

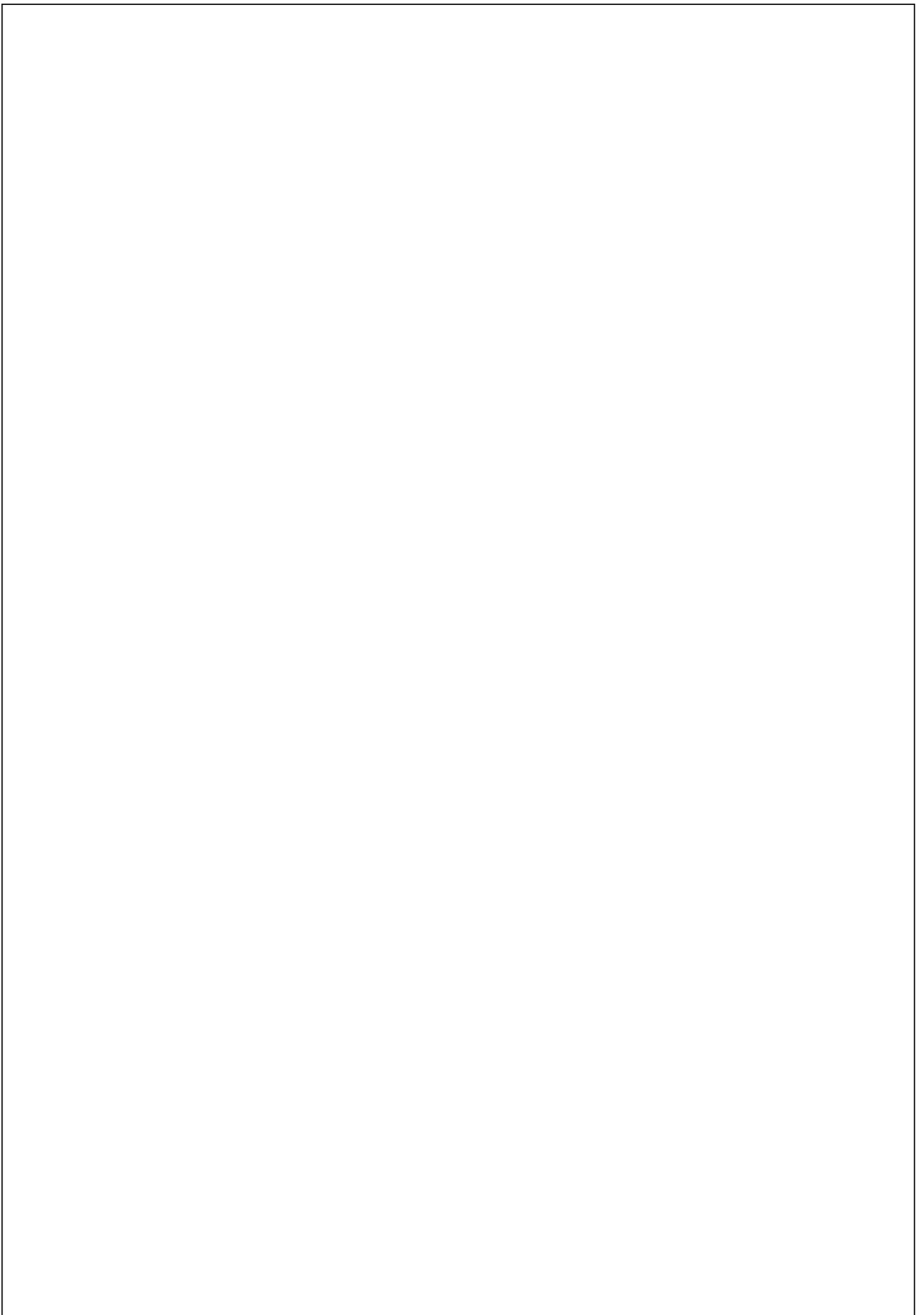


Brighton & Hove
City Council

Standards Panel

Title:	Standards Panel
Date:	8 November 2012
Time:	10.00am
Venue	Committee Room 1, Hove Town Hall
Members:	Councillors: Lepper, Sykes and Wealls Independent Person & Co-opted Member: Dr David Horne
Contact:	Ross Keatley Democratic Services Officer 01273 291064 ross.keatley@brighton-hove.gov.uk

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AGENDA

1. TO APPOINT A CHAIR FOR THE MEETING

2. PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests not registered on the register of interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

STANDARDS PANEL

3. HEARING OF ALLEGATION THAT A COUNCILLOR HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT FOR MEMBERS - CASE BHC-008869 1 - 32

Complaint of the Monitoring Officer (copy attached).

Contact Officer: *Brian Foley*

Tel: 291229

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Ross Keatley, (01273 291064, email ross.keatley@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Wednesday, 31 October 2012

Subject:	Hearing of Allegation that a Councillor has failed to comply with the Code of Conduct for Members - Case BHC-008869		
Date of Meeting:	8 November 2012		
Report of:	Report of the Monitoring Officer		
Contact Officer:	Name:	Brian Foley	Tel: 29-1229
	Email:	Brian.foley@brighton-hove.gov.uk	

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report deals with an allegation that Councillor Hyde has failed to comply with the Members' Code of Conduct.

2. RECOMMENDATIONS:

- 2.1 That the Panel determine the allegation that Councillor Hyde has failed to comply with the council's Code of Conduct for Members.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 This report concerns a comment said to have been made by Councillor Lynda Hyde when leaving a meeting of the Saltdean Community Association on 31 May 2012, resulting in an allegation that Councillor Hyde had breached the Members' Code of Conduct.
- 3.2 The allegation was initially considered by an Assessment Panel of the Standards Committee on 26 June 2012, which referred the allegation to the Monitoring Officer for investigation. He appointed an Investigating Officer, whose full report on the matter is at Appendix 1. A summary of the key points from that report are as follows.
- 3.3 The complaint was raised by all members of the Saltdean Community Association Committee ('the Committee'). Ms Elizabeth Lee, Chair of Association, has been the point of contact with the council's Investigating Officer and has spoken on behalf of and with the support of her fellow Committee members.
- 3.4 It is alleged that Councillor Hyde commented, on leaving the meeting, that the Committee members were "only in it for themselves".

- 3.5 The Committee said this statement denigrates and calls into question the integrity and community service of the Committee members, particularly as they had worked voluntarily and under the threat of personal bankruptcy.
- 3.6 Ms Lee stated that several members of the Committee heard Councillor Hyde make this statement.
- 3.7 Councillor Hyde said that the end of the public section of the meeting was very noisy. She referred to this in her written response to the complaint and during her interview with the Investigation Officer.
- 3.8 Councillor Hyde said that the members of the Committee appear to have overheard part of a conversation she was having with another ward councillor as they left the meeting room in which she replied to a question from her colleague saying “people are saying they are only in it for themselves”.
- 3.9 A member of the Committee wrote to Councillor Hyde seeking an apology for what he believed she had said about the Committee members. Councillor Hyde responded to him saying she had recently congratulated him for the considerable hard work he had done on behalf of the community.
- 3.10 Some weeks later when Councillor Hyde heard about the complaint to the Chair of the Standards Committee she offered an apology to the Saltdean Community Association Committee members if they were offended by what they thought they had heard her say. Ms Lee informed the members of the offer but they refused to accept it.
- 3.11 The Investigating Officer identified that it was unlikely that the Committee members would all have focused on the conversation between Councillor Hyde and her ward colleague and it may have been difficult to have accurately heard in full what Councillor Hyde said in that conversation.
- 3.12 Councillor Hyde had demonstrated by way of email prior to the complaint being raised with the Standards Committee that she was aware of the hard work a particular member of the Saltdean Community Association Committee had put into the Saltdean community and she thought his actions were admirable and worthy of congratulation. She had been willing to apologise if there had been any form of misunderstanding about what she had said when leaving the meeting.
- 3.13 The Investigating Officer has concluded that:
 - a. There has not been a breach of the Members Code of Conduct in respect of Paragraph 3(1): “*You must treat others with respect.*”
- 3.14 The allegation is now referred to a Hearing Panel of the Audit & Standards Committee to decide the matter.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are none.

Legal Implications:

- 5.2 The legislative framework under which the allegation has been investigated and referred to the Standards Panel for determination is Part 1, chapter 7 of the Localism Act 2011 and associated regulations.

Lawyer Consulted: OliverDixon

Date: 30/10/12

Equalities Implications:

- 5.3 There are none.

Sustainability Implications:

- 5.4 There are none.

Crime & Disorder Implications:

- 5.5 There are none.

Risk and Opportunity Management Implications:

- 5.6 There are none.

Public Health Implications:

- 5.7 There are none.

Corporate / Citywide Implications:

- 5.8 There are none.

SUPPORTING DOCUMENTATION

Appendices:

1. Investigating Officer's report together with appendices.

Documents in Members' Rooms

1. None

Background Documents

1. None

Case Reference: BHC-008869

Subject Member: Councillor Lynda Hyde

Complainant: Saltdean Community Association Executive Committee

This report represents the findings of an investigation carried out under Brighton & Hove City Council and Rottingdean Parish Council arrangements for dealing with allegations of breaches of the Members' Code of Conduct under the Localism Act 2011.

The investigation has been carried out by Brian Foley, Standards and Complaints Manager, on behalf of the Monitoring Officer for Brighton & Hove City Council into an allegation concerning Councillor Lynda Hyde and will be presented to a Hearing Panel of the Audit and Standards Committee.

DATE: 10 October 2012

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1.0 Executive Summary

- 1.1 The complaint is about an alleged comment made by Councillor Lynda Hyde when leaving a meeting of the Saltdean Community Association on 31 May 2012.
- 1.2 The complaint has been raised by all members of the Saltdean Community Association Committee. Ms Elizabeth Lee, Chair of Association, has been the point of contact with the Investigating Officer and has spoken on behalf of and with the support of her fellow Committee members.
- 1.3 It is alleged that Councillor Hyde commented, on leaving the meeting, that the Committee members were “only in it for themselves”.
- 1.4 The Committee said this statement denigrates and calls into question the integrity and community service of the committee members, particularly as they had worked voluntarily and under the threat of personal bankruptcy.
- 1.5 Ms Lee stated that several members of the Committee heard Councillor Hyde make this statement.
- 1.6 Councillor Hyde said that the end of the public section of the meeting was very noisy. She referred to this in her written response to the complaint and during her interview with the Investigation Officer.
- 1.7 Councillor Hyde said that the members of the Committee appear to have overheard a part of a conversation she was having with another ward councillor as they left the meeting room in which she replied to a question from her colleague saying “people are saying they are only in it for themselves”.
- 1.8 A member of the committee wrote to Councillor Hyde seeking an apology for what he believed she had said about the committee members. Councillor Hyde responded to him saying she had recently congratulated him for the considerable hard work he had done on behalf of the community.
- 1.9 Some weeks later when Councillor Hyde heard about the complaint to the Chair of the Standards Committee she offered an apology to the Saltdean Community Association Committee members if they were offended by what they thought they had heard her say. Ms Lee informed the members of the offer but they refused to accept it.
- 1.10 The Investigating Officer identified that it was unlikely that the committee members would all have focused on the conversation between Councillor Hyde and her ward colleague and it may have been difficult to have accurately heard in full what Councillor Hyde said in that conversation.

- 1.11 Councillor Hyde had demonstrated by way of email prior to the complaint being raised with the Standards Committee that she was aware of the hard work a particular member of the Saltdean Community Association Committee had put into the Saltdean community and she thought his actions were admirable and worthy of congratulation. She had been willing to apologise if there had been any form of misunderstanding about what she had said when leaving the meeting.
- 1.12 The Investigating Officer has concluded that:
- a. There has not been a breach of the Members Code of Conduct in respect of Paragraph 3(1): "*You must treat others with respect.*"
- 1.13 This complaint will now be referred to a Hearing Panel of the Audit & Standards Committee to decide the outcome.

2.0 Relevant legislation

- 2.1 The council has adopted a Code of Conduct for members, in accordance with the Localism Act 2011.
- 2.2 This investigation is carried out under Brighton & Hove City Council and Rottingdean Parish Council arrangements for dealing with allegations of breaches of the Members' Code of Conduct.
- 2.3 Councillor Hyde's conduct at a community meeting on 31 May 2012 triggered a complaint from the Executive Committee of Saltdean Community Association, dated 8 June 2012.
- 2.4 The complaint was considered by an Assessment Panel of the Standards Committee on 26 June 2012, which held that, if proven, the allegation against Councillor Hyde would amount to a breach of the members' code of conduct in force at the time the alleged misconduct took place. Accordingly, the panel referred the complaint to the Monitoring Officer for investigation.
- 2.5 On 1 July 2012, the standards regime created by the Local Government Act 2000 was repealed in relation to Local Authorities in England, and a new regime - as set out in Part 1, chapter 7 of the Localism Act 2011 - came into force.
- 2.6 The standards provisions in the 2011 Act require the council to adopt a code of conduct, which can be a revision of its previous code or a complete replacement.
- 2.7 The council adopted a new code on 19 July 2012.

2.8 Transitional arrangements set out in the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Regs 2012 provide that any allegation about member misconduct referred to the Standards Committee prior to 1 July but not yet determined, "shall be treated as having been made under Chapter 7 of Part 1 of the Act."

2.9 These transitional arrangements apply to this complaint.

2.10 The ground under which the allegation was considered by the Assessment Panel on 26 June was that Councillor Hyde failed to treat others with respect. This was a substantive obligation in the pre- 1 July 2012 code and was carried over into the code adopted on 19 July 2012. The allegation therefore remains proper to be investigated, and so long as the investigation and any determination are concluded with reference to the newly adopted code, the decision will be valid.

3.0 Background to the complaint and Decision of Standards Assessment Panel

3.1 A complaint was received via the Council's internet on 08 June 2012 from Ms Elizabeth Lee, who is Chair of the Saltdean Community Association (SCA). Her complaint was on behalf of the members of the SCA Executive Committee.

3.2 Ms Lee's complaint refers to a comment made by Councillor Hyde in which she allegedly said that Committee members are "only in it for themselves".

3.3 The comment was made as Councillor Hyde, other ward councillors and four members of the public were leaving the meeting. The Committee members felt the comment denigrated and called into question the integrity and community service of the Committee members.

3.4 The SCA Committee members took great exception to the remark given that they had worked in a voluntary capacity and had for many years lived under the threat of disputed liability and threat of personal bankruptcy.

3.5 The SCA Committee members were concerned that members of the public who were present may well have passed on to other members of the public the comment they believed Councillor Hyde had made.

3.6 The complaint was referred to an Assessment Panel of the Standards Committee which considered the complaint on 26 June 2012. The Panel was composed of two elected members and was chaired by an Independent Member.

- 3.7 In accordance with legislation in place at the time, the Assessment Panel of the Standards Committee decided that if proven, Councillor Hyde's comment would be a breach of Paragraph 3(1) of Code of Conduct and that an investigation should be carried out by the Monitoring Officer who in turn instructed the Standards and Complaints Manager to proceed with the investigation on his behalf.
- 3.8 Paragraph 3(1) states: You must treat others with respect.
- 3.9 The Panel felt the comment would be offensive if it was said. The Panel were unclear why councillors were present if they had not been invited. The Panel said they would like to know who may have heard the alleged statement.

4.0 Evidence gathered

Evidence in support of the complaint as supplied by Ms Lee, and summary of interview with Ms Lee

- 4.1 The complaint sent by Ms Lee on behalf of the SCA Executive Committee is available in full in Appendix 1.
- 4.2 The complaint is summarised in paragraphs 3.1 to 3.5 above.
- 4.3 The Investigating Officer met with Ms Lee on 27 July 2012. The notes of the meeting are available in Appendix 2.
- 4.4 Ms Lee explained that on the morning of the meeting (31 May 2012) she had been invited to come to Saltdean Lido where Meridian were filming a news article. At the venue she was approached by a member of Save Saltdean Lido who asked if she and another member could attend the SCA meeting that evening.
- 4.5 Ms Lee told her it would not be appropriate but nonetheless four members of Save Saltdean Lido arrived at the meeting.
- 4.6 On the same morning a ward councillor sent Ms Lee an email asking if the meeting was open. Ms Lee replied that it was not.
- 4.7 Ms Lee told the Investigating Officer that the purpose of the meeting was to give affiliated members an update on the new lease arrangement. It was Ms Lee's intention to share confidential information and therefore the meeting should not be held in public.
- 4.8 Ms Lee explained that four members and three ward councillors turned up to the meeting. The people who were not members of the committee were asked to leave but did not do so. The Executive decided to continue with their meeting. However, when it came to the

time to discuss the Financial Report those people who were not members of the SCA Committee were asked to leave.

- 4.9 Ms Lee explained that all seven people, members of the public and ward councillors, left pretty much together but nonetheless caused considerable disruption to the meeting. Later in the closed session the Committee members discussed the disruption. Ms Lee stated that one affiliated member was quite incensed that the meeting had been stopped in this way.
- 4.10 The Investigating Officer asked Ms Lee if she could describe the circumstance in which Councillor Hyde was heard to make the statement that Committee members “are only in it for themselves”.
- 4.11 Ms Lee drew a diagram of the room which showed that the people leaving the room at the end of the ‘public session’ would have to walk close to some of the committee members.
- 4.12 Ms Lee said the words said by Councillor Hyde were clearly heard by several of the committee members. She explained that one member, Gaston Mallia, wrote to Councillor Hyde separately requesting an apology for what he referred to as an inappropriate and damaging accusation. I return to this point later in paragraphs 4.24, 4.25, 4.31, 4.32, and 4.39 .
- 4.13 The Investigating Officer shared with Ms Lee Councillor Hyde’s own explanation that she had said “residents have said to me they are only in it for themselves”. Ms Lee thought it highly unlikely that each of the members had heard only a part of the conversation Councillor Hyde was having with her ward colleague.
- 4.14 Ms Lee explained that supporters of Save Saltdean Lido (SSL) had previously made the same allegation to the Charities Commission and at the SCA AGM in November 2011 at which the ward councillors had been present. This had resulted in SCA threatening legal action against the SSL member who had made the remark.
- 4.15 Ms Lee said this allegation was potentially very damaging and could possibly lead to an end of the Association.
- 4.16 Ms Lee explained that there had never been a previous occasion when elected members had been asked to leave a meeting of the Association.
- 4.17 Ms Lee was keen to point out that there was not a political dimension to the complaint.

Councillor Hyde's response to the complaint and associated documents

- 4.18 Councillor Hyde replied to the complaint in an email dated 16 July 2012, a copy is available at Appendix 3.
- 4.19 Councillor Hyde described how feelings between SCA and SSL are tense in the extreme and that it was important to understand this in the context of the meeting that took place on 31 May 2012.
- 4.20 Councillor Hyde explained that she and her ward colleagues always tried to attend and she referred to a comment by SCA that that ward councillors attendance can be helpful. She said that over the years they have attended many meetings where sensitive information has been shared with the ward councillors.
- 4.21 Councillor Hyde said that she had not been aware that this meeting was not an open one.
- 4.22 Councillor Hyde did say that under the new Chair and committee the relationship had changed and ward councillors felt they were not so welcome.
- 4.23 Councillor Hyde noted that the Chair and other signatories had stood against her and her ward colleagues in local elections. Councillor Hyde felt this was pivotal to the complaint.
- 4.24 In her email response to the complaint Councillor Hyde said I am accused of saying "they are in it for themselves". She pointed out that a SCA committee member had already accused her of saying this to him.
- 4.25 Councillor Hyde supplied a copy of her response to that accusation, which can be seen at Appendix 4.
- 4.26 Councillor Hyde said she was at the meeting with her fellow ward Councillors. She said some Saltdean residents were there and she later learned they had been asked to leave on their arrival. She had not known this at the time because she arrived after the meeting had started.
- 4.27 Councillor Hyde said she attended to observe and assist in any way she could. She said that after some time all those present who were not on the committee were asked to leave. She said this resulted in much conversation from those people asked to leave. Councillor Hyde said that ward councillors have never been asked to leave any community meeting in the Rottingdean Coastal Ward.
- 4.28 Councillor Hyde described that as they left a ward colleague said to her "we are all supposed to be serving the community" and she replied "

absolutely correct, residents have said to me they are in it for themselves”.

- 4.29 Councillor Hyde believes that during the noise of people leaving, who were very unhappy at being asked to leave, the person who complained about her probably only heard a part of her conversation.
- 4.30 Councillor Hyde pointed out that there were a lot of comments and conversation at that time and in her view nobody could have heard a complete sentence from anyone.
- 4.31 In response to the accusation from Mr Mallia (see Appendix 4) Councillor Hyde said she thought he had made a terrible mistake. She emphatically denied that she had accused him of ‘being in it for himself’.
- 4.32 In her email Councillor Hyde talked about all the hard work Mr Mallia had put into the Saltdean community. Councillor Hyde reminded him of how she thought his work was admirable and she had recently offered her congratulations. She ended her email saying “I suggest that during the moment when much conversation was taking place amongst those leaving that your mistake occurred. I do not consider ‘you are in it for yourself’.”

Summary of interview with Councillor Hyde

- 4.33 The Investigating Officer met with Councillor Hyde on 03 August 2012. The notes of the meeting are available at Appendix 5.
- 4.34 Councillor Hyde said that she did not know it was SCA’s intention for this meeting to be closed and could not think of any other occasion when this had been the case.
- 4.35 Councillor Hyde told the Investigator that the public and ward councillors were asked to leave the meeting when it was time to discuss private business relating to finance and the new lease.
- 4.36 She said this caused members of the public to be quite annoyed, they were slow to leave and there was a lot of noise from them.
- 4.37 Councillor Hyde said that given the level of noise it would have been difficult for anyone to completely hear what she and her colleague were saying between themselves.
- 4.38 Councillor Hyde said she and her colleague followed the members of SSL out from the meeting. She again described the conversation she had with her colleague as set out above, i.e. Councillor Hyde’s ward colleague said to her “we are all supposed to be serving the community” and she replied “absolutely correct, residents have said to me they are in it for themselves”.

- 4.39 The Investigator wrote to Councillor Hyde asking if she could give him some background to her statement. He asked if Councillor Hyde could tell him who had said to her that committee members were 'in it for themselves'. He asked how often had she heard it said and could she think of any specific instances.
- 4.40 Councillor Hyde said two residents who attended a Saltdean Residents Association meeting approached her after their meeting and asked "what was going on with Saltdean Community Association? They must be in it for themselves". Councillor Hyde said that about two weeks later when she was in Rottingdean High Street, another Saltdean resident said exactly the same to her.
- 4.41 She said she recalled thinking at the time that there must be a lot of talk going on in Saltdean on this subject, and, as in all small communities gossip travels fast.
- 4.42 Returning to the subject of the allegation Councillor Hyde referred to the congratulations she had offered to Mr Mallia and said it would have been incongruous to suggest she was now personally saying members were in it for themselves.
- 4.43 The Investigator asked Councillor Hyde why she had offered to apologise to the committee. Councillor Hyde said she was prepared to consider offering an apology if that was what the SCA members had thought she had said. But she again confirmed she did not say they were in it for themselves and would not be able to apologise in unequivocal terms for something she had not said.

5.0 **Conclusion based on the evidence provided**

- 5.1 Saltdean Community Association Executive Committee held a meeting on 31 May 2012 with the intention that it should be closed to the public and to ward councillors.
- 5.2 Four members of the public who were members of Save Saltdean Lido turned up to the meeting. They were asked to leave but refused to do so. The SCA Committee decided to continue with their meeting with the members of the public and ward councillors being present up to the time when they were going to discuss private financial business and details of the new lease arrangements.
- 5.3 Councillor Hyde turned up after the meeting had started and had not been aware anyone who was not a member of the committee had been asked to leave.
- 5.4 When the time came to discuss the private business the members of the public and the ward councillors were again asked to leave. They did so but Councillor Hyde reports that people did not leave quietly.

- 5.5 There is a history of considerable tension between the members of Save Saltdean Lido and Saltdean Community Association. Ms Lee stated that members of SSL had on two occasions accused SCA committee members of “being in it for themselves” which had resulted in SCA threatening legal action against the person who had made the remark.
- 5.6 Councillor Hyde reported that as she and a ward colleague left the meeting her colleague said to her “we are all supposed to be serving the community” to which she replied saying “absolutely correct, residents have said to me they are in it for themselves”.
- 5.7 It would appear that Councillor Hyde was repeating a comment that she may have heard members of SSL make on at least two occasions in public meetings held by Saltdean Community Association, as reported by Ms Lee.
- 5.8 The Investigating Officer asked Councillor Hyde where she had heard the comment. She said she had heard it said after a meeting of the Saltdean Residents Association and she said a member of the public made the same comment to her in the street a few weeks later.
- 5.9 All members of SCA committee believed they had heard Councillor Hyde say “they were in it for themselves”.
- 5.10 One of the Committee members, Mr Mallia, wrote to Councillor Hyde asking for an apology. This was before the matter was referred to BHCC Standards Committee as a complaint.
- 5.11 Councillor Hyde provided the Investigator with a copy of her response to Mr Mallia’s request for an apology. She categorically denied that she had said Mr Mallia was in it for himself. Her email states that she had previously congratulated him for all the good community work he had done.
- 5.12 It is apparent that the allegation about SCA committee members was already in the public domain and Councillor Hyde has confirmed where she had previously heard people make this remark. Furthermore, Ms Lee had told the investigator that such a statement was made at their AGM by a member of SSL which almost resulted in legal action against that person. Councillor Hyde was present at that meeting.
- 5.13 Councillor Hyde said the small group of people leaving the room were being noisy and vocal that they had been asked to leave. But the committee members say the people leaving were not being noisy.
- 5.14 Ms Lee said an affiliated member was incensed at the disruption and that the members discussed how the meeting had been interrupted later in their private meeting.

- 5.15 It would have been difficult and unlikely that all members of the committee would have heard clearly and fully the conversation between Councillor Hyde and her colleague.
- 5.16 Taking all the evidence into account the Investigator has reached the view that:
- a) The statement that members of the committee believed Councillor Hyde made is not a full reflection of what she said. What is reported in the complaint may have been only a part of a conversation she was having with a colleague.
 - b) The very brief conversation took place during a time of noise and disruption as people who had a tense relationship with SCA committee members left the room.
 - c) It would have been very difficult to have heard precisely what Councillor Hyde said.
 - d) Councillor Hyde's statement was a comment telling a colleague what she had heard members of the public say and which was already in the public domain but was not directed at the members of the committee.
 - e) Ms Lee confirmed that similar statements had been made by members of Save Saltdean Lido during a public meeting.
 - f) Councillor Hyde had previously replied to a member of the committee who had raised the same complaint with her. She told him he was very mistaken in the allegation and reminded him that she had recently congratulated him for the good work he had done in the community.
 - g) Councillor Hyde had offered to apologise to the committee for what they thought they heard her say. But she was not able to offer an unequivocal apology for something she had not said.
 - h) The committee refused to accept the offer of an apology because they had previously requested an apology and it had not been forthcoming.
- 5.17 The conclusion reached is that members of the committee only partially heard what Councillor Hyde said and this was taken out of context.
- 5.18 The Investigator is satisfied that Councillor Hyde was commenting to a colleague on what she had heard members of the public say about Saltdean Community Association committee members.

6.0 Reasoning as to whether there have been failures to comply with the Code of Conduct

6.1 The section of the Code of Conduct which relates to this complaint is:

Paragraph 3(1)

You must treat others with respect.

6.2 The basic principle with regard to paragraph 3(1) is whether there has been a dispute about a matter of principle or whether there is conflict at a personal level which amounts to disrespect. In general a negatively

expressed statement about a line of argument will not be considered disrespectful even if it is forcefully and quite rudely expressed. However, a statement made about a person delivered with the same force might be deemed to be disrespectful if it passes a certain threshold. It should be noted that the threshold is higher for conflicts between elected members compared to those between an elected member and a member of the public.

- 6.3 If Councillor Hyde had uttered the offending words which SCA allege she uttered, she probably would have exceeded the threshold set by paragraph 3(1) of the Code, and the investigation would have concluded that her conduct was disrespectful to SCA committee members. However, the investigation has not reached that conclusion; rather, it has found that Councillor Hyde directed her comments to a colleague, not the committee, and in any event described what she had heard members of the public say. It follows that she was not disrespectful to the SCA committee members.
- 6.4 On a balance of probability the Investigating Officer has concluded for the reasons set out in section 5.1 to 5.18 that the allegation is not proven.
- 6.5 For the reason given at 6.3, the Investigating Officer's conclusion is that there has not been a breach of the Code of Conduct for Members.

7.0 **Finding**

- 7.1 The finding of this investigation as set out above is that:

In respect of Paragraph 3(1) there has not been a breach of the Code of Conduct.

Appendix 1 – The Complaint from Saltdean Community Association

Complaint against Cllr Lynda Hyde.

The Saltdean Community Association Executive committee wish to complain about comments made by Cllr Hyde, which the committee feels, denigrates and calls into question the integrity and community service of committee members.

BACKGROUND

Saltdean Community Association is long established as one of the main community organisations for Saltdean. It has been organised by a relatively small but active number of residents, and has been fortunate in having continuity from resident to resident as time has gone by over many decades. It is a registered Charity, which runs the community centre at Saltdean Lido and has tenure from B&HCC the freeholder.

Mr Audley became the headlessee, and our landlord in 2001; the SCA held over under a sub lease which expired in 2006 and which then was subject to intense and disruptive litigation until Mr Audley surrendered his lease to B&HCC. See Policy & Resources Committee of 30th May 2012

The SCA is run by a Council made up of an Executive Committee and Representatives of Affiliated Groups, which are local organisations who meet regularly at the centre and are properly constituted with Chair, Secretary and Treasurer. The Council meet quarterly. The Executive committee are the Trustees for charitable purposes and are unpaid volunteers. There is one paid employee who is the caretaker and responsible for bookings.

Over 25 groups/activities meet weekly at the community centre attended by approximately 700 residents. In addition the SCA provide regular live music nights attended by anything up to 180 people. The rooms are also hired out for private functions including weddings.

In detail, Mr Audley had been harassing the SCA with three court cases brought against them regarding the lease, utilities and maintenance and most recently a Statutory Demand with a specific threat of personal bankruptcy against the Chair of the Executive Committee. The legal costs used much of the resources the SCA had built up over many years, but the Trustees remained steadfast in their resolve to continue to provide community cohesion through its activities, and were always encouraged by the fixed resolve of B&HCC to support the SCA.

Nonetheless, unlimited financial liabilities devolved to the Trustees, and then to all the existing Members, as the SCA is both a registered charity and an unincorporated association without the protection of limited liability.

The campaign group, Save Saltdean Lido, were initially mutually supportive of the SCA, but the relationship has deteriorated and the SCA trustees have come to feel that the SSL consider us to be an impediment to their future plans for the site. All these problems highlighted the defects in the poorly drafted SCA constitution, which affected the Trustees abilities to make quick decisions, and after extensive consultation with the Charities Commission, agreed to adopt the Commission's model constitution.

When it was confirmed that the Policy & Resources Committee of B&HCC had agreed the surrender of Mr Audley's head lease; the Chair of the SCA had a confidential conversation with Bob Bruce, Principal Solicitor at B&HCC; to discuss what effect this would have on the SCA, and also spoke to the SCA solicitor to discuss the unfolding situation. All this information was not in the public domain and was confidential.

REASONS FOR COMPLAINT

Following the procedure required by the constitution, the SCA Council met on the 22nd March to consider the new constitution and resolved to adopt the new constitution and to submit the proposal to the Members at a Special General Meeting to be duly convened.

The Executive had drawn up Rules, as allowed by the constitution, and although not required to wanted to give the Affiliated Groups an opportunity to comment on them and a Council meeting was called for the 31st May.

However just after 11.00am on Thursday 31st May the Chair of the SCA Executive Committee received an email from Cllr Mears who asked if that night's meeting was an open one that ward councillors could attend. We replied explaining that the meeting was not an open one, it was mainly about the constitution and there would be discussion about the recent development (surrender of lease).

At the meeting on the 31st May four members of the public (who are also members of Save Saltdean Lido) who were also members of the SCA, arrived. They were asked to leave several times, as it was not an open Council meeting, they refused; then Cllrs L Hyde and D Smith arrived, and later on Cllr Mears arrived. It was clear to the Council that this was an attempt to disrupt the proceedings by inhibiting discussion of confidential matters.

The Council did not have anywhere else to hold the meeting, so it was decided to proceed with the meeting but to leave the Financial report, including the confidential information, to the end of the meeting when everyone was asked to leave. Which they did amidst considerable criticism as to how the meeting had been conducted.

On leaving Cllr Hyde was heard to comment that Committee members "are only in it for themselves".

The Committee take great objection to this given for years we have lived under the threat of potential disputed liabilities and latterly the threat of personal bankruptcy – all of which Cllr Hyde is aware.

This was said with the four members of the public present who may well have passed on Cllr Hyde's comments to others.

With the resolution of the lease disputes, and the new constitution, the SCA hopes that it can return to a period of stability enabling it to revert wholeheartedly to the provision of community services.

It is not in the constitution that ward councillors have a right to attend Council meetings however, the Executive committee recognise that this can be helpful from both perspectives and in the past they have attended some SCA Council meetings. Ward councillors should respect decisions made by the Executive committee.

SCA Executive Committee:

Liz Lee
Simon Doyle
Ethel Trigg
Gaston Malia
Jackie Williams

Appendix 2 – Notes of meeting between Investigating Officer and Ms Lee

Notes of meeting between Elizabeth Lee and Brian Foley regarding the code of conduct complaint against Councillor Lynda Hyde

1. Brian Foley (BF) outlined how the complaints process will work and that the investigation will result in a report which is considered by a panel of the Standards Committee. It is assumed that the hearing will be in public although the panel members will reach their conclusion in private and then announce their decision publicly.
2. The exact process for hearing the case has not yet been set out but it is likely that the panel will ask questions of the Investigator and the Subject Member to assist in their understanding of the complaint. It is possible that the Investigator may ask for witnesses to support the statements in his report.
3. BF asked Ms Lee (EL) if she could run through the events of the evening when the alleged statement was made and that it would be helpful if she could say when people at the meeting were first told they would have to leave and if it was the case that ward councillors had ever been asked to leave a meeting before.
4. EL explained that Saltdean Community Association's Council (SCA) hold quarterly meetings, the ward councillors do attend the meetings, not all, and not by right. EL said that Councillor Hyde attended least but this is because of her previous role on the Planning Committee and the possibility that the former Head Lessee might put in a planning application for Saltdean Lido.
5. EL said there had never been a previous occasion when members were asked to leave. On this occasion Councillor Mears had sent an email in the morning asking if the meeting would be open. EL replied saying that it was not.
6. EL explained that the purpose of the meeting was to give affiliated members an update on the lease arrangement, EL would be relating issues that were private and told to her in confidence.
7. EL said that Councillor Mears wrote back saying they (the ward councillors) would see her later.
8. Also that morning Councillor Bowden invited EL to come to Saltdean Lido where Meridian were filming a news item. EL attended and whilst there was approached by Bridget Fishleigh (Save Saltdean Lido) who asked if Rebecca Crook (Save Saltdean Lido) could attend an SCA meeting that evening. EL told her it would not be really appropriate but she did turn up with three colleagues.

9. BF asked EL if she could describe the circumstances in which Councillor Hyde made the alleged statement that Committee members “are only in it for themselves”. EL drew a diagram of the room where the meeting was held which illustrated that the three ward councillors and four SSL members had to walk close to EL, and other executive or affiliated members.
10. EL said the SSL members and councillors all left pretty much together but that the four SSL members were in a group with Councillor Smith and slightly ahead of Councillors Mears and Hyde.
11. EL said the words she has reported that Councillor Hyde said were clearly heard by several members. Gaston Mallia, an Executive Committee member, wrote to Councillor Hyde separately, he requested an apology for such an inappropriate and damaging accusation. An affiliated member was incensed at the disruption of the meeting although he did not hear what Councillor Hyde said.
12. As soon as the private session commenced the Executive members first item was to discuss the information they had been given about the lease by the Council’s Principal Solicitor and the SCA’s solicitor.
13. Later in the meeting the Committee discussed the conduct of the SSL members and the ward councillors and the disruption caused to their meeting.
14. BF explained to EL that Councillor Hyde told him that the Executive members had not fully heard what she said. BF told EL that Councillor Hyde said in her conversation with Councillor Mears that “residents have said to me they are in it for themselves”. BF suggested to EL that members of the committee may only have heard a part of what Councillor Hyde said, that being “they are only in it for themselves”. EL thought it was highly unlikely that each of the members had heard only a part of the conversation.
15. EL said that supporters of the SSL had made the same allegation to the Charities Commission last year and a member of the SSL made a similar allegation at the SCA’s AGM last November at which the ward councillors were present. This resulted in SCA threatening legal action against the SSL member who had made the allegation.
16. EL explained such an allegation against the members of the committee was potentially very damaging and could possibly lead to the end of the Association if it became a view held by the wider public even though it was completely untrue.
17. EL wanted to assure BF that there was no political dimension to the complaint against Councillor Hyde. EL said there was no political dimension to the work SCA were doing, EL explained that they have

had quite enough to do dealing with the problems caused by the former Head Lessee.

18. Finally, EL said that if Councillor Hyde had apologised to Gaston Mallia at the time he raised the same complaint with her that would probably have been the end of the matter. But EL said Councillor Hyde denied making the remark. Therefore when BF first approached EL about potentially resolving the issue by way of an apology from Councillor Hyde the Committee members felt they could not accept the apology, it was too late in being offered. They reasoned that Councillor Hyde had been provided with an opportunity to apologise but refused to take it and it was now under the prospect of a Standards Committee Investigation that the apology was being offered.

I can confirm this is an accurate representation of my meeting with the Investigating Officer

Signed

Date

Appendix 3 – Councillor Hyde’s response to the complaint

From: Lynda Hyde
Sent: 16 July 2012 11:06
To: Brian Foley
Cc: Lynda Hyde
Subject: FW: complaint

Dear Brian Foley

Further to your letter of 4th July:

COMPLAINT ABOUT ALLEGED BREACH OF CODE OF CONDUCT

I think it important for you to be aware of the extremely fracas nature between the three Saltdean Residents Groups. The groups are: Saltdean Community Association (SCA), Saltdean Residents Association (SRA) and Save Saltdean Lido (SSL) This is relevant because members of SSL were present at the SCA meeting to which the complaint refers. The feeling between all groups is tense to the extreme. The groups have been attending mediation sessions and this can be confirm by John Barradell Chief Executive and Cllr. Geoffrey Bowden as can the nature of the tension between the groups. This 'bad feeling' is particularly prevalent between SSL and SCA.

I now refer to SCA. My ward colleagues and I always endeavour to attend all SCA meetings which are held quarterly and when there are any issues of concern to the residents of Saltdean. I see in the statement from SCA it is noted that ward Councillors attendance can be helpful. Over the years we have attended many meetings and in the past, sensitive information was shared and discussed with the ward Councillors. I was not aware the meeting held on 31 May, to which this complaint relates was not an open one. I am not aware of any closed meetings within SCA in the past. The lease issue with Mr Auderly has been ongoing for many years and the previous committee were pleased ward Councillors attended. We were always made welcome under the previous Chair who I note was at the meeting in question and has not signed the complaint. Neither have others who attended. However, under the new Chair and committee we have always felt to be tolerated rather than welcome.

This year the current Chair and committee closed the membership of SCA to Saltdean residents. I understand complaints were made to the Charities Commission and following the complaint/s, SCA committee have decided to

adopt a new constitution. Councillor David Smith had been President of SCA for many years. Councillor David Smith resigned his Chairmanship at the end of this year's AGM as he felt he could no longer stay as President when the Chair and committee were not allowing Saltdean residents to become members. His view was that this meeting was the most undemocratic meeting he had ever attended and he could not remain as long as the SCA conducted the business by excluding the community. It should be noted the Chair and one other of the signatories have stood against me and my ward colleagues in the local elections. I feel this point is pivotal to the complaint.

A meeting was called in June for Members of SCA to be informed of the new proposed constitution and for the members to vote on the proposal. I am informed the tone of this meeting was aggressive to the extent the Chair refused entry to Rebecca Crook of SSL and threatened to call the Police if she did not leave. My understanding is that residents were upset about this and they were also angered at the inability of the Chair and Deputy Chair to answer questions regarding the new constitution. I believe their main concern was that two or three members of the committee would be making all the decision if the new constitution were adopted and this would not be open and transparent. To calm the situation, I am told by Councillor Mears that she proposed a deferment of the decision to adopt the new constitution until such time SCA committee could provide the necessary information to enable Saltdean residents to vote on the proposed new constitution. The residents voted for the deferment. Interestingly, at a SRA meeting this 12 July the Deputy Chair of SCA attended and said how disappointed he and the committee were was the residents who attended the SCA meeting had voted for a deferment.

The complaint:

I am accused of saying "they are in it for themselves" You will note that SCA committee member Mr Gaston Malia has already accused me of saying this to him and I have supplied you with a copy of my response to that accusation.

I recall the following circumstances: I attended the meeting along with my fellow ward Councillors, Mary Mears and David Smith. There were also Saltdean residents in attendance and I note in the statement from SCA the residents had on their arrival been asked to leave but I was not aware of that as I arrived later. The meeting started and I do not recall speaking at any time during

the meeting. I attended to observe and assist in any way I could. After some time anybody not on the committee was asked to leave. We were all concerned about having to leave. As we left the meeting which was being held in a small committee room there was much conversation about having to leave from those leaving. Ward Councillors have never been asked to leave any community meeting in the Rottingdean Coastal Ward and we have attended many residents meetings each year. As we left Councillor Mears said to me "we are all supposed to be serving the community" and I replied " absolutely correct, residents have said to me they are in it for themselves". It is my belief that during the noise from the conversation from all that were leaving Gaston Malia only heard part of the conversation. There were a lot of comments and conversation being held at that point and it is my view that nobody could have heard a complete sentence from anyone. Councillor Mears will confirm this point if required to do so.

I feel it absolutely necessary for you to be aware of the strength of bad feeling from Saltdean residents around the actions of SCA and the committee attitude to ward Councillors. It is possible the committee were upset by the resignation of Councillor Smith. Moreover, two members of the SCA committee have stood against us at local Elections.

Three residents who attended the meeting have asked me if it is true I have been reported to the Standards Board. Word travels quickly in Saltdean. I confirmed it was. They all said they were prepared to give their version of events and any conversation they heard. I thanked them and said I may ask them to give a statement later. That said, a resident is so angered at accusation against me she has already written to me.

Councillor Lynda Hyde
Conservative Member Rottingdean Coastal Ward
Brighton & Hove City Council
01273 291187
Opposition Spokesperson, Planning Committee
Member Licensing Committee
Member Corporate Parenting

Appendix 4 – Councillor Hyde’s email exchange with Mr Mallia

From: Lynda Hyde
Sent: 01 June 2012 23:53
To: Gaston
Cc: John Barradell
Subject: RE: Appology

Dear Gaston

I believe you have made a terrible mistake with this accusation. I most certainly did not accuse you of in 'it for yourself' and I am aware of all the hard work you put into Saltdean. Indeed, it is not so long ago you informed me of the Sunday afternoon cafe and I commented that it was admirable to offer such an activity and offered you my congratulations. You will recall that the Ward Councillors and Saltdean residents were asked to leave the meeting yesterday evening. I suggest that during that moment when much conversation was taking place among those leaving that your mistake occurred. I do not consider you are 'in it for yourself'.

Councillor Lynda Hyde

Conservative Member Rottingdean Coastal Ward
Brighton & Hove City Council
01273 291187
Opposition Spokesperson, Planning Committee
Member Licensing Committee
Member Corporate Parenting

From: Gaston
Sent: 01 June 2012 18:47
To: Lynda Hyde
Cc: John Barradell
Subject: Appology

Dear Miss Hyde,

I am so appalled and angry at your accusation in the SCA meeting last night that my community involvement is because I am "**in it for myself**" that I am writing to you.

Over the last two years I have volunteered my time selflessly to help the Saltdean Community Centre and The Saltdean Community Association in order to help the community and Lido Lessee situation.

- I have designed and maintaining a website for the Community Centre to help stop the centre being run down by Dennis Audley and to communicate the activity of the centre to the community.
- I have produced all the communications for the community centre for the local community.
- I give up my Sunday afternoons as I have started a successful community cafe and free kids play which is attended by local families, single mothers and people with adult learning difficulties.

These and many more activities I have done for the benefit of my community. I have a young family and I am a business owner and employer so it has not been easy for me to do what I have done for the community, never the less I have.

I find it totally unacceptable and I'm staggered that someone in your position thinks it is appropriate to accuse someone like myself who is giving selflessly to the community that I am doing it for any other reason than my community spirit.

I take an interest in politics and worldly affairs but I am not political. I have heard of the 'Big Society' from the Conservative Party but cannot in any way reconcile your shameful accusation with this.

I would like an apology for such an inappropriate and damaging accusation.

Yours sincerely,

GASTON MALLIA

Appendix 5 – Notes of meeting between Investigating Officer and Councillor Hyde

Meeting with Councillor Lynda Hyde to discuss complaint from the Saltdean Community Association. 03 August 2012

1. Councillor Lynda Hyde (LH) explained that there was a great deal of animosity between Saltdean Community Association, Saltdean Residents Association and Save Saltdean Lido and she described some of the background to their situation.
2. The complaint against her, in which she is alleged to have said the Committee members “are only in it for themselves”, occurred at a SCA meeting on 31 May which members of SRA and SSL were not invited to attend, but did so, and which SCA wanted to hold as a closed meeting.
3. LH did not know it was SCA intention for this to be a closed meeting. LH could not think of any other occasions where the SCA meeting had been closed.
4. LH said she had not been aware of the communication between another Councillor Mary Mears and SCA in which it was stated that the meeting would be closed. LH was offered a lift to the meeting by Councillor David Smith about 2 days before. At the time of Councillor Smith’s offer LH was not even aware that a meeting had been planned.
5. LH said it was usual for the ward councillors to be at the SCA meetings, although she attended less than the others, and pointed out that she rarely said anything at the meetings because of her role on Planning Committee could be compromised if there had been discussions about Saltdean Lido.
6. On the 31 May all the members of the public and the ward councillors were asked to leave the meeting when it was time to discuss private business relating to finance and details of the new lease.
7. LH said that this caused members of the public to be quite annoyed, they were very slow to leave and there was a lot of noise from them as they were leaving. There were about eight people and in a fairly small room they caused quite a disturbance.
8. LH said that she and Councillor Mary Mears (MM) followed the public out, she could not recall if Councillor Smith was in front of or behind them.
9. LH said that the ward councillors had done a lot over the years to resolve problems in the community and they were taken aback that they too were being asked to leave. There was concern that not only were they

being asked to leave but also that the SCA has closed the membership so no one else could join. LH said that as they were leaving MM said to her “we are all supposed to be serving the community” and she is certain that in response she said “that’s absolutely correct, residents have said to me that they (SCA Committee members) are only in it for themselves”.

10. LH explained that there was a lot of noise and it would have been quite difficult for anyone to completely hear what she and Councillor Mears said between themselves, probably Councillor Mears would be the only person who could say with any accuracy what LH had replied.
11. LH explained how Gaston Mallia (SCA) had previously written to her with this same allegation on 01 June 2012. LH replied to him the same day saying that she most certainly did not say this. In her email reply she commented about all the hard work he had put in as a committee member. She also illustrated how in the past she had congratulated him for all the efforts he had put in, saying to him it was admirable.
12. LH said it was therefore incongruous to suggest that she would now be saying members of the committee were in it for themselves, it just did not add up.
13. LH said she was certain that only a part of her conversation with MM had been heard.
14. BF said to LH that when they had first talked about the complaint she had offered to apologise to the committee and he asked her to clarify why? LH said that she was prepared to consider offering an apology if that was what the members had thought she had said. But she said she did not say “they were in it for themselves” and she could not apologise for something which she did not say.
15. BF asked about the political dimension to the complaint which is referred to in LH’s written response.
16. LH explained that members of the SCA had stood against the Conservative party which she represents and she speculated that if there was a Standards case found against her, and it was in the public domain, that the party which the candidates had stood for may use it in their election material. This she thought must be the only explanation for continuing with the complaint since she had so clearly responded directly to it in her email to Mr Mallia.

Appendix 6 – Response to the Draft Report

Re: Complaint against Cllr Hyde

Notes on Draft Report

To clarify; the substantive issue of the complaint is 1.4
The complaint is being made by all members of the committee; not on behalf of one member only.

- 1.6 I didn't say that the end of the meeting (public session) was very noisy.
1.10 Refer 1.6 we believe we did hear accurately the 'alleged' comment in question
3.9 Councillors were clearly told that the meeting was not open to them; they insisted on attending. (I have copy of email to this effect.) Four members of the public who are also members of the SCA and SSL may have heard the alleged statement.
4.8 Anyone who was not a member of the SCA Council was asked to leave.
4.9 'Disruption' as in stopping the meeting, not referring to it being noisy.
5.3 Cllr Hyde had been included in an email conversation where it stated that the meeting was not open to councillors.
5.6 We dispute this; we do not believe this is what was said.
5.9 We claim that Cllr Hyde said "they are only in it for themselves".
5.13 We dispute that it was very noisy.
5.14 We are adamant that her comment "they are only in it for themselves" was heard very clearly

Given the above we feel that this changes the evidence on which you have reached your conclusion; in particular 5.15 a –d

Appendix 3 Cllr Hyde's response.

There are several inaccuracies in Cllr Hyde's statement

3rd para:

Membership has never been closed, last year it was temporarily suspended

Cllr Hyde states the "Chair and one other of the signatories has stood against me and my ward colleagues in the local elections. I feel this point is pivotal to the complaint.." This is wholly inaccurate, no member of the SCA committee has stood against Cllr Hyde and her ward colleagues in any local election.

4th para: 2nd sentence:

The meeting was open to members of the SCA only (Ms Crook is not a member) with ward councillors invited.

6th para:

No member of the SCA committee has stood against Cllr Hyde and her ward colleagues in any local election.

