

ARUN DISTRICT COUNCIL
ASSESSMENT PANEL – 6 FEBRUARY 2019

DECISION NOTICE - COMPLAINT 6
NICOLA SWANN

Subject Member	Councillor Richard Bower
Representing	Arun District Council
Assessment Panel Members	Councillor Paul English (Chairman) Councillor Ann Rapnik Councillor Dr James Walsh Councillor Robert Wheal John Thompson – Independent Person

Summary of Complaint

The complaint related to the Subject Member's conduct when they were acting as Chairman of the meeting of the Development Control Committee held on 24 October 2018.

The Complainant alleged that the Subject Member failed to contribute to making the authority's decision-making processes as open and transparent as possible; failed to behave in accordance with legal obligations; and failed to value and respect colleagues.

How the Code of Conduct applies to this complaint

As required by the Localism Act 2011, Arun District Council has adopted a Members' Code of Conduct and required each councillor to sign up to this Code. This Code was last reviewed by the District Council on 8 November 2017.

The assessment of this complaint was reviewed against the Members' Code of Conduct for Arun District Councillors. It was confirmed that the Subject Member had made a declaration to comply with the latest version of the Members' Code of Conduct on 30 November 2017.

The membership of the Assessment Panel was selected to avoid any conflict of interest from involvement with the meeting of the Development Control Committee on 24 October 2018 or the Pagham ward.

The Panel's Decision

The Complainant had highlighted four paragraphs within their complaint that they believed demonstrated that there had been a breach of the Members' Code of Conduct by the Subject Member. The Panel noted that the Complainant was unable to attend the hearing and had provided further comments which they wished to see addressed in their absence. Having taken account of the information provided, the

Panel agreed that the hearing should proceed.

The Panel considered the report of the Investigating Officer, the comments put forward by the Complainant and then heard statements from the Subject Member. They also considered written witness statements provided by the Subject Member from two members of the Development Control Committee which were circulated at the hearing.

Having reviewed all the evidence presented, the Panel recognised the strength of public feeling in the business before the Development Control Committee on 24 October 2018, demonstrated by the high level of public attendance at the meeting. They acknowledged that this had made this a difficult meeting for the Subject Member to chair and noted from a verbal statement made by him that he had not had to deal with anything similar before. They concluded from all the evidence presented that this had led to a contentious meeting with a public gallery that was very vocal at times.

The Panel's decision on each of the four paragraphs is set out below:

Paragraph 7 - Contribute to making their authority's decision-making processes as open and transparent as possible and Paragraph 8 – Behave in accordance with legal obligations

<i>Decision</i>	Breach in part
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. Having appreciated that the Complainant's comments were based on their personal opinion and observations of the meeting, the Panel found no evidence to support their view of the conduct of the Subject Member at this meeting in terms of the voting procedure at the meeting. 2. The Panel found that the minutes of the meeting on 24 October 2018 confirmed that the voting process on the second planning application followed the rules of the Council's Constitution. These minutes, that were subsequently approved as a correct record on 12 December 2018, also confirmed the basis for the adjournment of the meeting. 3. However, the Panel did find that the Subject Member had not followed the Council's Constitution in adjourning the meeting on 24 October 2018. The approved minutes confirmed that the meeting was adjourned as the Committee was unable to make progress. The rules of the Council's Constitution confirm that a motion to adjourn a meeting, unless due to a public disturbance, requires a proposer and seconder to move such a request and for this motion to be put to a vote by the Committee. Based on the wording in the approved minutes, the Subject Member did not have authority to adjourn the meeting as he chose to do on 24 October 2018.

	<p>4. Whilst the Panel accepted that this had been a difficult meeting for the Subject Member to chair and that he believed he had authority to adjourn the meeting, they found no evidence that he had taken advice before taking the decision to adjourn the meeting.</p> <p>5. On this basis, the Panel determined that the Subject Member had breached paragraph 2.1(7) and 2.1(8) of the Members' Code of Conduct in relation to his conduct in adjourning the meeting.</p>
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Paragraph 9 - Value their colleagues and Paragraph 10 – Always treat people with respect	
<i>Decision</i>	No breach
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. Having appreciated that the Complainant's comments were based on their personal opinion and observations of the meeting, the Panel found no evidence to support their view of the conduct of the Subject Member at this meeting. 2. The Panel noted that the Subject Member had acknowledged that he may have let some irritation show as it was a long meeting. They also noted the statement made by an officer present at the meeting that some members of the public did not respect the requests that the Chairman made, in his role as Chairman, to cease their interruptions at the meeting. 3. The Panel found that the Subject Member, in his role as Chairman of the Committee, had authority to adjourn the meeting where a disturbance by the public made orderly business impossible under the Council's Constitution and did give a warning to the public gallery that he would take action if they did not cease their interruptions of the meeting. Further, the Subject Member had confirmed that he had needed to raise his voice to make such announcements as the microphone system was not working properly on the day of the meeting and at times he needed to make himself heard over the noise from the public gallery. 4. The Panel also accepted that this had been a difficult meeting for the Subject Member to chair and that he had acknowledged that he may have caused offence by a remark made at the meeting by making a public apology at the reconvened meeting on 13 November 2018. 5. The Panel found that no complaints had been received from any other member sitting on the Committee that they felt intimidated by the Subject Member's conduct at the meeting. 6. As the Panel had already taken a decision on the Chairman's authority to adjourn the meeting as confirmed under paragraphs 7 and 8, they did not did

	<p>not reconsider this under these paragraphs.</p> <p>7. On this basis, the Panel determined that the Subject Member had not breached paragraph 2.1(9) and 2.1(10) of the Members' Code of Conduct.</p>
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Sanctions to be recommended to Arun District Council

Based on their findings from this assessment, the Panel have recommended the following two sanctions:

1. In addition to the arrangements for publication of the decision notice in the Local Assessment Procedure, this should also be provided directly to the Leader of the Conservative Group so they can see the conclusions and findings drawn from the assessment.
2. The Subject Member should be provided with a copy of the Committee Procedure Rules from the Council's Constitution for review to ensure he is fully aware of the procedural requirements at meetings of the Development Control Committee. Further, the Subject Member should be asked to provide written confirmation to the Leader of the Conservative Group and the Monitoring Officer of his understanding of these requirements.

Reviewing lessons learnt from comments made by the Complainant, the Panel also believe that clearer information needs to be provided to members of public attending meetings of the Development Control Committee to understand the Council's planning obligations and how the meeting will operate. They therefore recommend:

1. The Group Head of Planning be requested to explore the introduction of an information guide that confirms the requirements of the Local Plan for strategic sites and how the planning process for determining planning applications works within this by publicising this guide on the Council's website and making it available as a handout at meetings of the Committee.
2. The Group Head of Planning, in consultation with the Monitoring Officer, be requested to explore the introduction of a simple guide that explains how the voting process works at the Development Control Committee and what the expectations are from Members presenting alternative proposals to the officer recommendation about valid planning reasons, for example what considerations there are in proposing reasons for refusal of an application.
3. The Group Head of Planning, in consultation with the Monitoring Officer, be requested to create a notice that covers expectations of the public's conduct at meetings, for example what happens if there is a public disturbance or interruption from the public gallery, so this can be available to view throughout the meeting and not just as part of the Chairman's introduction at the start of the meeting.

Publication of the Decision

1. Following the review period, the decision of the Panel will be published to Arun District Council's website for a period of 3 months.
2. The Panel's decision will be reported to the next meeting of the Standards Committee.