PRIVATE AND CONFIDENTIAL

Tonbridge & Malling Borough Council

Case reference: [ ]

Report of an investigation by Jonathan Goolden, appointed by the Deputy Monitoring Officer for Tonbridge & Malling Borough Council, into allegations concerning Councillor Mike Taylor of that Council.

[ ] March 2015

This is a draft report with preliminary findings. These may change in the final report in the light of comments or further information supplied by the complainant or respondent

VOLUME 1
REPORT

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1. Executive Summary

1.1 Councillor Taylor is an elected member of Tonbridge & Malling Borough Council and Borough Green Parish Council.

1.2 Councillor Taylor took significant interest in a planning matter at Isles Quarry West, a site that was within his Ward. Councillor Taylor had expressed concerns about the designation of Isles Quarry West as a development site and during 2013-14 about matters relating to the subsequent planning permission on the site.

1.3 During May and June 2104 Councillor Taylor sent numerous emails to Officers of the Council about the development at Isles Quarry West. Some of those emails contained comments which caused concern to the Officers. Councillor Taylor also posted information on a public website that repeated the comments which had caused concern.

1.4 Councillor Taylor was invited to a meeting with Senior Officers of the Council to discuss his behaviour and the concerns raised by the content of some of his emails and his website. Following the meeting Councillor Taylor referred himself for investigation.

1.5 I have considered whether Councillor Taylor was acting in an official capacity when he sent the emails and made the website postings. I am satisfied for the detailed reasons set out in this report that Councillor Taylor was acting in an official capacity.

1.6 I have considered whether the content of the emails could reasonably be considered as likely to bring the authority into disrepute. I consider that comments in the emails and on the website are derogatory of some Senior Officers of the Council and that it was unwise and unnecessary for these comments to be published in such a public manner.

1.7 I have concluded that it would be reasonable to believe that it was likely that the comments could diminish the repute of the Council and therefore might bring the authority in to disrepute.

1.8 I have considered whether any of the comments made by Councillor Taylor could be construed as bullying. I am mindful that Councillor Taylor is a Member of the Borough Council that employs the Officers who have been the subject of his comments and therefore has an influence over their employment. I consider that some of Councillor Taylor's comments were designed to humiliate and intimidate Officers of the Council and therefore could be considered to be acts of bullying

1.9 My finding is that there has been a breach of the code of conduct of the authority concerned by Councillor Taylor.

2. Councillor Taylor's official details

2.1 Councillor Taylor is a member of Tonbridge and Malling Borough Council having been elected in January 2014.

2.2 Borough Green Parish Council co-opted Councillor Taylor to that Council in the year 2000, and he continued to serve until 2003.

2.3 In 2009 he was elected as a member of Borough Green Parish Council, and re-elected in 2011.

2.4 He became Chairman of the Parish Council in 2011, and remains in that position.

3. Relevant legislation and protocols

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which Tonbridge and Malling Borough Council is one) must promote and maintain high standards of conduct by members and co-opted members of the Council. In discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.

3.2 Section 28 of the Act provides that the Council must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

(a) Selflessness;

(b) Integrity;

(c) Objectivity;

(d) Accountability;

(e) Openness;

(f) Honesty;

(g) Leadership.

3.3 The Council has adopted the Kent Code of Conduct for Members (attached at JTG 1) in which the following paragraphs are included:-

*"**Preamble***

……

(B) The Code is based on the Seven principles of Public Life under section 28(1) of the Localism Act, which are set out in Annexe 1.

(C) This Preamble and Annex 1 doe not form part of the Code, but you should have regard to them as they will help you to comply with the Code.

……

Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

…….

General obligations

3.

(2) You must not:

(a) bully any person;

……

(f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;"

…….

Annex 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from that the Authority cannot accept allegations that they have been breached.

……

INTEGRITY

…..You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

……..

LEADERSHIP

Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority."

4. Evidence and facts

My appointment

4.1 After consulting the appointed Independent Persons the Assessment Panel of the Council's Standards Committee referred the matter to Mr K Toogood, the Council's Deputy Monitoring Officer, for investigation.

4.2 Mr Toogood nominated me to perform his investigatory functions as a Monitoring Officer in respect of this matter.

4.3 I hold honours Bachelor of Arts in Law degree from the University of Sheffield. I am a solicitor and an accredited mediator. I was employed by various local authorities as a solicitor for a period of 14 years and have held the position of Monitoring Officer in two authorities for six years. I practice law as a solicitor and am a partner with Wilkin Chapman LLP. I have carried out over 200 investigations of members of local authorities and other public bodies.

4.4 I was assisted in the conduct of the investigation by Martin Dolton. Mr Dolton is a retired senior police officer who through his 30 years of police service conducted many sensitive police misconduct investigations. He holds a Bachelor of Science Honours degree in Public Policy and Management awarded by the Department of Local Government Studies at Birmingham University. He has been an associate investigator for the Standards Board for England. With this firm, its predecessor and the Standards Board for England. He has conducted numerous investigations into alleged breaches of the Code of Conduct of Councillors and discipline enquiries concerning senior staff in local government. He was a full time Town Clerk and Responsible Financial Officer of a large town council for 3 years.

4.5 I was also assisted in the drafting of this report by Alan Tasker. Mr Tasker is a former Monitoring Officer and was the Clerk to a large town council. He has significant experience of code of conduct investigations.

The investigation

4.6 During the investigation Mr Dolton held face to face meetings with, and obtained signed statements from:-

- Julie Beilby – Chief Executive of the Council (signed statement obtained 23 October 2014)
- Adrian Stanfield – Director of Central Services and Monitoring Officer at the Council (signed statement obtained 13 October 2014)
- Steve Humphrey – Director of Planning, Housing and Environmental Health at the Council (signed statement obtained 15 October 2014)
- Lindsay Pearson – Chief Planning Officer at the Council (signed statement obtained 21 October 2014)

4.7 Mr Dolton conducted a face to face audio recorded interview with Councillor Taylor on 24 October 2014 from which a transcript was prepared. Councillor Taylor was given an opportunity to comment on the transcript of the interview and returned a signed copy to indicate his agreement with its contents on 15 November 2014.

4.8 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence. Copies of the various emails

which are referred to by witnesses are set out in date order in a separate schedule at JTG 10 for ease of reference.

4.9 I wish to record my thanks and those of Mr Dolton for the co-operation and courtesy shown to us by all those we had cause to contact during the investigation.

Background

4.10 For a number of years Councillor Taylor has taken an interest in the planning status of an area within the Parish of Borough Green known as Isles Quarry.

4.11 Since the Council commenced a review of its Local Plan in 2003, Isles Quarry has been the subject of consideration and consultation. This continued under the development of the Local Development Framework. This process included public consultation and public examination leading to the adoption by the Council of the Core Strategy and Development Land Allocation. As a result, Isles Quarry was removed from the Green Belt and identified as a strategic development site.

4.12 Councillor Taylor has consistently opposed this designation for Isles Quarry.

4.13 In June 2013 planning permission was granted for the residential development of Isles Quarry.

4.14 In January 2014 Councillor Taylor was elected to the Council to represent the Borough Green and Long Mill ward which included the Isles Quarry site. Since his election Councillor Taylor has made numerous Freedom of Information requests for documents relating to the planning permission for the site. Councillor Taylor has also made public his concerns about aspects of the development on the site, how his requests for information were being dealt with and the conduct of Officers of the Council. His comments have been posted on an internet website.

4.15 Councillor Taylor's conduct in this matter caused concern for the Officers of the Council, including the Council's Monitoring Officer. Because of these concerns Councillor Taylor was invited to a meeting with the Monitoring Officer and Chief Executive to discuss Councillor Taylor's conduct. A comprehensive note of the meeting taken by Adrian Stanfield is attached at JTG 2.

4.16 Following the meeting Councillor Taylor decided to refer himself to the Monitoring Officer by e-mail (set out in the paragraph below) as it appeared to him that others considered his conduct to be in breach of the Council's Code of Conduct. Though unusual, I am satisfied that such self referral was capable of amounting to a written allegation within the meaning of section 28(9) of the Act and thus one which fell to be considered under the Council's arrangements for investigating and deciding on such matters.

Complaint

4.17 In an email dated 8 July 2014, sent to an extensive number of individuals and copied to the Council's Monitoring Officer, Chief Executive and others, Councillor Taylor stated:-

> *'At a recent meeting with Julie Beilby and Adrian Stanfield it was alleged that I had committed serious breaches of the Standards Code*

regarding "lack of respect and inappropriate comments and language to Council Officers", specifically Steve Humphrey and Lindsay Pearson.

Whilst I clearly take a different view, after some thought I realised that the code is more important than individual beliefs, and that justice must be seen to be done.

As a responsible Member of this Authority, I am therefore formally reporting myself to the Monitoring Officer for the alleged breaches of the Standards Code.'

Julie Beilby

4.18 Mr Dolton conducted an interview with Julie Beilby, which resulted in the signed statement attached at JTG 3.

4.19 Julie Beilby is the Chief Executive and Head of Paid Service of the Borough Council, a position she had held since February 2103. Prior to that she was Central Services Director from January 2009 and had been employed by the Council since 1984.

4.20 She first became aware of Isles Quarry in 2010 through local Members and Councillor Taylor in his capacity as a Parish Councillor. Through meetings, discussions and emails she had seen a continuous theme to the position adopted by Councillor Taylor in relation to the development of Isles Quarry.

4.21 It was clear that Councillor Taylor held a personal belief that there were flaws in the process leading to the allocation of Isles Quarry. Councillor Taylor had repeatedly articulated his belief that there had been lies and falsifying of documents. Ms Beilby stated these allegations had been investigated through a range of processes including the Borough Council's complaints procedure, the Planning Inspectorate and Kent Police. None of these complaints had been upheld.

4.22 She had no doubt that Councillor Taylor believed the allegations he had made and that he was entitled to challenge, question, debate and criticise and to express these views within the code of conduct. That is with respect to individual officers and the organisation's reputation.

4.23 Ms Beilby stated that Officers had consistently treated Councillor Taylor's requests for information in a polite and respectful manner and in a timely fashion.

4.24 She believed Councillor Taylor had shown commitment to his residents by asking challenging questions. She also believed that Councillor Taylor had shown disrespect to individual officers that was neither acceptable nor justified. She provided examples in respect of three individuals. These examples included inappropriate language and unproven allegations distributed to a wide audience through his own website and extensive distribution of emails from his personal email account expressing his own views but 'badged' as Parish Council views.

4.25 First, on 14 June 2014 Councillor Taylor sent an email to all Members of the Borough Council with the subject matter "Adrian Stanfield" (enclosed at JTG 10 email 6 in the email schedule). Mr Stanfield is the Director of Central Services and Monitoring Officer, he is the most senior qualified Solicitor

employed by the Council. In the email Councillor Taylor made a clear accusation that Mr Stanfield had deliberately set out to mislead Members. Ms Beilby stated that she knew Mr Stanfield acted in a manner consistent with his professional role and ethics and in accordance with the Council's Code of Conduct for Officers. To suggest Senior Officers deliberately mislead was reputationally damaging.

4.26 In a further email sent on 18 June 2014, copied to all Members of the Council, (enclosed at JTG 10 email 10 in the email schedule) Councillor Taylor questioned Mr Stanfield's role stating *"I cannot understand how you have countenanced and condoned withholding information."* Ms Beilby believed this to be a clear accusation that Mr Stanfield had condoned an unlawful act, this being potentially damaging to his reputation on a personal and professional level and also to the Borough Council.

4.27 Julie Beilby explained why she asked for Counsel's opinion. Councillor Taylor was making accusations about the way the Council had dealt with issues of contamination at Isles Quarry. These were clearly visible on the Borough Green News website and widely available to Members, other agencies, the press and public. She considered that whilst Councillor Taylor had his own beliefs it was right and proper that the Council took the reputational issues seriously and hence the balance and check of Counsel's Opinion to establish and provide confidence in the process and share that with others.

4.28 The second example of an Officer to receive an inappropriate email was Lindsay Pearson, the Council's Chief Planning Officer. On 20 May 2014 Councillor Taylor sent Mr Pearson an email which was also sent to Steve Humphrey and copied to others (enclosed at JTG 10 email 2 in the email schedule)

4.29 In the email Councillor Taylor states "Hiding and withholding this information merely reinforces my case that something dodgy is happening, and that you are covering it up". Julie Beilby states this is a clear accusation that Mr Pearson was withholding information, an accusation that was damaging to Lindsay Pearson and by implication to the Council.

4.30 Councillor Taylor sent a further email to Lindsay on 12 June 2014 (enclosed at JTG 10 email 4 in the email schedule) this was copied to a wide audience including Parish Councillors, Crest and the Environment Agency. The email contained accusations in relation to Mr Pearson as an individual and to the Planning Department, in relation to Mr Pearson it stated:

> *"What angers me most is the Obstruction Report was wilfully omitted by you.."*

and in relation to the Planning Department it stated:

> *"It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information, the secrecy endemic is not acceptable "*

4.31 Ms Beilby stated this was potentially damaging to the reputation of the Planning Department and thus by implication to the Council.

4.32 The third example of an Officer to be subject to comment by Councillor Taylor was Steve Humphrey, the Director of Housing, Planning and Environmental

Health. In an extract from the Borough Green News website(attached at JTG 4) Councillor Taylor wrote;

> *"My personal belief is that the contamination has been buried on site, and I do not know if that can be deemed as safe – we have been assured repeatedly over many years by TMBC that contamination will be dealt with appropriately, and despite all our efforts they have failed us. I hold Steve Humphrey and Lindsay Pearson directly responsible for this almost criminal behaviour, and will seek to have action taken against them and Crest Nicholson unless matters are addressed forthwith".*

4.33 Ms Beilby stated there was potential reputational damage to individuals in making such statements, albeit that *"almost criminal behaviour"* had little meaning, it did portray inappropriate behaviour by two senior officers of the Council, and was therefore by implication damaging to the reputation of the Council.

4.34 Ms Beilby was concerned about the damage to the reputation of the Council and some Senior Officers and to the demoralising effect such comments were having on the Planning Service. The widespread dissemination of the unproven allegations to Members of the Parish and Borough Council, the residents via the website and other agencies via email was of reputational concern to her as Chief Executive of the Council.

4.35 She stated the Council had a history of open communication with Members so, with Mr Stanfield as Monitoring Officer, they decided to invite Councillor Taylor to an informal meeting to discuss his language and behaviour. The minutes of the meeting recorded a number of concerns which Councillor Taylor did not agree. Councillor Taylor justified his behaviour, referring to his long held views of the Parish Plan process and adoption of the core strategy.

4.36 Ms Beilby pointed out that the Council was generally held in high regard exampled by a track record of high performance under the Comprehensive Performance Assessment inspections and more recently the low record of complaints referred to the Local Government Ombudsman. A Peer Review report completed in early 2014 commented on the positive relationships.

4.37 Ms Beilby concluded by stating that in her opinion Councillor Taylor had taken actions that were potentially damaging to the Council and individual officers without any proven justification.

Adrian Stanfield

4.38 Mr Dolton conducted an interview with Adrian Stanfield, which resulted in the signed statement attached at JTG 5.

4.39 Mr Stanfield was the Director of Central Services and Monitoring Officer of the Council, a position he had held since February 2013. Prior to that he was the Chief Solicitor and Monitoring Officer from May 2011. Mr Stanfield was a qualified Solicitor and had been employed in local government legal practice since October 1996 and had worked at 5 different local authorities.

4.40 Mr Stanfield stated that the matters in his statement were true to the best of his knowledge and belief and were derived from his own knowledge and from the inspection of emails and files held by the Council.

4.41 He confirmed that Councillor Taylor was elected as an Independent Member to the Council in January 2104 as one of three members for the Borough Green and Longmill Ward. Councillor Taylor was also the Chairman of Borough Green Parish Council.

4.42 Mr Stanfield recorded that Councillor Taylor ran a local news website under the name of 'Borough Green News'

4.43 He explained that within the Council's area and in the Borough Green and Longmill Ward was land at Isles Quarry West referred to as "Isles Quarry". He had been aware of Isles Quarry since 2010, since when he had been in correspondence with Councillor Taylor on numerous occasions. Throughout his dealings with Councillor Taylor the overwhelming majority of communication had concerned Isles Quarry.

4.44 Mr Stanfield set out a brief history of Isles Quarry since it was identified as a strategic site for housing in September 2007 and was included in the Development Land Allocation DPD adopted in April 2008. The Core Strategy had been subject to a Public Examination in 2007 at which Councillor Taylor appeared as a witness opposing development at Isles Quarry. The Inspector concluded that the Core Strategy was sound.

4.45 Mr Stanfield explained that for a number of years Councillor Taylor believed that the Core Strategy and the allocation of Isles Quarry for development was flawed. Councillor Taylor had pursued complaints about the process saying the Council had been untruthful about events that unfolded at the Examination in Public. These complaints had been pursued through various channels including the Council, the Local Government Ombudsman, the Planning Inspectorate and Kent Police. Mr Stanfield was not aware of any of these bodies upholding Councillor Taylor's complaints.

4.46 Mr Stanfield stated that in June 2011 he and Steve Humphrey prepared a briefing note for Members on Isles Quarry, the Borough Green Parish Plan and their relationship with the Local Development Framework. This note included a chronology of the Isles Quarry designation and Councillor Taylor's complaints (attached at JTG 6).

4.47 In June 2013 planning permission was granted by the Council for the erection of 177 dwellings, the creation of 6.82 hectares of public open space, a new vehicular access and access roads, footpaths, landscaping and associated infrastructure at Isles Quarry. On 14 November 2014 Councillor Taylor emailed Mr Humphrey, Mr Pearson and Mr Stanfield to raise concerns that development had commenced without the discharge of various conditions relating to ground water and contamination. Since then Councillor Taylor had made numerous complaints about compliance by the developer and the Council's role in monitoring and enforcing the conditions. Councillor Taylor had also made a number of complaints about the supply of information to him in connection with the issue.

4.48 Mr Stanfield pointed out it was legitimate for a Member to raise concerns about the implementation of development within their ward. However, the tone of Councillor Taylor's correspondence became increasingly personal and accusatory and these personal accusations were circulated to a wide audience including other Members of the Council, Borough Green Parish Councillors, and third parties such as Crest and the Environment Agency. Mr Stanfield believed there was a clear distinction between legitimate issues for consideration and the manner and tone in which it is pursued. From his

discussions with Councillor Taylor it was apparent Councillor Taylor saw no such distinction.

4.49 During May and June 2014 Mr Stanfield was copied into numerous email exchanges with Councillor Taylor relating to Isles Quarry from which it was clear to him the personal attacks by Councillor Taylor were becoming increasingly frequent. A number of examples were referred to:

(a) Email dated 20 May 2014 (enclosed at JTG 10 email 2 in the email schedule)

Councillor Taylor directed various allegations at the Planning Department and Lindsay Pearson. The email was copied to a large number of recipients including all Members of Borough Green Parish Council.

In the final paragraph Councillor Taylor stated:

> *"I realise Planners still don't really understand the concept of transparency, but surely you can see that the longer you withhold information, the less credibility it has. Whilst contemporaneous notes can still be 'fudged', they have a truth they don't have weeks later when eventually dragged into the light. This whole fiasco could have been averted had planners simply kept us up to date, as is our right. I am sure Martin is duly angry at yet another expensive FOI, but I have been forced to use them as a last resort to obtain withheld information. Hiding and with-holding this information merely reinforces my case that something dodgy is happening, and that you are covering it up."*

(b) Email dated 30 May 2014 (enclosed at JTG 10 email 3 in the email schedule)

Councillor Taylor accused the Council Leader, Chief Planning Officer, Director of Planning, Housing and Environmental Health, Chief Executive and Mr Stanfield of *"breaking the law".* The email was copied to a large number of recipients including Jennifer Wilson of the Environment Agency.

Later in the email Councillor Taylor stated:

> *"I am fairly secure, the websites are hosted overseas so cannot be reached by the British Courts, your Standards System does not have sanctions available, legal action against me would be welcome, but fruitless – I have no assets; and a cyber attack against the sites would definitely result in a media storm".*

(c) Email dated 12 June 2014 (enclosed at JTG 10 email 4 in the email schedule)

Councillor Taylor made allegations about the conduct of Lindsay Pearson and the Planning Department. The email was copied to a large number of recipients including Members of Borough Green Parish Council, Russell Dawkins of Crest and Jennifer Wilson of the Environment Agency. In the email Councillor Taylor made the following allegations:

> *"What angers me most is that the Obstruction Report was wilfully omitted from the FOI documents, by you."*

> *"It is now perfectly clear that the Planning Department has waged a concerted campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information"*
>
> *"The secrecy endemic in your department is not acceptable in this day and age "*

4.50 On 13 June 2014 Mr Stanfield wrote to Councillor Taylor, his fellow ward colleagues, the Clerk to Borough Green Parish Council and others to set out a summary of Counsel's advice which had been sought in view of allegations made by Councillor Taylor. Councillor Taylor immediately responded to that email with an email (enclosed at JTG 10 email 5 in the email schedule), which was copied to all Members of Borough Green Paris Council, that commenced:

> *"My first response to your email began with b, and ended cks."*

And concluded:

> *"Time and again we have demonstrated clear evidence of 'irregularities' your stock response is 'we don't see it that way', 'not our responsibility', you are misinformed'. I do accept that final failing, we are misinformed – by you.."*

4.51 The previous email was followed the next day by an email from Councillor Taylor (enclosed at JTG 10 email 6 in the email schedule), copied to all Members of the Council. The message was headed 'Adrian Stanfield' and stated:

> *"further to my email yesterday, I could not resist the opportunity to analyse Adrian's email/ Counsel's opinion in much greater detail, but I am afraid it is intended to mislead rather than inform."*

Mr Stanfield found this unacceptable as it inferred he was attempting to mislead Members of the Council.

4.52 Mr Stanfield stated that Councillor Taylor had also posted his thoughts on Counsel's opinion on the Borough Green News website, in addition to publishing Mr Stanfield's email the following statement was posted:

> *"UPDATE: in a most interesting development, I received this letter from DCLG, Eric Pickles office, that seems to support our view that T&MBC should be doing more to keep us informed about IQW. Completely unconnected, of course, I then receive this email from T&M's Solicitor, Adrian Stanfield, he seems worried that he has taken Counsel's advice to try and prove T&M are obeying the rules. Ever suspicious, I asked to see what question Adrian asked to get such a biased answer…Watch this space!!!* *(Adrian Stanfield's email without highlighting).* *Adrian has wasted £1625 of OUR money obtaining a flawed opinion, because he biased the question!!!"*

4.53 Mr Stanfield stated he then received an email from Councillor Taylor on 18 June 2014 (enclosed at JTG 10 email 10 in the email schedule) which was copied to all Members of Borough Green Parish Council. In the email Councillor Taylor suggested that the instructions to Counsel were biased and the opinion that resulted was 'manipulated'. Mr Stanfield found one paragraph of the email particularly offensive as Councillor Taylor sought to impugn his

integrity by accusing him directly of condoning an alleged unlawful act. The paragraph stated:

> *"I must also question your role in this affair, Adrian as someone whose duty is to advise the Council how to comply with the Law and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information. Before you say that priorities and work load prevented 'immediate responses', Lindsay and Steve could have used the many pages lecturing me on why I was wrong, simply to click 'forward' and release the information"*

4.54 Mr Stanfield stated that in the event he had already composed an email to Councillor Taylor to express concern about Councillor Taylor's continued accusations against officers. On the same day, 18 June 2014, Mr Stanfield, in his capacity as Monitoring Officer and the officer with responsibility for Information Rights, emailed Councillor Taylor (enclosed at JTG 10 email 8 in the email schedule) setting out his concerns, as the statutory officer responsible for ethical standards, regarding Councillor Taylor's unfounded personal attacks on officers. He invited Councillor Taylor to meet with him and the Chief Executive.

4.55 Mr Stanfield considered the request for a meeting with Councillor Taylor appropriate. He stated he could have pursued a formal complaint against Councillor Taylor under the Code of Conduct but did not consider that course of action would have been constructive. Mr Stanfield preferred to raise his concerns with Councillor Taylor as he would with any other councillor.

4.56 Mr Stanfield stated it was his experience that there was a positive relationship between members and officers at the Council. This relationship was underpinned by mutual trust, respect and courtesy with any differences of opinion between officer's professional advice and Members' opinion being resolved in an amicable and professional manner.

4.57 Mr Stanfield stated that Councillor Taylor agreed to meet with him and the Chief Executive although in doing so Councillor Taylor continued to make accusations against officers of the Council. In an email to Mr Stanfield dated 18 June 2014 Councillor Taylor stated (enclosed at JTG 10 email 10 in the email schedule) *"I have clear evidence of lies involving many senior officers".* The email was copied to all Members of the Council.

4.58 On 25 June 2104 Councillor Taylor emailed a Senior Planning Officer, Glenda Egerton, (enclosed at JTG 10 email 12 in the email schedule) in reply to her email earlier the same day in which she indicated that a copy of the Obstruction Survey was to be put in the post. In his email Councillor Taylor stated:

> *"Dear Glenda*
> *Very much appreciate, but do not bother. I already have the emailed pdf, and had an A2 printed yesterday. Save the postage and put it towards Adrian's collection to pay back the £1625 he paid for the flawed Opinion.*
> *Regards*
> *Mike"*

4.59 Mr Stanfield, together with the Chief Executive, met with Councillor Taylor on 27 June 2014. Also present were Councillor Mrs Kemp, Chairman of Area 2

Planning Committee, Pat Darby, Chairman of Platt Parish Council and Janet Shenton, a Committee Administrator.

4.60 Mr Stanfield stated that the 27 June meeting was not the only time he had met with Councillor Taylor since Councillor Taylor had been elected to the Council. An earlier meeting on 6 March 2014 had been to provide training for Councillor Taylor on predetermination and bias as Councillor Taylor had not been a Member when general training was provided. The Deputy Monitoring Officer was also present at this meeting. A further meeting was held on 9th May when Steve Humphrey was also present.

4.61 At this meeting Councillor Taylor presented Mr Humphrey with a copy of the 2014 Supplementary Parish Plan approved by Borough Green Parish Council. Councillor Taylor's concerns relating to compliance with conditions by Crest and legal advice taken by Borough Green Parish Council regarding the adoption of the Core Strategy were discussed. Mr Stanfield recalled that Councillor Taylor sought an apology from the Council for the irregularities he believed had occurred in the past. Mr Stanfield declined to give such apology. Mr Stanfield recalled saying to Councillor Taylor that he found his personal attacks on officers in his correspondence to be unacceptable, Councillor Taylor offered no apology in response.

4.62 Following the meeting of 9 May Mr Stanfield was copied into two items of correspondence from Councillor Taylor.

4.63 Mr Stanfield stated that on 30 June 2014 he observed a post on the Borough Green News website relating to the meeting with Councillor Taylor. Mr Stanfield found the post to be unacceptable in a number of respects. In the post an entire paragraph was devoted to assessing Mr Stanfield's competence as a Solicitor and accused him of using *'devious little tricks'* and concluded by saying *'in future I will not meet him without a witness present, I am too trusting by far!!'* Mr Stanfield regarded these comments as wholly unacceptable and offensive and a direct personal attack which impugned his integrity as a Solicitor of the Senior Courts.

4.64 Mr Stanfield stated that the post also included a 'report' of the meeting of 27 June which was not the agreed version of the minutes which later appeared on the website but rather Councillor Taylor's own account of the meeting. The link to the report was prefaced by the comment:

> *"I answered a summons to appear Friday before T&MBC's Chief Exec, Solicitor and Director of Planning. They thought it was for them to read me the riot act about my 'lack of respect' for Planning Officers. Yes THOSE Planning Officers, the ones who have been misleading and lying to us for the past 7 years"*

4.65 The post was later amended to add the following to the end *"So sad Steve couldn't make the meeting!"* Mr Stanfield took this to be a sarcastic comment about Mr Humphrey not being present.

4.66 Mr Stanfield concluded by stating that in his view Councillor Taylor's conduct had fallen below that expected of someone holding public office. Councillor Taylor had made a number of unjustified and provocative personal attacks on officers, and in doing so had copied these to a wide audience including publication on a website. The publication of such attacks only compounded their provocative and offensive nature.

Steve Humphrey

4.67 Mr Dolton conducted an interview with Steve Humphrey, which resulted in the signed statement attached at JTG 7.

4.68 Mr Humphrey is the Director of Planning, Housing and Environmental Health at the Council and had been a Director at the Council for 11 years. He is a member of the Corporate Management team with responsibility for a range of functions including the Council's town and country planning function. He is a Chartered Town Planner.

4.69 Mr Humphrey stated that in 2007 the site known as Isles Quarry West was identified for housing in the Council's Local Development Framework Core Strategy. The site was allocated to contribute towards meeting the housing need, including affordable homes, in the western part of the Borough. The site constituted previously developed land and was in accordance with the policy to make best use of 'brownfield' land.

4.70 In June 2011 a planning application for residential development on the site was submitted. Planning permission was granted in June 2013 subject to conditions covering many technical matters, one of these conditions required the submission and approval of a remediation strategy to deal with contaminated land. The condition used by the Council reflected previous 'model' conditions and followed convention and practice by planning authorities.

4.71 Mr Humphrey stated that as far as he was aware Councillor Taylor's involvement with Isles Quarry West stemmed from the mid 2000's as a Borough Green Parish Councillor during consideration of the site in the Local Development Framework process. He believed Councillor Taylor may have previously had personal association with the site over a much longer period. Councillor Taylor had expressed misgivings about how the site was referred to in the Borough Green Parish Plan and of irregularities he believed were in the final presentation of that Plan. Mr Humphrey understood Councillor Taylor felt that the LDF process and the Planning Inspector's decision was improperly influenced by that. His own view was that the Planning Inspector arrived at her judgement taking all planning matters into account and, whatever the circumstances with the Parish Plan, her decision was sound and properly made. There had been formal investigations into Councillor Taylor's concerns by various agencies all of which had concluded that no further action was warranted. As recently as September 2014 Councillor Taylor had sought an apology from the Council over the alleged irregularities in the process.

4.72 Mr Humphrey stated that more latterly Councillor Taylor had focussed his attention on various issues to do with the implementation of the development at Isles Quarry West with particular concern about land remediation. These matters were legitimate planning matters and, as far as Mr Humphrey was aware, were raised with good intentions. Mr Humphrey stated this aspect of Councillor Taylor's role as a Local Member providing his local observations had been helpful and constructive. However, on the issue of land remediation it seemed to Mr Humphrey that Councillor Taylor had not been able to accept the role of the Council as opposed to the responsibility of the developer, something Councillor Taylor had been advised on, on many occasions.

4.73 Mr Humphrey explained that aspects of the planning system could be misunderstood. This could become very frustrating to those with strongly held

views. Officers involved in the planning system came across this from time to time and were generally well practiced in dealing with the situation. Mr Humphrey said that this was his perspective of the situation here.

4.74 Mr Humphrey stated that as well as displaying frustrations Councillor Taylor's approach appeared to also be based on a belief that a number of Council Officers had conspired to mislead him or withhold information on the subject of remediation. This had led to accusations from Councillor Taylor in communications between him and officers which had been copied to others outside the Council. Mr Humphrey was concerned that the reputation of the Council and the planning service had been unjustly harmed.

4.75 Mr Humphrey stated that Council Officers had tried on many occasions to reassure Councillor Taylor on the approach to land remediation. This included taking advice of Counsel although this had not appeared to satisfy Councillor Taylor on the appropriateness of the Council's approach. Mr Humphrey said many meetings had taken place between Officers and Councillor Taylor where the issue was addressed. He referred to a meeting on 9 May which he recalled was to review progress and consider more constructive dialogue. This did not seem to move matters forward demonstrated by the content of an email from Councillor Taylor later that day (enclosed at JTG 10 email 1 in the email schedule).

4.76 Mr Humphrey explained that the development at Isles Quarry West was well underway and that there was continuing dialogue with the developer about various matters including progress on land remediation. This had included a meeting between Council Officers, representatives from Crest Nicholson and Councillor Taylor where a number of initiatives were agreed to provide Councillor Taylor with assurances about progress. These included programmed visits to the site by Councillor Taylor designed to replace his unauthorised and unaccompanied visits. Crest also agreed to the appointment of an independent consultant in addition to their own professional advisors. These matters were not a requirement of the planning permission but were seen as helpful by the developer in order to demonstrate good practice.

4.77 Mr Humphrey explained he was making these points for two contextual reasons. First, to emphasise that significant attention had been given to the issues raised by Councillor Taylor and second, that there was some way to go on the development and the process of validation of the remediation strategy. Mr Humphrey said Officers from his department including Lindsay Pearson, Glenda Egerton and Kirstie Parr continued to liaise with the developer and the Environment Agency to ensure works progressed in accordance with the planning permission.

4.78 Mr Humphrey stated that the approach by Councillor Taylor had not been appropriate for an elected Member of the Council insofar as unfounded allegations had been made irrespective of the rational explanations provided.

4.79 Mr Humphrey acknowledged that the substantive matters raised by Councillor Taylor were legitimate and that he understood Councillor Taylor's desire to pursue them. Mr Humphrey recognised the frustrations of the planning system and that these could give rise to tension and disagreement.

4.80 Where Mr Humphrey did take a more serious view was in the detail of particular contact Councillor Taylor had made. Mr Humphrey provided examples of emails from Councillor Taylor dated 12 June 2014 timed at 5.59

(enclosed at JTG 10 email 4 in the email schedule) and 4 July 2014 timed at 4.20 (enclosed at JTG 10 email 13 in the email schedule). He considered Councillor Taylor's comments, directed at Lindsay Pearson but copied to others to be beyond the limit which he would consider acceptable conduct between Members and Officers of the Council. Mr Humphrey considered this to be particularly so in the context of the general Member/Officer relationship at the Council that he had found to be excellent and respectful even on the infrequent occasions when differing views arose.

Lindsay Pearson

4.81 Mr Dolton conducted an interview with Lindsay Pearson, which resulted in the signed statement attached at JTG 8.

4.82 Mr Pearson stated he had been employed by the Council since 1989. He is currently the Chief Planning Officer, a position he had held since late 2009. Prior to that his role was as Chief Planner (Development Control).

4.83 Mr Pearson provided a summary of the history of a planning application at Isles Quarry in the parish of Borough Green explaining that the application was submitted in late 2011. The application was subject to extensive discussion, negotiation and amendment all carried out in the context of consultation and re-consultation with Borough Green Parish Council. During this process the Parish Council took a close interest in the project. Planning permission was granted in late 2013.

4.84 Mr Pearson explained that at the time of the consideration of the application Councillor Taylor was Chairman of the Parish Council but not a Member of the Borough Council.

4.85 Mr Pearson commented on his knowledge of Councillor Taylor's involvement on the project. He stated he was aware that Councillor Taylor had taken a close interest in the future of Isles Quarry West for many years. Mr Pearson explained that he was not responsible for the plan making function at the time the site was identified in the LDF Core Strategy. He was aware that Councillor Taylor, possibly initially as an individual prior to his membership of the Parish Council, sought to be engaged in the Local Development Framework process for allocating development sites. Mr Pearson believed Councillor Taylor gave evidence at one of the examination sessions.

4.86 Mr Pearson was aware that following the allocation of the site within the LDF Councillor Taylor pursued a number of avenues seeking to demonstrate that somehow the process leading to the adoption of the allocation had been inappropriate. Mr Pearson understood that no fault had been found by any organisation that was asked by Councillor Taylor to investigate his concerns.

4.87 Mr Pearson stated that judging by a recent meeting he attended with Councillor Taylor and others Councillor Taylor remained of the view that the investigations had not been comprehensive enough to have reached the right conclusion as he saw it. This position seemed to influence Councillor Taylor's wider attitude to the Council and especially the planning process.

4.88 Mr Pearson stated that Councillor Taylor had quite appropriately taken a close interest in the development of Isles Quarry through the planning applications process and that Councillor Taylor was fully entitled to take the interest forward as part of the construction process. Mr Pearson explained that dealing with contaminated materials, which was subject to planning control by

way of a typical planning condition, was an aim shared by Council Officers and Members alike and was the right thing to do.

4.89 Mr Pearson explained that there remained some difficulty as Councillor Taylor wished to see a different approach, a more continuously interventionist approach, than was envisaged in the planning process. Mr Pearson felt this was at the heart of the current tensions. He explained that in light of Councillor Taylor's concerns the Council took advice from legal Counsel who he understood advised that the Council's adopted approach was consistent with Government expectations. Mr Pearson believed that Councillor Taylor did not accept this advice and that Councillor Taylor believed in the application of processes not normally encountered as a matter of routine in the planning process.

4.90 Mr Pearson stated there was always the opportunity to debate the appropriateness of process but this must be done in the light of an accurate reading of Government guidance.

4.91 Mr Pearson explained that Councillor Taylor claimed an historic experience of the use of the site from when he was employed there and that Councillor Taylor had identified the informal deposit of waste and contamination from up to 40 years ago. A consequence of this is that Councillor Taylor had disputed almost all aspects of the technical documentation but not from a perspective of scientific or technical experience or training. Mr Pearson stated Councillor Taylor was within his rights to question things on a continual basis but explained it caused problems in that Councillor Taylor's obvious frustrations that Officers could not endorse his interpretation of the appropriate process or much of what he suggests in terms of actual contamination seemed to lead to some intemperate behaviour. Particularly in email exchanges and website postings which Mr Pearson stated he had chosen not to follow.

4.92 Mr Pearson stated that his face to face contact with Councillor Taylor in meetings, including those relating to Isles Quarry West, Planning Committees and Council Boards, had in his experience been reasonably civilised.

4.93 Mr Pearson stated that it was his view that it was not productive to generate a list of instances of what he felt might be less than appropriate wording of emails as he thought it commonplace for those disgruntled with matters, whether or not their concerns were justified, to express their views in quite intemperate terms. Mr Pearson stated often face to face discussion of the same matter would be more even-tempered.

4.94 Mr Pearson also pointed out that as a Town Planner with 40 years' experience, much of that at a senior level, he was used to attempting the reconciliation of incompatible views. Mr Pearson stated that in most planning cases there were those who considered themselves winners and those who felt like losers. He said losers seemed often to feel free to express their disappointment in no uncertain terms. Mr Pearson said that he supposed there were not many terms of abuse that had not been levelled at him at some time during his career. He said it went with the territory.

4.95 What Mr Pearson was not used to was such attitudes being expressed by elected Council Members whether at this Council or any other authorities where he had worked and certainly not in writing or broadcast through the internet.

4.96 Mr Pearson drew attention to one email dated 12 June (enclosed at JTG 10 email 4 in the email schedule) in which Councillor Taylor alleged that the officer corps, but possibly directed at Mr Pearson personally, had deliberately withheld a document that should have been released under a freedom of Information request. Mr Pearson found such a false allegation quite disturbing and offensive. Mr Pearson stated he could not begin to understand either how, or more importantly why, the Council or its Officers would wish to withhold information. Mr Pearson explained that the Council and Councillor Taylor have a shared interest in ensuring that the site was developed in a way that ensured that contamination was adequately dealt with but that they may have different perspectives as to what that concept implied.

4.97 Mr Pearson pointed out that the file of email and other documentation provided as evidence for the investigation indicated a clear tenor of correspondence from Councillor Taylor, predominately sarcastic and betraying a disbelief in any view on these matters, especially anything said by officers, other than that which coincided with the view that Councillor Taylor held.

4.98 Mr Pearson stated that he found this rather sad and disappointing rather than more offensive.

4.99 Mr Pearson stated that he did not think that Councillor Taylor had behaved as he would hope a Member would behave even if in a state of dispute with the Council and Officers. Mr Pearson said even if there is disagreement there is no place for sarcasm or misplaced allegations of misbehaviour.

4.100 Mr Pearson said that in his experience Member/Officer relationships at the Council were well balanced and strong. He explained that Members did not slavishly follow Officer advice or alternatively, that they actively and continuously sought to dispute such advice. Mr Pearson said there was mutual respect even when there was disagreement. Debate was conducted in a mature and adult fashion and Members recognised the professional background of the Officers. In Mr Pearson's experience there was a strength of agreement in the role of public service and this was reflected in Members' respect for senior and also more junior Officers. Mr Pearson stated that most of his planning staff would have contact with Members not infrequently.

Councillor Mike Taylor

4.101 Councillor Taylor was interviewed by Mr Dolton in person on 24 October 2014. The interview was voice recorded and a transcript prepared (enclosed at JTG 9). Councillor Taylor was given the opportunity to make comments on the transcript.

4.102 In the interview Councillor Taylor confirmed that he was a Member of Tonbridge and Malling Borough Council having been elected in January 2014 and Chairman of Borough Green Parish Council since 2011. He also confirmed that he understood the purpose of the interview.

4.103 Councillor Taylor explained that some of the remarks he had made could be interpreted as a breach of the code. However, the context of the last seven years of Isles Quarry and his inter relationship with planning officers and Members of the Council meant that it was part of a process. He felt that his meeting with the Chief Executive and Borough Solicitor where these concerns were raised was an attempt to intimidate him and silence him. When the Chief Executive and Borough Solicitor failed to take the threatened standards action

forward, as an honourable person, he referred himself for investigation. He considered if an allegation has been made it should be tested not swept under the carpet.

4.104 Councillor Taylor explained that until 1977 he worked for ARC and Stangate Quarry. He then became a tipper owner/driver working out of Stangate and Isles Quarry and other places explaining that he had an intimate knowledge of Isles Quarry and what was buried there.

4.105 In 2007 he became aware of advanced plans to include Isles Quarry in the Local Development Framework for the building of 200 plus houses. He attended a Local Development Framework enquiry in 2007 and sat in front of the inspector and across from the then Chief Planning Officer, Brian Gates.

4.106 He argued with Brian Gates at great length about contamination at Isles Quarry and then Brian Gates made a statement saying that the people of Borough Green supported housing development at Isles Quarry. Brian Gates produced a copy of the Parish Plan which Councillor Taylor said he found out later included references to support for development at Isles Quarry. Councillor Taylor said he had had a significant role in the production of the Plan and knew that the only reference to Isles Quarry in the Plan was as a derelict quarry in need of restoration.

4.107 Councillor Taylor said he then found out Borough Councillor Sue Murray, who was also Chair of the Parish Council, had taken the publicly witnessed Plan and inserted ten action points. Councillor Taylor said he was subsequently told by the Police who investigated the matter that the ten action points were drawn up by a planner. They were in what would loosely be referred to as “planner speak”. He suspected that a planner was involved with Councillor Murray in forging the Parish plan so he spent much time, through the Standards Board, the Ombudsman, the Planning Inspectorate and the Government Ombudsman, trying to get somebody to look at the process. He believed that the system was iron clad and that if somebody raised something that had gone wrong, the system would investigate. He said it (the system) had not, so we were left with 200 houses to be built at Isles Quarry.

4.108 Councillor Taylor said that in 2010 he lodged a complaint against the Council for their part in the matter. The complaint was heard by the now Chief Executive, Julie Beilby and the now Borough Solicitor Adrian Stanfield.

4.109 In the subsequent letter to him about the investigation, the then Chief Executive, David Hughes, cited Brian Gates as having said that the Parish Plan was not mentioned in front of the Inspector. Councillor Taylor then wrote complaining to every Member of the Council and every Senior Officer and Executive of the Council. A very honourable member of the Council anonymously sent him a copy of a briefing note sent by Steven Humphrey and Brian Gates to all Members of the Council wherein Brian Gates said Mike Taylor had ample opportunity to discuss the Parish Plan in front of the Inspector.

4.110 Councillor Taylor said these two statements were contradictory so he had evidence that a Senior Officer of the Council lied. He said this set the stage for his belief about the behaviour of Officers. He said he didn’t know if there was anything criminal behind what happened or whether it was just a question of colleagues covering up for what Brian Gates did wrong with Sue Murray.

4.111 He said he still did not know but he had found that since then information was withheld from him. He said that even though he was a Borough Councillor with access to all Council documents he had to resort to the Freedom of Information Act to achieve those documents and even then documents were withheld. He said there was clear evidence in all the paperwork that had been released over the last nine months of documents being withheld from him. He said they may be released after a month but the problem was they were dealing with a live construction site where every day they we re moving forward so the delays mean that contamination is not being dealt with properly at Isles Quarry.

4.112 Councillor Taylor then moved to late 2013 when they were waiting for the planning condition on contamination to be issued. About the 11, 12 or 13 November he was notified by residents that work had commenced at Isles Quarry before the planning permission had been issued. He went and checked and took photographs. There was major excavation underway and the buildings had been virtually demolished.

4.113 On contacting the Planning Department Councillor Taylor was told by Lindsay Pearson that it wasn't excavation, it was species related ecological investigation. He thought it was shortly after this that he made the b star, star, star cks comment. He said it was clearly untrue, you did not do ecological investigations with 20 ton diggers and 40 ton dump trucks and you did not dig massive holes.

4.114 On 21 December 2013 the Planning Officers issued planning permission by email under delegated powers so the contamination permission was never tested in a Planning Committee which is what we had asked for. Councillor Taylor said that since then he had pressed and pressed and pressed to ensure that the site was developed safely. He acknowledged he had spent several years trying to stop the site happening in the first place but once the permission was issued in March 2013 the focus changed. As it was going to happen it was now to ensure that it was done safely and he said he did not have any faith in the Officers' ability to keep Crest on the straight and narrow.

4.115 Councillor Taylor stated that on 7 March 2014 an emergency item was raised at an Area Planning Committee meeting about the contamination remediation at Isles Quarry. Members were assured by Planning Officers that everything was under control, there was no danger to public safety, future residents, the environment and the water system; they had a full handle on contamination remediation.

4.116 He said that at about the same time he received a large bundle of emails under Freedom of Information. These indicated that no Planning Officer had visited the site until 28 February 2014, bearing in mind work started in November 2013. Councillor Taylor said they had aerial photographs and the main contamination had been moved on 8 December 2013. The Scientific Officer for the Council responsible for contamination first visited the site on 28 February 2014 and had to ask for directions. Councillor Taylor said that clearly the Planning Officers were not exerting proper control over remediation on the site. He said that was vindicated by a recent email where the officers had finally capitulated and started asking to require Crest to remediate properly.

4.117 Councillor Taylor acknowledged that he was aware the current investigation was only looking into his conduct and admitted that he had gone as close to the line of breach of code as he could.

4.118 He said the only way he could get any response was to kick hard and keep kicking. He tried to be pleasant and build relationships and said if his relationship with Officers elsewhere at the Council and at Kent County Council were investigated it would be found that he was capable of building very strong friendly relationships for the benefit of his community. He stated he had been unable to develop that sort of relationship with Planning Officers because he believed they were hiding things from him and the only way was to kick and kick hard.

4.119 He went on to say he had a friendly relationship with Planning Officers on a face to face basis as he needed their help for the benefit of his community. He was not going to willingly breach the possibility of a good relationship but the Isles Quarry issue is so important to Borough Green as it was increasing the village by 10 percent and risking the water supply, the environment and the future residents' health.

4.120 Councillor Taylor acknowledged that there were emails to Officers that were robust but a lot of the time he was friendly to the Officers as he wanted a friendly relationship. He said he had found his dealings with the Planning Officers over many years to be friendly but if there were things that needed a more thorough response unless he was robust he got the fluffy planning speak answer. He was convinced that had he followed a course of action that an ordinary Councillor might take he would not have achieved what he had today.

4.121 In response to a question about an email dated 19 May 2014 from mike.truck to Steve Humphrey and Adrian Stanfield, Councillor Taylor acknowledged that he was the sender of the email. He also confirmed that it had been sent to quite a wide circulation including members of Borough Green Parish Council.

4.122 Councillor Taylor confirmed that in the email he referred to *'you lot in the developer's pocket'* by that he was meaning that Development Control implied ensuring the developer complies with the terms of planning conditions. If the developer was not complying and the Planning Department did not take them to task it indicated an unhealthy relationship between the planner and the developer. He explained that what he meant was that the planner was there to assist the developer and if the developer was crooked it followed that the planners were. He stated that he did not believe there were any financial implications in the relationship.

4.123 Councillor Taylor went on to explain that the public saw planners as ensuring development was carried out properly but the planners did not see it that way. The planners saw their role as persuading the developer to do things right and draw back from enforcement more than the public realised. He said development control was not a very good term; perhaps it should be development persuasion.

4.124 Councillor Taylor stated he could not know how others would view his comment that the planners were in the developer's pocket and said if they needed clarification they could ask him. He said his comment made the statement even more robust than he actually intended and in a sense that was to the good. Councillor Taylor acknowledged that it was feasible that copying the message to Members of the Parish Council could be viewed as him questioning the integrity of Senior Officers and therefore questioning the repute of the authority. He confirmed he was questioning the integrity of the Officers.

4.125 Councillor Taylor also confirmed that an email dated 20 May 2014 was sent by him to Lindsay Pearson and Steve Humphrey and copied to Members of the Parish Council (enclosed at JTG 10 email 2 in the email schedule). In the email he stated he had been forced to use a Freedom of Information request and stated *"hiding and withholding information merely reinforces my case that something dodgy is happening".* He explained that he had asked for every possible mortal item of information and that Lindsay Pearson had released a big block of emails in response. In one of the emails released there was an attachment called 002 obstruction report. This was a report given to the Planning Department by Crest Nicholson itemising all the material removed from the site during the first few days. He asked why he had not received the attachment as it was clearly part of the Freedom of Information request as it was attached to the email. As it was not released to him Councillor Taylor stated that it means they were hiding it from him; that was withholding.

4.126 Councillor Taylor considered his comments appropriate as he had asked for the information and it had been deliberately withheld. He said he was at the end of his tether and he used words that were on the line.

4.127 The next email was dated 30 May 2014 sent by Councillor Taylor to the Leader of the Council and the Chief Executive and copied to Senior Officers and Jennifer Wilson of the Environment Agency (enclosed at JTG 10 email 3 in the email schedule) Councillor Taylor confirmed that the message was addressed *"Dear all"* and in the email he stated *"So you are breaking the law"*. By this he was referring to the Freedom of Information Act and that not all of the documents requested had been sent to him; The Act was the law therefore he considered the comment entirely appropriate.

4.128 Councillor Taylor confirmed that a further email was addressed personally to Lindsay Pearson and was copied to others including the Parish Council. He also confirmed that in the email he stated *"the obstruction report was wilfully omitted from the FOI documents by you"* and that this was a direct reference to Lindsay Pearson. He accepted that it might have been a lowly clerk in the Planning Department who actually printed the emails, punched holes in them, put the tag through them and put them in an envelope but they were sent on behalf of Lindsay and it was Lindsay who wrote the email saying they had been posted.

4.129 Councillor Taylor accepted that in the email he also stated *"it is now perfectly clear that the planning department has ways to concert and campaign missing information, lies and deception, and deliberately withheld information".* He acknowledged that he was saying the Planning Department and the Council partakes in lies and deception and that this could be seen as an attack on the repute and integrity of that department.

4.130 Councillor Taylor considered his comments appropriate as information was deliberately withheld from him. The Officers had lied whoever formulated the lie. He considered it appropriate to copy the email outside the Council because people have a right to know what is being done on their behalf. The Council was elected by the people and Council Officers were employed to serve the people of the Borough. *"They are employed by us to do what we want them to do."*

4.131 Councillor Taylor confirmed that an email dated 13 June 2014 was sent by him to Adrian Stanfield (enclosed at JTG 10 email 5 in the email schedule). In the email he began by stating *"my first response to your email began with b*

and ended with cks". He explained that he considered the comment appropriate as if somebody sent him an email which was bollocks he would call it bollocks but that it was done politely.

4.132 Councillor Taylor further explained that his response was to an email from Adrian Stanfield which had selectively quoted Counsel's opinion. He stated he had used the word selectively as the Counsel's Opinion reinforced his opinion that the Council had a responsibility to monitor remediation at Isles Quarry.

4.133 Councillor Taylor stated Adrian deliberately submitted a question to Counsel to lead Counsel's answer by inferring that he wanted continuous monitoring. Counsel responded saying continuous monitoring was not appropriate which Councillor Taylor said he agreed with. What Councillor Taylor was asking for was occasional monitoring so he stated that the way Mr Stanfield had phrased the question to Counsel and the way he had interpreted Counsel's opinion back to Members was "*bollocks"*.

4.134 Also in the same email Councillor Taylor confirmed that the comment *"we are misinformed by you"* was directed to Adrian Stanfield. He considered this an appropriate comment to make in an open email as he believed in transparency. By explanation Councillor Taylor stated that if he had done something wrong he was quite happy for it to be widely circulated pointing out that every member of the Council and the Parish Council knew of the standards complaint against him. He said he thought he had even spoken to the press about the complaint.

4.135 Councillor Taylor confirmed that an email dated 14 June 2014 was sent by him to all Members of the Council (enclosed at JTG 10 email 6 in the email schedule), the subject of the email was headed *"Adrian Stanfield".* Councillor Taylor stated that the purpose of the email was to inform all the Council Members what Officers are doing on their behalf hence the comment *"but I'm afraid it is intended to mislead*". Councillor Taylor acknowledged the comments directly challenged the integrity of the Senior Solicitor and that in turn would have an effect on the repute of the Council. Councillor Taylor went on to explain that it was not his email that brought the Council into disrepute; it was the actions of the Chief Solicitor that had done that.

4.136 Councillor Taylor confirmed that two emails dated 18 June 2014 were sent by him, the first headed *"Counsel's Opinion release of documents"* (enclosed at JTG 10 email 7 in the email schedule) which was personally addressed to Adrian Stanfield and copied to others including the Parish Council Members. In the email Councillor Taylor stated *"I must also question your role in this affair Adrian as someone whose duty is to advise the Council how to comply with both the law and the Council's laws"*.

4.137 Councillor Taylor confirmed this was a direct challenge of Adrian Stanfield's integrity as he believed Adrian was at fault. Councillor Taylor believed it was correct to challenge Adrian Stanfield in a widely circulated email as he believed in transparency and the recipients had a right to know what was being discussed. As Council Members, Parish Councillors and members of the public they had a right to know that he believed that the evidence showed that Adrian Stanfield had not carried out his job properly.

4.138 In a second email to Adrian Stanfield on the 18th June which was also copied to others Councillor Taylor stated *"I have clear evidence of lies involving many senior officers".* Councillor Taylor said it was appropriate to put that in an email as letters in 2010 and a subsequent briefing were directly contradictory

so there was a lie. He stated other Senior Officers had condoned that lie and there was an email trail that indicated the Senior Officers involved in the lie. He stated the short statement could be an over clarification, an over simplification.

4.139 Councillor Taylor confirmed that he sent an email to Glenda Egerton on 25 June 2014 (enclosed at JTG 10 email 12 in the email schedule). In the email he made a humorous dig at Adrian Stanfield in a comment about the cost of the Counsel's Opinion. The comment was in response to an offer to send Councillor Taylor some documents he said *"save the postage and put it towards Adrian's collection to pay back the £1,625 he paid for the flawed opinion"*. Councillor Taylor said this was not an insult towards Glenda Egerton but a colleague based humorous comment.

4.140 Councillor Taylor confirmed that he attended a meeting on 27 June 2014 at which Adrian Stanfield, Julie Beilby, Councillor Mrs Kemp and Councillor Darby were also present. Councillor Taylor believed the purpose of the meeting was to try to intimidate him into silence. He said he tried to steer the meeting towards the behaviour of the Council with regard to Isles Quarry and why that had generated the things Adrian Stanfield was concerned about. Councillor Taylor confirmed that the minutes of that meeting were an accurate record and could be attached to this report as evidence (attached at JTG 11).

4.141 Councillor Taylor explained that he thought there was a very good relationship between Officers and Members at the Council and pointed out that he had stated at the meeting on 27 June that he thought *"Tonbridge and Malling are a bloody good Council except for this one flaw".* He said that he hoped there was a good relationship between him and Officers and other Members on anything apart from Isles Quarry.

4.142 Councillor Taylor confirmed that the website 'Borough Green News' was his own personal website. It was paid for by him and was hosted in America so the Council could not do anything about it. He confirmed that he was the only one who could post items on to the website but there was a guest book for others to leave comments.

4.143 Councillor Taylor confirmed that he published an email dated 13 June on the website and in that email he stated *"A Stanfield is the Council's solicitor and he has wasted money obtaining a flawed opinion because he biased the question"*. He explained that whilst the website was accessible worldwide only the people of Borough Green read it. He considered it appropriate to post the email on the website as it did not contain anything he had not said directly to Adrian Stanfield. He also believed that the waste of public money is a matter that the public should know about. A print out from the website is attached at JTG 12.

4.144 Councillor Taylor also confirmed that he posted on the website a reference to the meeting held on 27 June and that in the post he referred to A Stanfield using his little devious tricks and that in future he would not meet Adrian Stanfield without a witness being present. Councillor Taylor considered these comments appropriate on that forum as the public had a need to know how the Members they elect and the Officers they employ are behaving and if that behaviour is wrong, people need to know. Councillor Taylor also confirmed that the same post referred to Planning Officers saying *"the ones who have been misleading us for the past seven years".* A print out from the website is attached at JTG 12.

4.145 Councillor Taylor explained that the purpose of the website was to inform the public if employees or elected members are guilty. He said he was also aware that Officers and Members read the website so it gives them a second prick at their conscience.

4.146 Councillor Taylor considered that having gone through all the emails and other documents he had not been as bad as he first thought. He went on to state that he was angry at the time and there was nothing there that he would not say again today.

4.147 Councillor Taylor confirmed that he was aware of the Code of Conduct and the particular sections relevant to the allegations made. He believed that he had maintained a high standard of conduct and had acted with integrity. He did not consider he had bullied any Officer particularly as he believed he had no authority over the Officers. He believed they had authority over him referring to the increase in the size of the village where he lived. Councillor Taylor believed it was the Officers who had brought the Council into disrepute.

5. Summary of the material facts

5.1 Councillor Mike Taylor is an elected Member of Tonbridge and Malling Borough Council.

5.2 The Borough Council has adopted a Code of Conduct that includes provisions for its Members to act in accordance with the Nolan Principles, of particular reference in this case to show leadership. The code also states that its Members should not bully any individual and should not act in a manner that might bring the Members Office or the authority in to disrepute.

5.3 Councillor Taylor represents the Borough Green and Long Mill Ward on the Council. Within the ward lies an area known as Isles Quarry West. Planning permission has been granted for housing development at Isles Quarry West.

5.4 Councillor Taylor has a long standing association with Isles Quarry having worked as a haulage contractor operating out of the quarry and also by virtue of his residence in the area. Councillor Taylor has taken a close interest in the site since the commencement of consideration of the area as a potential development site.

5.5 For some time Councillor Taylor has been of the opinion that the designation of the site for development was not properly considered. He has made a number of complaints about the process and other matters relating to the development of the site.

5.6 After Councillor Taylor's election to the Borough Council in January 2014 he took up his concerns over the development in his capacity as the ward Councillor for the area. This involved numerous emails between him and various Officers of the Council.

5.7 During May and June 2014 some of the emails sent by Councillor Taylor to Officers and Members of the Council, which were also copied widely outside of the Borough Council, caused concern to the Officers.

5.8 These emails included references to:-

Officers being in the developers pocket;
Officers lying and misleading Members;
Officers wasting public funds; and
Officers not carrying out their duties properly.

Some of the above allegations were also posted on an open website.

5.9 Councillor Taylor was invited to a meeting with Senior Officers of the Council the purpose of which was to discuss his behaviour. At the meeting Councillor Taylor continued to pursue his complaints regarding Isles Quarry West. Following the meeting Councillor Taylor referred himself for investigation in relation to the issues raised regarding his behaviour.

6. Councillor Taylor's additional submissions

6.1 The following comments were received from Councillor Taylor on the draft version of this report:-

7. Reasoning as to whether there have been failures

Official Capacity

7.1 The first issue to consider is whether, at the time of the alleged incidents, Councillor Taylor was acting in his official capacity as a Borough Councillor. I am mindful that all of the email correspondence referred to was sent from a private email account; that is 'mike.truck@btconnect.com'. Each email was 'signed' Mike. Notwithstanding this, having given careful consideration to the subject matter, the recipients of the emails and Councillor Taylor's references to acting as the representative of his community, I am satisfied Councillor Taylor was acting in his official capacity. I also had regard to the email dated 30 May 2014 in which Councillor Taylor states "……I used FOI and not just my right as a Councillor……" thus indicating that he was using his position as a Councillor to seek the information which has been the focus of these incidents.

7.2 I have also considered the status of Borough Green News and the posts on that website. First, the website itself has no indication of being an official site for either the Council or any individual Councillor. It clearly states the site is "funded and operated by Mike Taylor as a public service to residents". However, I have also considered the individual items posted on the site that have been referred to, these make references to Councillor Taylor's activity as a Councillor. In addition the posts on the website include and/or make reference to some of the emails referred to above and therefore, on balance, I conclude that it is reasonable to believe Councillor Taylor was acting in an official capacity when he published those items on the website.

7.3 Of more significance I have considered Councillor Taylor's conduct following the meeting held on 27 June. There is no doubt that Councillor Taylor's attendance at that meeting was in his official capacity as an elected Member of the Borough Council. It therefore follows that anything emanating from that meeting was entirely due to Councillor Taylor's position as a Councillor. I therefore conclude that the emails and web postings relating to that meeting were actions carried out by Councillor Taylor in and associated with his position as a Borough Councillor.

7.4 I therefore conclude that Councillor Taylor was acting in his official capacity as a Borough Councillor in the matters subject to consideration by this investigation and therefore subject to that Council's Code of Conduct.

Disrepute

7.5 The Council's code of conduct requires that members must promote and support high standards of conduct when serving in their public posts by leadership and example. Whilst this is a somewhat aspirational requirement, I consider that one of the important aspects of leadership would be maintaining the integrity of the Council. As such it is relevant to consider how any allegation of misconduct might impact on the reputation of the Council. I have therefore considered guidance issued by the then Standards Board for England (SfE). Question 43 on page 66 of the Case Review 2010 (2011 Edition) published by SfE advises that disrepute is:-

> *"….a lack of good reputation or respectability.*
> *In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either:*

1) Reducing the public's confidence in that member being able to fulfil their role; or

2) Adversely affecting the reputation of members generally, in being able to fulfil their role."

7.6 Q44 on the next page of the Case Review 2010 advises that:-

"An officer carrying out an investigation…does not need to prove that a member's actions have actually diminished public confidence, or harmed the reputation of the authority…the test is whether or not a members' conduct "could reasonably be regarded" as having these effects.

The test is objective and does not rely on any one individual's perception. There will be a range of opinions that a reasonable person could have towards the conduct in question."

7.7 Q42 on page 66 of the Case Review indicates that:-

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

7.8 In applying the Code to the circumstances of an alleged breach of disrepute, it is established that it is not necessary for the member's actions to have actually diminished public confidence, or harmed the reputation of the authority. The test is whether or not the conduct could 'reasonably be regarded' as having these effects. However, the conduct must be sufficient to damage the reputation of the member's office or the Council, not just the reputation of Councillor Taylor as an individual.

7.9 In this case, there have been a number of issues drawn to my attention during the course of this investigation. I have considered each in detail, the first being an email sent at 12.16 on 20 May 2014. In the email Councillor Taylor states:-

"I realise Planners still don't really understand the concept of transparency, but surely you can see that the longer you withhold information, the less credibility it has. Whilst contemporaneous notes can still be 'fudged', they have a truth they don't have weeks later when eventually dragged into the light. This whole fiasco could have been averted had planners simply kept us up to date, as is our right. I am sure Martin is duly angry at yet another expensive FOI, but I have been forced to use them as a last resort to obtain withheld information. Hiding and with-holding this information merely reinforces my case that something dodgy is happening, and that you are covering it up."

During interview Councillor Taylor acknowledged that he used words that were "*on the line"*. I have carefully considered the wording and the fact that the email was copied to others outside the Borough Council. My conclusion is that on this occasion, whilst the comments were unjustified and unwise Councillor Taylor may have just stayed on the correct side of 'the line'.

7.10 In a further email sent at 13.00 on 30 May 2014 Councillor Taylor's allegations become more robust. Councillor Taylor, in interview, confirmed that the email was copied to others outside the Borough Council including all Members of the Borough Green Parish Council and an employee at the Environment Agency. In the email Councillor Taylor states:-

> *"So you are breaking the law, which is precisely why I used FOI and not just my right as a Councillor to require sight of the evidence".*

This is an allegation that the recipients, Nicolas Heslop, Julie Beilby and Adrian Stanfield, were guilty of breaking the law.

7.11 Councillor Taylor sent another email on 12 June at 17.59 this was addressed personally to Lindsay Pearson but was also copied to Members of the Borough Green Parish Council. The email is quite lengthy and includes some specific allegations, these include:-

> *"What angers me most is that the Obstruction report was willfully omitted from the FOI documents, by you, and would have answered a lot of my questions without weeks of emails, threats, speeches and questions.."*

> *"It is now perfectly clear that the Planning Department has waged a campaign of misinformation, lies, deception and unnecessary secrecy. You have deliberately withheld information"*

During interview Councillor Taylor acknowledged that these comments could be seen as an attack on the repute and integrity of the Planning Department.

7.12 Following further emails between Councillor Taylor and Officers at the Council, Councillor Taylor sent an email at 17.02 on 13 June 2014 to Adrian Stanfield and Hazel Damiral, this email was also copied to others. The email commenced:-

> *"Adrian; a big email form(sic) TMBC, it must be Friday evening again. My first response to your email began with b, and ended cks.*

In interview Councillor Taylor confirmed that the comment was directed at Adrian Stanfield

7.13 Councillor Taylor sent an email to all Members of the Borough Council at 16.07 on 14 June 2014, the email was copied to Adrian Stanfield. In the email Councillor Taylor stated:

> *"… but I'm afraid it is intended to mislead"*

During interview Councillor Taylor acknowledged that his comments were challenging the integrity of Adrian Stanfield and that this could have an effect on the repute of the Council.

7.14 A Further email was sent by Councillor Taylor at 14.29 on 18 June 2014, this was addressed to Adrian Stanfield and Nicolas Heslop and copied to others including members of Borough Green Parish Council. The email commenced Dear Adrian and the penultimate paragraph stated:-

> *"I must also question your role in this affair, Adrian: as someone whose duty is to advise the Council how to comply with both the Law*

and the Council's own rules, I cannot understand how you have countenanced and condoned the withholding of information."

7.15 Later, on 18 June 2014 at 19.07, Councillor Taylor sent an email to Adrian Stanfield and copied to other Senior Officers. In the email Councillor Taylor states:

"I have clear evidence of lies involving many senior officers"

7.16 Taken in isolation like the first email referred to above some of these messages could be considered to be very close to the line. However, when direct personal allegations are made in communications that are distributed widely the intent and purpose must be questioned. Councillor Taylor continually acknowledged that his comments could be construed as an attack on the integrity of Officers and the Council and that this could affect the repute of the Council. I have no hesitation in agreeing with Councillor Taylor and have concluded that allegations he made about Officers lying, wilfully withholding information and misleading him were not appropriate and could reasonably be regarded as bringing the authority in to disrepute.

7.17 I have also considered the content of the posts on the Borough Green News website, in particular the post which referred to the meeting Councillor Taylor attended on 27 June 2014. In the post Councillor Taylor refers to Adrian Stanfield accusing him of using devious little tricks. The post also refers to Planning Officers stating 'Yes those Planning Officers, the ones who have been misleading and lying to us for the past 7 years.'

7.18 For the reasons set out in paragraph 7.18 above I also consider these comments to reasonably be regarded as bringing the authority in to disrepute. However, the potential impact of these comments is seriously compounded by the fact that the circulation was not limited to named individuals but posted on the internet with unlimited world wide access.

7.19 In reaching that conclusion, I have also had regard to Article 10 of the European Convention on Human Rights, which declares that everyone has the right to freedom of expression, including the right to hold opinions and to receive and impart information and ideas without interference by public authority. Though the exercise of such freedoms may be subject to legal restrictions those restrictions should only be what are strictly necessary. Comments on political matters or those of wider public interest should be accorded a very high degree of protection unless they amount to mere personal abuse. In this case I consider Councillor Taylor's comments went beyond that which is acceptable and included personal abuse of Officers of the Council.

Bulllying

7.20 Bullying and intimidation is referred to in the Standards Board Guidance on the Code issued in May 2007. It states on page 9 of the Guidance that:-

"Bullying may be characterized as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with legitimate challenges which a member can make in challenging policy or scrutinizing performance."

7.21 There are two factors to consider in this case, first whether Councillor Taylor's behaviour was offensive, intimidating, malicious, insulting or humiliating. If it is considered that the behaviour falls into one or more of those categories then we must determine whether it was directed at a weaker person or a person over whom Councillor Taylor had an actual or perceived influence.

7.22 Having considered the content of the emails referred to throughout this report it is clear that some of the comments are offensive, insulting and humiliating. Publicly calling a person a liar and questioning an individual's competence in their job is all of these and appears to be intended to humiliate them by circulating those comments to other individuals.

7.23 I therefore conclude that the emails circulated by Councillor Taylor and the posts on his website included comments that were humiliating, insulting, intimidating and offensive.

7.24 Were these comments directed at individuals or groups of individuals who were weaker or who Councillor Taylor had an actual or perceived influence over? Councillor Taylor is a Member of the Borough Council that employs the Officers who have been subject to the comments in his emails. As such he is a representative of the employer. This is a fact which he referred to in interview when he stated *"They're not a company set up to do their own thing. They are employed by us to do what we want them to do."* I agree with Councillor Taylor that it is reasonable to hold the view that Councillors have an influence over the Officers employed by their authority. It therefore follows that I conclude Councillor Taylor did have an actual or perceived influence over those individuals who were subject to the comments in his emails and web site posts.

7.25 I therefore conclude that Councillor Taylor's comments could be considered to be bullying of the Officers of the Council who were the subject of his humiliating, insulting, intimidating and offensive comments. I have concluded that this is a breach of the Code of Conduct

Conclusion

7.26 Councillor Taylor clearly had concerns about the issues relating to the development of Isles Quarry West. It was reasonable for Councillor Taylor to raise these concerns through the appropriate channels both within the Council and with other organisations. It is also clear that when Councillor Taylor raised his concerns both within the Council and externally he did not receive the answers he wanted. At this point he adopted the practice of sending numerous emails most of which were copied widely to other Councillors, Parish Councillors and individuals outside the authorities. These emails contained comments which in Councillor Taylor's words were "as close to the mark" as he thought acceptable.

7.27 As explained above it is my conclusion that Councillor Taylor's judgement was flawed and in fact the comments far exceeded what might be regarded as acceptable even taking in to account Councillor Taylor's frustrations. The nature of Councillor Taylor's comments are further exacerbated by the fact that the comments were widely circulated in emails and posted on a website.

The circulation of these comments to such a wide audience was disproportionate and unnecessary.

7.28 I have concluded that the comments made by Councillor Taylor showed a lack of good leadership as they were intended to belittle, insult and humiliate the Officers concerned. Such comments could reasonably be regarded as likely to bring the authority into disrepute. These comments also constitute a form of bullying both by their content and the fact that they were circulated to other individuals.

7.29 I therefore consider that Councillor Taylor **has** failed to comply with the Council's code of conduct in respect of the complaint.

8. Finding

8.1 My finding is that there has been a failure to comply with the code of conduct of the authority concerned.

Jonathan Goolden
Solicitor
Nominated person

2015