stated that the alteration related to the railings outside a restaurant which had caused some concern. He stated that he had raised the concern with planning officers of the Council who had advised him that the decision to approve the alterations had been made under delegated powers. He wanted to know whether there had been consultation with the FHS and that was why he was trying to obtain contact details.
5. WB explained that PK had told him that she did not have contact details for FHS. WB stated that he believed that the council must have contact details and told PK this because the council had given thousands of pounds of public money to FHS in grants. He stated that PK responded stating that the only contact details they had were the FHS bank details.
6. Joseph Fitzpatrick (JF) explained that he is the researcher for UKIP. He stated that he advises colleagues on issues and when concerns were raised about the approval for these alterations, he spoke to WB and stated that if delegated powers had been used, they probably would have asked FHS and neighbours for their views on the proposal. He stated that he would write to them to find out what had happened. JF explained that the issue related to permission to make a fresh opening in railings by the Aman Indian restaurant. He stated that the railings were in part of a preservation area. He stated that they wanted to find out what the FHS had said about this application.
7. WB stated that he had written to the planning department. JF explained that this is an ongoing issue and that WB has had to adjust to the fact that everything that the Council to do takes weeks and weeks to obtain a response from him as a UKIP councillor. He stated that concerns had been raised by residents about the alteration, for example, another neighbour had been told to take tiles down because of the fact that it was a preservation area and another person had stated that they did not know how the restaurant had got away with this because he had asked for disabled access which had been refused because it was in a preservation area.
8. WB stated that subsequently Paul Entwistle, the monitoring officer for the Council had asked PK to send him details of the address for the FHS.
9. WB stated that because PK had failed to provide him with contact details, he contacted Mr Les Garner. WB explained that he had contact details for members of the committee from past dealings with them. He stated that he had known Mr Garner for 12 years so he phoned him and said that he was trying to get the contact details for FHS because he wanted to write a letter to them about certain matters in Failsworth. WB stated that he did not ask for personal contact details of JC, he was asking for contact details of the society.
10. WB stated that in relation to the second part of the complaint, JC was lying again. He stated that it had not happened in the way set out in the complaint. He explained that JC came towards him. WB stated that he was with one other person, not two or three as JC said in the complaint. He explained that he was

in Market Street, Manchester which was packed. WB explained that he spotted JC when he came within 10 yards of him. He told the person he was speaking to that JC was someone that he was trying to contact, so he approached JC and explained that he was trying to contact him. He stated that he told JC that he wanted to talk to him about FHS. He stated that JC completely ignored him and, after a short time, he gave up and JC carried on walking.

11. WB explained that on the third occasion set out in the complaint, he had cause to do work on behalf of the council as councillor for the ward and was out on duty on that day. He stated that the way that JC described his behaviour was a lie. WB stated that he had no need to glare at JC, he was carrying out his role as a ward councillor at the time. SG asked WB if it was correct that he had walked in the same direction as JC but on the opposite side of the road, had then gone in front of JC and effectively double backed to walk past him. WB stated that if that had happened, it was because he was observing something and had to go back to look at it, he made reference to pigeons making a mess. He stated that if he did do it, it was nothing to do with JC and the way that JC had described the incident was lying. He stated that he had not stood and glared at JC or shouted anything at him.
12. WB explained that the police had sent two detectives to his house one Sunday afternoon after this incident. He stated that he had invited them into his house. He explained that he had told the police that what JC had told them was not true. He stated that they had listened to him. He stated that the police had told him that they did not intend to take any action. WB stated that he had not received anything in writing from the police after their visit.
13. SG asked WB whether, in the light of the fact that this occurred very shortly after he had been censured by the council for another complaint relating to JC, it was sensible to approach JC in the way that he had done. WB explained that he was so passionate about getting details of FHS on behalf of the residents that he did not think about the previous standards complaint; all he wanted was the contact details so that he could take issues up on behalf of the residents. He explained that he thought that JC would have simply said, "right Warren, I'll send you some details". He stated that if that amounted to breaking the code or the law, then he certainly did not know that. WB stated that he admitted he had walked alongside JC but that he had always acted in a reasonable way and was simply asking for contact details.
14. JF explained that as a UKIP councillor, WB was trying to get to the bottom of how the council gives out money to all councillors. He explained that the council gives each councillor £3000 to give out to local organisations. He stated that FHS had received thousands of pounds over the years and there is no audit trail. He stated that WB was going to complain about the process to the district auditor. He stated that WB believes that this amount is to be increased to £5000 per councillor which would mean the Council would be giving away £300,000 a year with no audit trail.
15. JF stated that WB had asked a council officer for the contact details of the district auditor to raise this with them and it had taken them a long time to provide those contact details. JF stated that the officer had apologised to WB at the last council meeting for the delay in providing those details because they said that they had forgotten about the request.
16. JF explained that there is a particular concern about why planning permission was given to this Indian restaurant and he wanted to know if the FHS had given an opinion. He stated that this may have annoyed JC and that could be a motivation behind the complaint.
17. JF stated that the local Labour party do not seem to be able to adjust to the fact that WB was elected and it could be that Labour councillors have suggested to JC that he should put in a complaint.

Simon Goucher, Weightmans LLP
24 July 2015

I agree that this is a true and accurate record of the interview.

Signed Councillor W Bates Date 27th July 15

Councillor Warren Bates

Signed J Fitzpatrick Date 27th July 2015

Joseph Fitzpatrick

Oldham Council

Weightmans reference: SG/433873/5

**Report of an investigation into an allegation concerning the
conduct of Councillor Warren Bates of Oldham Council**

SG 4

Ref 433873/9

Complaint about Councillor Warren Bates, Oldham Council.

Note of telephone interview with Penny Kenworthy, 29 July 2015.

1. The interview was conducted by Simon Goacher, Weightmans LLP (SG).
2. SG outlined the process that would follow and explained that, although ultimately if the matter reached the Oldham Council (the Council) standards committee, it could decide to hear the evidence in public, the investigation should be treated as confidential.
3. SG explained that he had contacted Penny Kenworthy (PK) because the complaint against Councillor Bates (WB) referred to an attempt to contact her in her capacity as Acting District Co-ordinator for Failsworth and Hollinwood District asking for John Crompton's (JC) email address.
4. PK explained that WB had contacted her asking for the email address of the Failsworth Historical Society (FHS). She stated that she had advised WB that the Council does not have an email address for the FHS because it does not have one. She stated that she was also contacted by the Council's Monitoring Officer Paul Entwistle requesting that she provide WB with the FHS's email address. She stated that she advised PE that the FHS does not have an email address.
5. After the interview PK forwarded to SG copies of emails which she had exchanged with WB and PE on the issue.

Simon Goacher, Weightmans LLP
29 July 2015

I agree that this is a true and accurate record of the telephone interview.

Signed Date

Penny Kenworthy

Oldham Council

Weightmans reference: SG/433873/5

**Report of an investigation into an allegation concerning the
conduct of Councillor Warren Bates of Oldham Council**

SG 5

Ref 433873/9

Complaint about Councillor Warren Bates, Oldham Council.

Note of telephone interview with Leslie Garner, 28 July 2015.

1. The interview was conducted by Simon Goacher, Weightmans LLP (SG).
2. SG outlined the process that would follow and explained that, although ultimately if the matter reached the standards committee, it could decide to hear the evidence in public, the investigation should be treated as confidential.
3. SG explained that he had contacted Leslie Garner (LG) because the complaint against Councillor Bates (WB) referred to a message which had been left on LG's voicemail. SG asked LG whether he still had a recording of the message. LG stated that he did not. He explained that the message was left on the Talk Talk voicemail service which automatically deletes messages after 28 days.
4. LG stated that as far as he could recall WB had said that he was trying to contact John Crompton (JC) and asking if he (LG) could provide JC's contact details. LG stated that as far as he could recall it was JC's contact details and not those of the Failsworth Historical Society (FHS) that WB was asking for.
5. LG stated that he found it strange that WB was asking for JC's details because he was sure that they would be on FHS's letter heading or could be obtained from the library. LG stated that he did not respond to WB's message.

Simon Goacher, Weightmans LLP
28 July 2015

I agree that this is a true and accurate record of the telephone interview.

Signed Date

Lesley Garner

Oldham Council

Weightmans reference: SG/433873/5

**Report of an investigation into an allegation concerning the
conduct of Councillor Warren Bates of Oldham Council**

SG 6

09.07.15 - PE.txt

From: Penny Kenworthy
Sent: 09 July 2015 09:23
To: Paul Entwistle
Cc: Helen Lockwood
Subject: RE: Details for Councillor Bates

Good morning Paul

To clarify Failsworth Historical Society do not have an email address, the only email address I hold is for Mr Crompton's personal email. Cllr Bates is aware of this.

Kind regards

Penny

Penny Kenworthy
Acting District Coordinator - Failsworth & Hollinwood Oldham Council Failsworth
Town Hall Failsworth
M35 0FJ
Tel: 0161 770 4289
Email: penny.kenworthy@oldham.gov.uk

Failsworth & Hollinwood Google Calendar
<http://tinyurl.com/Failsworth-Hollinwood-Calendar>

Visiting Failsworth Town Hall by MetroLink? The nearest stop is Failsworth, Hardman Lane (5 mins walk)

-----Original Message-----

From: Paul Entwistle
Sent: 09 July 2015 09:18
To: Penny Kenworthy
Subject: Details for Councillor Bates

Hi Penny,

Councillor Bates has requested the contact e-mail details for the Failsworth Historical Society and Mr. Crompton in his official capacity. If you have this information, Councillor Bates has requested the information to be provided to him.

Regards, Paul

Paul Entwistle
Director of Legal Services
Oldham MBC
Tel no 0161 770 4822

From: Paul McCann
Sent: 19 May 2015 14:38
To: Penny Kenworthy
Subject: FW: e-mail .
Pen,

FYI.

Paul.

From: Paul McCann
Sent: 12 May 2015 13:35
To: Cllr W Bates
Cc: Penny Kenworthy
Subject: RE: e-mail .

Councillor Bates.

Good Afternoon Warren,

My enquiries reveal that the Failsworth Historical Society do not appear to have an email contact address.

I hope that this assists you.

Kind Regards,

Paul.

Paul McCann
Caseworker
Failsworth & Hollinwood
Failsworth Town Hall
Oldham Road
Failsworth.
M35 0FJ.

Tel: 0161 770 1679
Mob: 07702 373645
email: paul.mccann@oldham.gov.uk

<http://tinyurl.com/Failsworth-Hollinwood-Calendar>

Visiting Failsworth Town Hall by Metrolink? The nearest stop is Failsworth, Hardman Lane (5 mins walk)

From: Cllr W Bates
Sent: 12 May 2015 10:56
To: Paul McCann
Subject: e-mail .

Hi Paul.

Has the Failsworth Historical Society a e-mail contact?

With them having such a powerful influence in our area it seems "in my opinion " and the Hon Sec resident.

Mr John Crompton was supported by a standing ovation and tremendous applause at the last Council meeting.

For complaining about my code of conduct when I asked him at a executive meeting "Who Are You and Who Do You Represent.?"

Warren

Warren.

From: Penny Kenworthy
Sent: 19 May 2015 15:14
To: Helen Lockwood
Subject: RE: john crompton

I had a conversation with Cllr Bates after that email was sent regarding a planning matter within the conservation area at the pole, where I advised him to contact the appropriate officer and he said the Historical Society do not have an email address and I confirmed to him no they don't.

He didn't ask for any personal information of Mr Crompton.

Penny

Penny Kenworthy
Acting District Coordinator - Failsworth & Hollinwood
Oldham Council
Failsworth Town Hall
Failsworth
M35 0FJ
Tel: 0161 770 4289
Email: penny.kenworthy@oldham.gov.uk

Failsworth & Hollinwood Google Calendar <http://tinyurl.com/Failsworth-Hollinwood-Calendar>

Visiting Failsworth Town Hall by Metrolink? The nearest stop is Failsworth, Hardman Lane (5 mins-walk)

From: Helen Lockwood
Sent: 19 May 2015 14:57
To: Penny Kenworthy
Subject: RE: john crompton

That's fine – so correspondence was via email and not verbally. He wasn't asking for his home address or tel number?

Helen Lockwood
Executive Director Co-operatives and Neighbourhoods
Level 3, Civic Centre
West Street
Oldham
OL1 1UG*

Tel 0161770 1848
Mobile 07964940700
Email: helen.lockwood@oldham.gov.uk

*Please note for satellite navigation purposes the postcode is OL1 1NL
Visiting the Civic Centre by Metrolink? The nearest stop is Oldham King Street (2-3 mins walk)

From: Penny Kenworthy

Sent: 19 May 2015 14:43
To: Helen Lockwood
Subject: RE: john crompton

Hi Helen

Clr Bates made an enquiry asking if Failsworth Historical Society had an email address, see attached.

Apologies Helen I didn't report this sooner.

Kind regards

Penny

Penny Kenworthy
Acting District Coordinator - Failsworth & Hollinwood
Oldham Council
Failsworth Town Hall
Failsworth
M35 0FJ
Tel: 0161 770 4289
Email: penny.kenworthy@oldham.gov.uk

Failsworth & Hollinwood Google Calendar <http://tinyurl.com/Failsworth-Hollinwood-Calendar>

Visiting Failsworth Town Hall by Metrolink? The nearest stop is Failsworth, Hardman Lane (5 mins walk)

From: Helen Lockwood
Sent: 19 May 2015 14:35
To: Penny Kenworthy
Subject: john crompton

Penny

Hi penny – I received a call from John Crompton seeking help regarding Clr Bates.

He said you had been contacted by Clr Bates asking for his home email.

Could you confirm back to me exactly when Clr bates contacted you, what he requested, and how you responded.

Also given there is an existing standards complaint regarding clr bates in relation to Mr Crompton did you inform anyone of the contact.

Just sorting out the facts in case there is a further complaint.

thanks

Helen Lockwood
Executive Director Co-operatives and Neighbourhoods
Level 3, Civic Centre

West Street
Oldham
OL1 1UG*

Tel 0161770 1848

Mobile 07964940700

Email: helen.lockwood@oldham.gov.uk

*Please note for satellite navigation purposes the postcode is OL1 1NL
Visiting the Civic Centre by Metrolink? The nearest stop is Oldham King Street (2-3 mins walk)

