

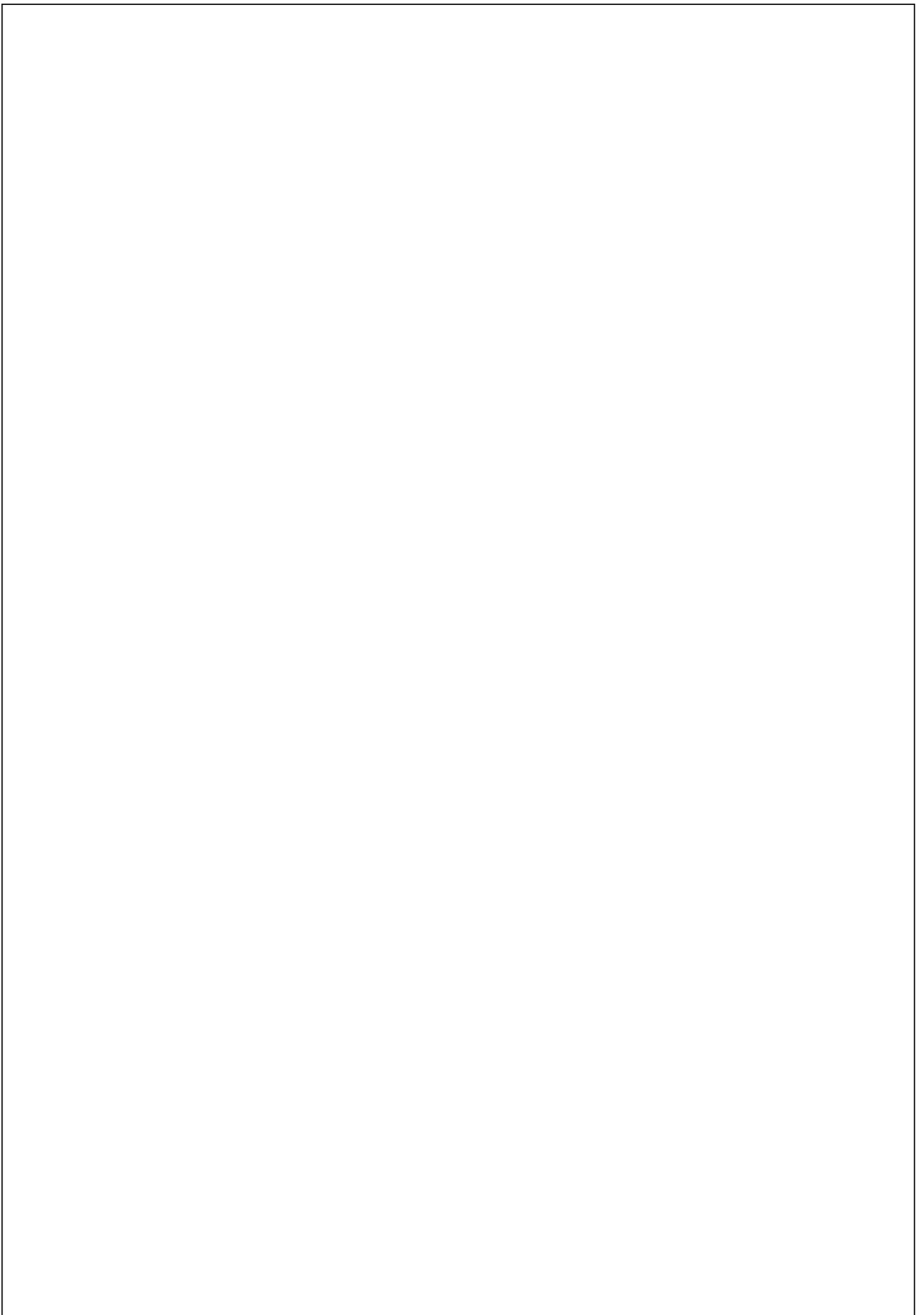


Brighton & Hove
City Council

Standards Panel

Title:	Standards Panel
Date:	18 March 2013
Time:	11.00am
Venue	Committee Room 2, Hove Town Hall
Members:	Councillors: A Norman, Lepper and Sykes 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

4. TO APPOINT A CHAIR FOR THE MEETING

5. 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.

6. HEARING OF ALLEGATION THAT A COUNCILLOR HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT FOR MEMBERS - CASE BHC-BHC-009921 1 - 44

STANDARDS PANEL

Report of the Head of Law and Monitoring Officer (copy attached).

Contact Officer: *Brian Foley*

Tel: 291229

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Agendas are available to view five working days prior to the meeting date.

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 - Friday, 8 March 2013

Subject:	Hearing of Allegation that a Councillor has failed to comply with the Code of Conduct for Members - Case BHC-008869		
Date of Meeting:	18 March 2013		
Report of:	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 Wealls has failed to comply with the Members' Code of Conduct.

2. RECOMMENDATIONS:

- 2.1 That the Panel determine the allegation that Councillor Wealls 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 set of allegations regarding the conduct of Councillor Wealls in chairing a meeting between managers of the EF International Language School, residents of St Aubyns, Police Officers and Council Officers on 03 October 2012.
- 3.2 The allegations were initially considered by the Monitoring Officer as a potential breach of the Code of Conduct for Members, and he referred the matter 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 Ms Pereira complained that Councillor Wealls:
- a) Had formed an opinion that only the EF students were responsible for causing noise disturbance at St. Aubyns.
 - b) Did not react well to any interjections made by EF Managers during the meeting.
 - c) At one point said to Ms Pereira "you keep quiet".
 - d) Did not give Ms Pereira an opportunity to speak when she raised her hand.
 - e) Knew the residents of St Aubyns on a personal level.

- f) Had an accusatory tone towards her and showed a lack of professionalism.
- 3.4 The investigation found that with regard to complaint (c) Councillor Wealls had asked Ms Pereira to be quiet, but the context was that Councillor Wealls was asking Ms Pereira to stop interrupting whilst residents were stating the points they wished to make. Officers who recalled Councillor Wealls making this request said he was firm in the way he made the request but he was not impolite or disrespectful.
- 3.5 The investigation found that with regard to complaint (d) there were times where Ms Pereira was not invited to speak when she held her hand up. Witnesses said Councillor Wealls was not being dismissive but that time was limited and the discussion needed to be moved along. The evidence indicated that Councillor Wealls was not disrespectful, that he took account of EF Managers' wish to speak and allowed them opportunity to do so at points in the meeting where it was relevant to receive their representations.
- 3.6 The investigation concluded that allegations (a), (b), (e) and (f) could not be substantiated and there had not been a breach of the code of conduct in respect of those issues. Furthermore it concluded that whilst issues (c) and (d), could on a balance of probabilities be substantiated Councillor Wealls actions had not amounted to a breach of the code of conduct in that he had not acted disrespectfully towards Ms Pereira.
- 3.7 The Investigating Officer has concluded that there has not been a breach of the Members Code of Conduct.
- 3.8 Councillor Wealls accepts the findings of the report. He is unable to attend the Hearing Panel but has no objection to it taking place in his absence.
- 3.9 Ms Pereira was invited to make any comments about the Final Report and to indicate if she would be attending the Hearing Panel. There has been no response from her. It is assumed that Ms Pereira will not be attending the Hearing Panel.
- 3.10 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.

The local procedure for investigating such allegations was agreed and adopted by Audit & Standards Committee on 25 September 2012.

Lawyer Consulted: Oliver Dixon

Date: 27/02/2012

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

PRIVATE AND CONFIDENTIAL - Final report

Case Reference: BHC-009921

Subject Member: Councillor Andrew Wealls

Complainant: Ms Angela Pereira

This report represents the final findings of an investigation carried out under Brighton & Hove City Council's 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 Andrew Wealls and will be presented to a Hearing Panel of the Audit and Standards Committee.

DATE: 25 February 2013

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1.0 Executive Summary

- 1.1 Ms Angela Pereira of EF International Language Centre complained about the way Councillor Wealls chaired a meeting on 3 October 2012 between Council officers, Police officers, residents of St Aubyns, and Managers of the EF International Language Centre to discuss noise nuisance in the street allegedly caused by students staying at the EF Centre.
- 1.2 Ms Pereira complained that Councillor Wealls:
 - a) Had formed an opinion that only the EF students were responsible for causing noise disturbance at St. Aubyns.
 - b) Did not react well to any interjections made by EF Managers during the meeting.
 - c) At one point said to Ms Pereira “you keep quiet”.
 - d) Did not give Ms Pereira an opportunity to speak when she raised her hand.
 - e) Knew the residents of St Aubyns on a personal level.
 - f) Had an accusatory tone towards her and showed a lack of professionalism.
- 1.3 The range of opinions expressed by the officers interviewed were fairly consistent and the investigation was able to conclude, based on the balance of probabilities, that complaints (a), (b), (e) and (f) could not be substantiated.
- 1.4 The investigation found that with regard to complaint (c), Councillor Wealls had asked Ms Pereira to be quiet, but the context was that Councillor Wealls was asking Ms Pereira to stop interrupting whilst residents were stating the points they wished to make. Officers who recalled Councillor Wealls making this request said he was firm in the way he made the request but he was not impolite or disrespectful.
- 1.5 The investigation found that with regard to complaint (d), there were times where Ms Pereira was not given an opportunity to speak when she held her hand up. Witnesses said Councillor Wealls was not being dismissive but that time was limited and the discussion needed to be moved along. The evidence indicated that Councillor Wealls was not disrespectful, that he took account of EF Managers’ wish to speak and allowed them an opportunity to do so at points in the meeting where it was relevant to receive their representations.
- 1.6 The investigation therefore concluded that allegations (a), (b), (e) and (f) could not be substantiated and there had not been a breach of the code of conduct in respect of those issues. Furthermore it concluded

that whilst issues (c) and (d) could on a balance of probabilities be substantiated, Councillor Wealls' actions had not amounted to a breach of the code of conduct in that he had not acted disrespectfully towards Ms Pereira.

2.0 Legislation relating to the complaint

- 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's arrangements for dealing with allegations of breaches of the Code of Conduct for Members.
- 2.3 In accordance with the local arrangements, the complaint was firstly considered by the Monitoring Officer. After taking due regard of the views of an Independent Person, the Monitoring Officer held that, if proven, the allegation against Councillor Wealls could potentially amount to a breach of the Code of Conduct for Members in force at the time the alleged misconduct took place.
- 2.4 Accordingly, the Monitoring Officer decided the complaint should be investigated and instructed the Council's Standards and Complaints Manager to carry out that investigation.

3.0 The complaint and relevant paragraph of the members code of conduct

- 3.1 The complaint raised by Ms Pereira on 03 October 2012 stated that:

We were called to discuss noise disturbances at our student residence located in 36/38 St. Aubyns, Hove - EF International Language Centre. The meeting was chaired by Councillor Wealls who, throughout the meeting, did not make any effort to be partial and fair in his view on this matter. It was clear that he had a formed opinion on who causes the noise disturbance on St. Aubyns - the EF students and only them, and did not react well to any interjections made by EF - one such interjection by me was met with Mr Wealls commenting 'you keep quiet'. On a number of occasions I raised my hand to talk and was not given an opportunity to speak. The residents of St. Aubyns interjected on several occasions and were not met with the same responses and/or attitude from Mr. Wealls who seemed to know them on a personal level. The accusatory tone and lack of professionalism in these instances were unnecessary and unbecoming of someone in Mr. Wealls position within the council.

- 3.2 The paragraph of the code of conduct which applies to the allegation is Paragraph 3(1):

You must treat others with respect.

4.0 Background to the complaint

- 4.1 EF International Language Centre own a property in St Aubyns which was given planning consent in 2001 to be used as a hostel. In 2011 a Certificate of Lawfulness was issued which allows 10 years use as a hostel.
- 4.2 At any one time there can be between 80 and 140 students staying at the property. Students enrol on a continual basis; there is a mixture of long and short term stay with the average being 4.5 weeks. In the summer most stay for around 2 weeks. Students are allowed to have other EF student visitors and there are security personnel at the premises.
- 4.3 This complaint stems from complaints made by residents of St Aubyns, Hove, about the behaviour of students when staying at the EF Centre and the noise nuisance they are alleged to have caused in the street.
- 4.4 Residents began to discuss the neighbourhood problems they were experiencing at the West Hove LAT in April 2012; Councillor Wealls was present at that meeting. There were further discussions at the June and September meetings which Councillor Wealls also attended.
- 4.5 The notes of the September LAT meeting state that residents reported continuing problems of noise disturbance from students of the EF Language Centre. Residents felt that they were not receiving an appropriate response from Sussex Police or from the council's Environmental Health team regarding these problems. As these parties were not represented at the LAT meeting, Councillor Wealls agreed to meet with the Police and Council officers to try to establish what powers of enforcement were available, and to contact the language school to see what more they could do.
- 4.6 Councillor Hawtree told the Investigating Officer that Councillor Wealls and he arranged the meeting and invited residents and Managers from the EF Centre to provide a way of trying to find solutions to resolve the problem.
- 4.7 A meeting was arranged for 03 October 2012 to try to understand the legislative process and to establish a way forward to deal with the matter.
- 4.8 Present at the meeting were:
- Alistair Alexander Resident
 - Yvette Jeal Resident
 - Bev Garth EF Manager
 - Angela Pereira EF Manager
 - Caroline Spencer EF Manager
 - Michelle Shepherd PCSO – Sussex Police
 - Sergeant Sean Preston Sussex Police
 - Peter Wileman Senior Community Safety Caseworker

number. Unfortunately, Ms Spencer did not return the Investigating Officer's calls.

- 5.3 She also asked the Investigating Officer to contact Michelle Shepherd, PCSO. Ms Shepherd was unavailable for interview although Sergeant Preston explained to the Investigating Officer that he and his colleague had spoken with each other about the meeting and shared a common view of how it had progressed.
- 5.4 Ms Pereira declined the opportunity to meet with the Investigating Officer.
- 5.5 The material in support of Ms Pereira's complaint is therefore limited to that contained within her original statement of complaint which states:
 - a. It was clear that Councillor Wealls had formed an opinion on who causes the noise disturbance at St. Aubyns: the EF students and only them.
 - b. He did not react well to any interjections made by EF Managers.
 - c. One such interjection by Ms Pereira was met with Councillor Wealls saying "you keep quiet".
 - d. When Ms Pereira raised her hand to talk she was not given an opportunity to speak.
 - e. When the residents of St. Aubyns interjected on several occasions they were not met with the same responses and/or attitude from Councillor Wealls; he seemed to know them on a personal level.
 - f. Councillor Wealls had an accusatory tone and a lack of professionalism

Evidence gathered from Councillor Wealls' interview

- 5.6 Councillor Wealls said there were times when, as Chair, he needed to act forcefully in order that he could control the meeting.
- 5.7 Councillor Wealls explained that he did not remember asking Ms Pereira to 'shut up'. He could not remember precisely what he did say to her. But he said there was a context in which he spoke to her.
- 5.8 Councillor Wealls said that residents were very frustrated and they were expressing that frustration in the meeting.
- 5.9 He understood that the Managers of EF and in particular Ms Pereira were very keen to challenge what the residents were saying. But Councillor Wealls could not allow both parties to speak at the same time.

- 5.10 Councillor Wealls said that Ms Pereira kept coming forward and wanted to put her objections to what the residents were saying before they had finished.
- 5.11 Councillor Wealls explained that he needed to control this situation and this was the context in which he would have asked anyone to have been quiet and to wait because they would have an opportunity to put their points to the meeting when the people speaking had finished.
- 5.12 Councillor Wealls said he had initially called the meeting because he wanted to understand the regulatory process for dealing with the sort of problems residents had described at the LAT meetings. This is supported in the minutes of the LAT meeting 10 September 2012.
- 5.13 Councillor Wealls thought it would be helpful to have residents at the meeting so they could describe their experience and understand the regulations as well.
- 5.14 Councillor Hawtree suggested it would be a good idea to invite Managers of EF along and Councillor Wealls was very much in favour of this.
- 5.15 Councillor Wealls said that on reflection he thought that EF Managers may not have understood the initial reasoning for the meeting.
- 5.16 Councillor Wealls and Councillor Hawtree discussed whether there should be an agenda in an email exchange and Councillor Wealls mapped out how he thought the meeting would run.
- 5.17 That exchange was on 01 October 2012 and set out the agenda as:
1. Explanation of residents' complaints and presentation of evidence
 2. Licenses and Certificate of Lawfulness - so we are clear what the legitimate impact of business is in the area
 3. EHL Perspective
 4. Police Perspective
 5. EF Language School Response
 6. Agree solutions.
- 5.18 Councillor Wealls explained this allowed residents to have their say and explain the problem to Environmental Health. Environmental Health would be able to describe the licensing arrangements and the regulatory processes. Then EF managers would have an opportunity to make their points.
- 5.19 The Investigating Officer asked Councillor Wealls what he did which demonstrated that he was keen to hear from EF Managers and how did he facilitate their involvement in the meeting.
- 5.20 Councillor Wealls said that it became clear to him, during the time the residents were speaking, that EF Managers wanted to either dispute what was being said or to make their own points.

- 5.21 In response he changed the running order for the agenda and invited the EF Managers to speak soon after the residents had been speaking.
- 5.22 Councillor Wealls said that as a local councillor he had an obligation to deal with problems that residents were presenting to him. He understood and appreciated how the residents would have felt as a result of the problems young people were causing in the street.
- 5.23 Councillor Wealls thought that the meeting had been successful because it had resulted in a range of positive outcomes.
- 5.24 Councillor Wealls said he hoped that he and EF Managers would be able move on from this complaint and to continue to work together in a positive way.

Summary of statements given by those people present at the meeting

- 5.25 Councillor Hawtree said that the residents reported that noise nuisance from students coming back at 2:00 in the morning and sometimes later was the main cause of the problem.
- 5.26 Councillor Hawtree said that Tim Nichols explained to residents why the complaints they had described in the past could not be used and that those cases were closed.
- 5.27 Councillor Hawtree said he thought the whole atmosphere of the meeting could be described as congenial.
- 5.28 He said there was an occasion when one of the council officers was quite sharp but that was isolated.
- 5.29 Councillor Hawtree was impressed that EF Managers clearly wanted to try to resolve the issue and had at one point said how important it was for their business reputation to ensure problems are resolved.
- 5.30 At first he thought EF Managers seemed defensive but that was understandable given the position they were in.
- 5.31 Councillor Hawtree said measures to improve the situation were agreed and EF Managers offered a contact number so that residents could report incidents of noise nuisance and ASB. They also offered to employ an additional security guard.
- 5.32 Councillor Hawtree said he did not think Councillor Wealls knew the residents personally; they were members of LAT, that's all.
- 5.33 In summary Councillor Hawtree described Councillor Wealls' chairing as firm but nothing more.

5.34 Overall, Councillor Hawtree said the meeting was productive and he was therefore very surprised to see a complaint against Councillor Wealls.

5.35 Tim Nichols felt Councillor Wealls showed goodwill in trying to intervene to resolve the issue.

5.36 Tim Nichols thought it right to point out how decent and responsive EF had been towards the issue of complaints about their students. He thought EF were thoroughly responsible and showed a commitment to resolve problems over and above what was required.

5.37 However, he described the meeting as 'spiky'.

5.38 He explained that members of the public set out their complaints and EF Managers were trying to pin down from the statements being made if their students were responsible for the noise nuisance and whether they would have jurisdiction to deal with the matter.

5.39 Tim Nichols could recall from his notes that Councillor Wealls had allowed these interjections.

5.40 Tim Nichols described a particular passage where there were raised voices during a section of the meeting.

5.41 He thought Councillor Wealls had been completely impartial and had been neutral and fair throughout the meeting.

5.42 Tim Nichols thought Councillor Wealls had tried to be supportive.

5.43 Peter Wileman described how the meeting was initially fraught because there was a situation where residents were against the EF Centre.

5.44 He explained that staff and councillors were caught in the middle and were trying to help resolve the problem.

5.45 In his view the professionals and councillors played a significant part in achieving the positive outcomes to the meeting.

5.46 He could think of nothing that gave him the impression Councillor Wealls was 'out of line' or biased.

5.47 Peter Wileman described a passage in the meeting where he personally had a difficult time with Ms Pereira.

5.48 Peter Wileman said Ms Pereira told him he was being hostile. He said Councillor Wealls had allowed the point under discussion to be explored and for the meeting to move on.

- 5.49 Peter Wileman said it appeared to him that Councillor Wealls knew the members of the public as constituents and nothing more. There was no indication in his view that they were personal friends.
- 5.50 Peter Wileman said it was the local residents who were of the view that students at the EF centre were the cause of the problem. It was not Councillor Wealls who was suggesting this. The Police and Peter Wileman wanted to check this position, to challenge and to open out the discussion.
- 5.51 Peter Wileman did not recall Councillor Wealls saying to Ms Pereira “you keep quiet”. Nor did he have any sense that Ms Pereira was not given room to speak.
- 5.52 Peter Wileman was surprised to learn there had been a complaint against Councillor Wealls. He could not see any reason why Ms Pereira would have reason to complain about Councillor Wealls’ conduct.
-

- 5.53 Scott Castle took contemporaneous notes of the meeting.
- 5.54 The notes demonstrate that the meeting had been well run and that each party had an input.
- 5.55 Scott Castle said that Mr Alexander and Ms Jeal had canvassed their neighbours and had a lot to say about the disturbances they had experienced.
- 5.56 It was difficult for Councillor Wealls to manage this because EF managers wanted to question the statements and allegations being made by residents.
- 5.57 Scott Castle described Councillor Wealls’ chairing as robust, forthright, unbiased, and that he clearly wanted to keep people on track.
- 5.58 People were finding it easy to get side-tracked and to forget to focus on trying to find solutions.
- 5.59 Scott Castle said he did remember Councillor Wealls saying to Ms Pereira “you keep quiet”.
- 5.60 But this was in the context of Ms Pereira frequently trying to interject and Councillor Wealls trying to steer a very clear line.
- 5.61 Scott Castle noted that Ms Pereira was taken aback, but he cannot remember if she raised her point at a later time.
- 5.62 Scott Castle was very clear that the meeting was solution focussed.

- 5.63 He commented that the EF Centre had been “spot on” with regard to ‘Best Practical Means’ in that they had systems in place for dealing with nuisance and security.
- 5.64 Scott Castle felt residents got a better understanding of what Environmental Health can do about noise in the street.
-
- 5.65 Sergeant Sean Preston explained that he and Michelle Shepherd, Police Community Support Officer, attended the meeting. PCSO Shepherd had day to day information about the issues being discussed. This allowed Sergeant Preston to observe the meeting from a more detached position.
- 5.66 He described how the meeting was conducted in a room where the space was limited and he reflected that it may have been helpful if there had been more space. (To help dissipate any tension.)
- 5.67 Sergeant Preston said Councillor Wealls ensured everyone introduced themselves. He was equally sure there was an agenda although this wasn’t printed. Sergeant Preston said Councillor Wealls wanted to first of all hear from the resident Managers for St Aubyns.
- 5.68 Sergeant Preston thought there probably wasn’t a clear understanding of what items were going to be heard through the meeting and what the running order would be. It would have been helpful if that had been made clear.
- 5.69 Sergeant Preston said the sense of an agenda did seem to get lost at some points. He described how the residents were describing complaints and saying what they wanted. The EF Managers understandably wanted to protect their organisation and wanted to speak to challenge or question what was being said.
- 5.70 Sergeant Preston said Councillor Wealls did allow EF Managers to make their representations. He said this was slightly difficult for the chair, Councillor Wealls, because the three EF Managers were speaking from a perspective relative to their status in the organisation.
- 5.71 On balance Sergeant Preston thought however, that the residents spoke for longer than the EF Managers, possibly in a ratio of 60:40.
- 5.72 Sergeant Preston did not think Councillor Wealls gave the impression that he knew anyone on a personal level. He reflected that Councillor Wealls would have known the residents from the LAT meetings, but that would be as constituents.
- 5.73 Sergeant Preston said that if Councillor Wealls had formed an opinion that EF students were the source of the problem in St Aubyns he did not give that impression. Sergeant Preston said Councillor Wealls was

chairing the meeting and was not bringing examples of conduct and behaviour to the table for discussion.

- 5.74 Sergeant Preston confirmed it was a challenge to manage the discourse between the residents and EF managers. On balance Sergeant Preston's view was:
- Councillor Wealls overall did okay chairing the meeting.
 - Some people were behaving quite forcibly.
 - The subject matter was highly emotive which meant it was always going to be a difficult meeting.
- 5.75 Sergeant Preston said that EF staff put their hands up when they wanted to speak, and waited. Whereas, the residents simply spoke when they could.
- 5.76 Sergeant Preston could sense the frustration EF Managers were feeling that residents were speaking as and when they wanted and yet the EF Managers were waiting to make their case but sometimes did not get the chance.
- 5.77 Sergeant Preston said Councillor Wealls was not being dismissive towards the EF Managers. It was just that time was limited and the meeting at one point lost its way.
- 5.78 Sergeant Preston said that EF Managers did get the opportunity to talk about the security arrangements they have in place, they were given time to state their position and SP thought that worked well.
- 5.79 Sergeant Preston said the general response the EF Centre give to complaints about their students is over and above that which some other establishments provide. He said this probably did not come through in the meeting.
- 5.80 On the subject of whether Councillor Wealls said to Ms Pereira "you keep quiet" he could not be sure this was what Councillor Wealls said, however he thought something similar was said but could not recall who exactly who it was directed towards.
- 5.81 Sergeant Preston said this happened when the meeting was becoming very heated; he thought it was during the exchange between residents and EF Managers. Sergeant Preston said Councillor Wealls needed to get the meeting back on track and to do so he had to assert his position.
- 5.82 Sergeant Preston said there was another difficult part of the meeting when there was an exchange between Ms Pereira and a Council officer.
- Ms Pereira appeared to be saying the officer wasn't listening to her and that he was talking over her.

- Ms Pereira was not happy, she was not aggressive or rude, she was distressed and upset.
 - Ms Pereira complained to the Councillor Wealls in his capacity as chair.
 - Councillor Wealls then set out how they would proceed.
 - Councillor Wealls sorted this out at the time with Ms Pereira and the officer.
- 5.83 Sergeant Preston summarised by saying Councillor Wealls had not been disrespectful, his behaviour did not come close to it. He had to manage what at times was a difficult situation and he never intentionally ignored anyone.
- 5.84 Sergeant Preston said Councillor Wealls did the best possible under the circumstances. He did nothing that could be considered inappropriate or unprofessional.

- 5.85 Yvette Jeal said she was shocked there was a complaint against Councillor Wealls.
- 5.86 Ms Jeal said that she and Mr Alexander had seen Councillor Wealls and his fellow ward councillor Christopher Hawtree at the Local Action Team on two occasions and met with Councillor Wealls once before the meeting but did not know him on a personal level.
- 5.87 Ms Jeal said Councillor Wealls (and Councillor Hawtree) listened to what residents were saying and were obviously keen to support their cause.
- 5.88 Ms Jeal said the councillors recognised there is a problem and were prepared to set up a meeting to try to resolve the issues.
- 5.89 Ms Jeal said Councillor Wealls was professional throughout the meeting and thought he had been very diplomatic. He allowed everyone time to speak and raise the issue they wanted.
- 5.90 She thought he chaired the meeting well; sometimes he would have to ask people to wait whilst another speaker finished the point they were making.
- 5.91 Ms Jeal's impression was that Ms Pereira had plenty of time to speak and her allegations that she was not given an opportunity to speak or that Councillor Wealls reacted in an unwelcome way to interjections from the EF staff were without basis.
- 5.92 Ms Jeal described how they all left the meeting, which was convivial and appeared to be on a good note. No one made any remarks about the meeting being biased.

5.93 Ms Jeal is therefore very surprised to see the complaint. She described it as totally unfounded and said she is upset on Councillor Wealls' behalf that such a complaint was made.

5.94 Another resident Mr Alexander could not see how Councillor Wealls could be accused of bias. He said Councillor Wealls went around the table and let everyone have their say.

5.95 Mr Alexander said Ms Pereira tried to deflect blame about noise nuisance to another school. He said council officers view was that the EF Centre had a system in place.

5.96 Mr Alexander said Councillor Wealls was not rude or impolite. He was a good chair and facilitator.

5.97 Mr Alexander said he certainly did not recall Councillor Wealls telling Ms Pereira to shut up.

5.98 Mr Alexander said Councillor Wealls tried to facilitate a difficult meeting and did it very well; he did a really good job. He tried to come up with a way forward without apportioning blame.

5.99 Mr Alexander concluded by saying Councillor Wealls was trying to find a solution to a problem brought to him and the other ward councillor by residents and he invited a good range of people to discuss the issue and try to resolve it. He said these are not the actions of a person who has a biased approach. It was fair and balanced.

6.0 **Conclusion based on the evidence provided**

6.1 There would appear to be a broad consensus of opinion from the people interviewed and material available about the reasons for the meeting which took place on 03 October 2012 and with regard to the progress and outcomes of that meeting.

6.2 I will set out my conclusion about the specific issues of complaint raised by Ms Pereira in turn.

a. **“It was clear that Councillor Wealls had formed an opinion about who causes the noise disturbance in St. Aubyns: the EF students and only them.”**

6.3 It was Councillor Wealls' stated intention that residents should have their say so that they could explain the problems to Environmental Health Officers and establish what could be done.

6.4 There is evidence that local residents were expressing the view that EF students were the cause of the problem. It was not Councillor Wealls who was suggesting this.

- 6.5 Scott Castle thought that as a result of the discussions, residents gained a better understand of what Environmental Health Officers could achieve as a result of the meeting.
- 6.6 Scott Castle's notes show that the Police Community Safety Officer told the meeting that less than a third of noise nuisance complaints were attributable to EF students since May 2011.
- 6.7 Sergeant Preston said that if Councillor Wealls had formed an opinion that EF students were the source of the problem in St Aubyns, he did not give that impression. Sergeant Preston said Councillor Wealls was chairing the meeting and was not bringing examples of conduct and behaviour to the table for discussion.
- 6.8 *The view of the Investigating Officer is that Councillor Wealls' intention was to allow an opportunity to check the accuracy of residents' perception and to help everyone understand what could be achieved through the legislative process and through the co-operation of the EF Centre. He was successful in achieving this. The material presented and discussed at the meeting established that EF students were not the prime cause of noise problems even though this was an opinion originally held by residents.*
- b. "Councillor Wealls did not react well to any interjections made by staff from the EF Centre."**
- 6.9 Councillor Wealls explained that residents were upset about the disturbances they experienced and he understood their reason for being angry but he also appreciated that the Managers of EF were keen to challenge what the residents were saying.
- 6.10 Councillor Wealls stated that he could not allow both parties to speak at the same time and he needed to take control when this happened, but he did allow EF Managers an opportunity to put their points to the meeting when the residents had finished speaking.
- 6.11 Councillor Wealls took account of the EF Managers' wish to challenge the statements being made by the residents in that he moved them forward in the agenda so that they could give an early reply to the points raised by the residents.
- 6.12 Sergeant Preston confirmed that Councillor Wealls allowed EF Managers to make their representations.
- 6.13 Sergeant Preston explained that as residents set out their complaints EF Managers were trying to establish if their students were responsible for the noise nuisance and whether they would have jurisdiction to deal with the matter.
- 6.14 Tim Nichols similarly thought Councillor Wealls had allowed these interjections.

- 6.15 Both residents thought that Councillor Wealls had allowed time to go around the table and for everyone to have their say.
- 6.16 Sergeant Preston commented that in hindsight it might have been helpful if there had been a published agenda so that everyone could see when they would get an opportunity to contribute.
- 6.17 *The Investigating Officer's opinion is that on the basis of the statements given in the interviews, there is a broad consensus that everyone present at the meeting had an opportunity to put forward their points of view and that Councillor Wealls responded fairly to the interjections from the EF Managers.*

c. "In response to an interjection by Ms Pereira Councillor Wealls said 'you keep quiet'."

- 6.18 Everyone interviewed was asked if they recalled Councillor Wealls asking Ms Pereira to keep quiet. The majority did not recall him saying this.
- 6.19 However, Scott Castle, who provided the investigator with a copy of carefully written contemporaneous notes, was fairly certain Councillor Wealls had asked Ms Pereira to be quiet.
- 6.20 Sergeant Preston could not be sure if this was what Councillor Wealls said; however he thought something like it was said although he could not recall who it was directed towards.
- 6.21 Sergeant Preston thought it happened when the meeting was becoming very heated during the exchange between residents and EF Managers. Sergeant Preston said Councillor Wealls needed to get the meeting back on track and to do so he had to assert his position.
- 6.22 Councillor Wealls told the Investigating Officer that he did not remember asking Ms Pereira to 'shut up'. He said he may have spoken to her but he could not remember precisely what he did say to her. But he said there was a context in which he spoke to her, and that was with regard to the need to control the meeting and ensure the residents could finish saying what they needed to say.
- 6.23 This was verified by both Sergeant Preston and Scott Castle.
- 6.24 *Based on the evidence gathered, it is the Investigating Officer's view that the meeting became heated at points and Councillor Wealls needed to exert his authority as chair to ensure the meeting remained solution focused. Councillor Wealls did ask Ms Pereira to be quiet whilst other people were speaking to give them opportunity to finish making their point. The request, if politely made would not have been unreasonable and there is no evidence to suggest Councillor Wealls was impolite. There is evidence showing Ms Pereira and the EF Managers were able to contribute to the discussions. Councillor Wealls'*

request was not detrimental and enabled the meeting to be conducted in an orderly way.

d. “When Ms Pereira raised her hand to talk she was not given an opportunity to speak.”

- 6.25 This aspect of the complaint is closely related to that in section (b). There is much evidence to indicate that Ms Pereira did contribute to the meeting and did have an opportunity to speak.
- 6.26 Sergeant Preston said that EF staff put their hands up when they wanted to speak, and waited, whereas the residents simply spoke when they could. Sergeant Preston could sense the frustration EF Managers were feeling about this.
- 6.27 Sergeant Preston said Councillor Wealls was not being dismissive towards the EF Managers. It was just that time was limited and the meeting had to be kept on track.
- 6.28 Sergeant Preston said that the EF Managers did get the opportunity to talk about the security arrangements they have in place. They were given time to state their position and he thought that worked well.
- 6.29 Councillor Hawtree said that even though at first he thought EF Managers seemed defensive he was impressed that they clearly wanted to try to resolve the issue and had at one point explained how important it was for their business reputation to ensure problems are resolved.
- 6.30 *In the Investigating Officer’s view there is evidence to indicate that Ms Pereira and her colleagues did raise their hands when they wished to speak but did not always get the opportunity to do so. However, the overall sense of the meeting from various sources is that the EF Managers were able to explain their position very well and were able to give a good account of the processes they have in place which impressed officers in the room. It follows that Ms Pereira and her colleagues must therefore have had an opportunity to speak.*

e. “When the residents of St. Aubyns interjected on several occasions they were not met with the same responses and/or attitude from Mr. Wealls; he seemed to know them on a personal level.”

- 6.31 The residents interviewed deny that they know Councillor Wealls and say they have met him on a few occasions only at the LAT meetings.
- 6.32 The officers present said it was appropriate for Councillor Wealls to address the people in the meeting by their first names but he did not give any impression that he knew anyone there on a personal level.
- 6.33 *In the Investigating Officer’s opinion there was no evidence to substantiate the statement that Councillor Wealls knew the residents,*

or officers on a personal level. Furthermore there has been no evidence to suggest that even if he did that he treated one party more or less favourably than any other.

f. “Councillor Wealls had an accusatory tone and a lack of professionalism.”

- 6.34 At no point during the interviews did the Investigating Officer hear anyone suggest that Councillor Wealls made an accusatory remark or used an accusatory tone towards any of the people present at the meeting.
- 6.35 In general the people interviewed were taken aback that there had been a complaint against Councillor Wealls.
- 6.36 One of the residents stated that Councillor Wealls chaired the meeting well and that his conduct was professional throughout.
- 6.37 Sergeant Sean Preston said Councillor Wealls did the best possible under the circumstances and did nothing that could be considered inappropriate or unprofessional.
- 6.38 It was undoubtedly at times a difficult meeting. The Senior EHO, Scott Castle, described Councillor Wealls’ chairing as robust, forthright, unbiased, and that he clearly wanted to keep people on track.
- 6.39 Tim Nichols thought Councillor Wealls had been completely impartial, neutral and fair throughout the meeting.
- 6.40 Councillor Hawtree said the meeting had been productive and he too was surprised there had been a complaint against Councillor Wealls.
- 6.41 *From the information gained, the Investigating Officer holds the view that Councillor Wealls has consistently been reported as acting in a way that can be described as firm, fair and professional. It is noted that even though the meeting was at times described as ‘difficult’ a set of positive actions were agreed.*

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

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

Paragraph 3(1)

You must treat others with respect.

- 7.2 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 impolitely 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.

7.3 In respect of complaint elements a, b, c, and d, the conclusion of the Investigating Officer, based on the balance of probabilities, is that the complaints have not been substantiated and do not therefore represent a breach of the code of conduct.

7.4 There are, however, two aspects of the complaint where there is evidence to suggest that there is validity to the issues raised; those complaints are:

c. **“In response to an interjection by Ms Pereira, Councillor Wealls said 'you keep quiet’”, and**

d. **“When Ms Pereira raised her hand to talk she was not given an opportunity to speak.”**

7.5 Taking each issue in turn.

“In response to an interjection by Ms Pereira, Councillor Wealls said 'you keep quiet’”

7.6 The evidence indicates that Councillor Wealls did ask Ms Pereira to be quiet but two witnesses explained that there was a context to this request or instruction. Councillor Wealls was chairing the meeting and there was a time when the discussion was becoming heated. Councillor Wealls needed to control the meeting so that it could remain solution focussed. It was appropriate to ask one party to stop interrupting whilst another party were stating the points they wished to make. Furthermore, there was an agenda which would allow all parties to have their say and in the circumstances Councillor Wealls' action appears to have been reasonable.

7.7 *It is the Investigating Officer's view that a request for a person be quiet when delivered in a way that is firm or robust but which is not in anyway impolite, in order that a person who is speaking may continue to do so, does not reach the threshold which can be considered to be disrespectful.*

7.8 Therefore, this aspect of the complaint cannot be considered to represent a breach of the Code of Conduct for Members.

“When Ms Pereira raised her hand to talk she was not given an opportunity to speak.”

7.9 The conclusion of the investigation in respect of this element of complaint, on the balance of probabilities, was that there were times

during the meeting when Managers of EF did wait to speak and held their hands up to indicate that they wished to do so but were not invited to speak.

- 7.10 The witness account of this was that Councillor Wealls was not being dismissive but that time was limited and the discussion needed to be moved along.
- 7.11 There are further statements that indicate the EF Managers did have an opportunity at other times in the meeting to describe and discuss the work they were doing to reduce and deal with potentially anti-social behaviour.
- 7.12 It may be helpful to consider the final comment made by Sergeant Preston who summarised by saying that in his opinion “Councillor Wealls had not been disrespectful; his behaviour did not come close to it. He had to manage what at times was a difficult situation and he never intentionally ignored anyone”.
- 7.13 *Therefore, the conclusion reached is that Councillor Wealls was not disrespectful, that he took account of EF Managers’ wish to speak and allowed them opportunity to do so at other points in the meeting where it was relevant to receive their representations.*
- 7.14 In the view of the Investigating Officer it should be noted that Councillor Wealls stated in his interview that regardless of the outcome of the investigation he hoped the EF Managers would be able to put the issue of the complaint behind them as he would, and that they would all be able to continue to work in a positive way for the good of all the residents of St Aubyns.
- 7.15 The Investigating Officer’s conclusion is that there has not been a breach of the Code of Conduct for Members.

8.0 **Finding**

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

With respect to Ms Pereira’s complaint, Councillor Wealls did not breach paragraph 3(1) of the Code of Conduct for Members..

Appendix 1

The complaint from Ms A Pereira

Please explain your complaint:

We were called to discuss noise disturbances at our student residence located in 36/38 St. Aubyns, Hove - EF International Language Centre. The meeting was chaired by councillor Wealls who, throughout the meeting, did not make any effort to be partial and fair in his view on this matter. It was clear that he had a formed opinion on who causes the noise disturbance on St. Aubyns - the EF students and only them, and did not react well to any interjections made by EF - one such interjection by me was met with Mr Wealls commenting 'you keep quiet'. On a number of occasions I raised my hand to talk and was not given an opportunity to speak. The residents of St. Aubyns interjected on several occasions and were not met with the same responses and/or attitude from Mr. Wealls who seemed to know them on a personal level. The accusatory tone and lack of professionalism in these instances were unnecessary and unbecoming of someone in Mr. Wealls position within the council.

Appendix 2

Notes of meeting between Investigating Officer and Councillor Wealls Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Interview between Brian Foley and Councillor Wealls

08 January 2013

- 1.0 BF explained the investigation process and the work he had done so far. He explained that he had been told the meeting was difficult at some points.
- 2.0 AW said there were times when, as Chair, he needed to act forcefully in order that he could control the meeting.
- 3.0 AW explained that he did not remember asking Ms Pereira to 'shut up'. He could not remember precisely what he did say to her. But he said there was a context in which he spoke to her.
- 4.0 AW described that he was aware that residents were very frustrated and they were expressing that frustration in the meeting. Understandably, the representatives of EF and in particular AP were very keen to challenge what the residents were saying.
- 5.0 But AW could not allow both parties to speak at the same time. AW said that AP kept coming forward and wanted to put her objections to what the residents were saying before they had finished.
- 6.0 AW said that he needed to control this situation and this was the context in which he would have asked anyone to have been quiet and to wait because they would have an opportunity to put their points to the meeting when the first group had finished.
- 7.0 AW explained the background to the meeting. He said he had initially called the meeting because he wanted to understand the regulatory process for dealing with the sort of problems residents had described at the LAT meetings. It would, he thought be helpful to have resident representatives at the meeting with the Local Authority representatives so they could describe their experience and understand the regulations as well.
- 8.0 AW's fellow ward councillor, CH, suggested it would be a good idea to invite EF along as well. AW was very much in favour of this.
- 9.0 On reflection, AW said he thought that EF representatives may not have understood the genesis or initial reasoning for the meeting.

- 10.0 AW and CH discussed whether there should be an agenda in an email exchange and AW mapped out how he thought the meeting would run.
- Residents would have their say and explain the problem to EnvH
 - EnvH would describe the Licensing arrangements and the regulatory Processes
 - EF would have an opportunity to make their points
- 11.0 BF asked AW what he did which demonstrated that he was keen to hear from EF and how did he facilitate their involvement in the meeting.
- 12.0 AW said that when it became clear to him, during the time the residents were speaking, that EF representatives wanted to either dispute what was being said or to make their own points he changed the running order for the agenda.
- 13.0 AW said he brought the EF representatives in soon after the Residents had been speaking.
- 14.0 AW said that he felt that as local councillor he had an obligation to deal with problems that residents were presenting to him. He understood and appreciated how the residents would have felt as a result of the problems young people were causing in the street,
- 15.0 AW thought that the meeting had been successful because it had resulted in a range of positive outcomes.
- 16.0 AW said he hoped that he and EF managers would be able move on from this complaint and to continue to work together in a positive way.

Appendix 3

Notes of meeting between Investigating Officer and Councillor Hawtree Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Telephone interview between Brian Foley and Councillor Hawtree 03 December 2012

- 1.0 Brian described what information he was looking for:
 - 1.1 From a qualitative perspective what was AW's charring like, was it okay, was it good, was it as described by Ms Periera?
 - 1.2 In particular I would like to know if AW was partial and fair?
 - 1.3 Was it the situation that EF students are the only ones causing a problem in the street?
 - 1.4 Any comment on how the problem is made worse by students being away from the building and in the street.
 - 1.5 Did AW know the residents on a personal level?
 - 1.6 Was it the case that AW would not allow EF a voice; that he refused to allow their interjections and actually told AP to be quiet.
- 2.0 Councillor Hawtree (CH) described that the St Aubyns address is the residential address for the students; it is not where the teaching takes place.
- 3.0 It is a very large building, possibly as many as 5 houses knocked into one.
- 4.0 St Aubyns is very densely populated; the houses are three storeys and are split into flats.
- 5.0 Noise nuisance problems are caused largely by students coming back at 2:00 in the morning and sometimes later.
- 6.0 Residents have made complaints in the past but the difficulty is that the record keeping tends to be sporadic. CH said that Tim Nichols (TN) explained to residents why the complaints they had described in the past could not be used, that those cases were closed.
- 7.0 CH said that residents did tend to repeat themselves with regard to the specific or general types of complaints they had.
- 8.0 CH explained that AW arranged the meeting and to ensure it was not simply a talking shop about how residents felt, he and AW thought EF should be there too. This would provide a way of trying to find solutions to resolve the problem.
- 9.0 CH invited AP who brought with her 2 other guests from EF.

- 10.0 CH thought the whole atmosphere of the meeting could be described as congenial.
- 11.0 There was an occasion when one of the Council Officers was quite sharp but that was isolated.
- 12.0 CH was impressed that EF clearly wanted to try to resolve the issue and had at one point said how important it was for their business reputation to ensure problems are resolved.
- 13.0 At first he thought EF seemed defensive but that was understandable given the position they were in.
- 14.0 Measures to improve the situation were agreed and EF offered a contact number so that residents could report incidents of noise nuisance and ASB.
- 15.0 EF had even offered to employ an additional security guard.
- 16.0 It was agreed there should be a review on 08 January 2013.
- 17.0 Overall, CH said the meeting was productive and he was therefore very surprised to see a complaint against AW.
- 18.0 CH said he did not think AW knew the residents personally, they were members of LAT, that's all.
- 19.0 In summary CH described AW's chairing as firm but nothing more.

Appendix 4

Notes of meeting between Investigating Officer and Peter Wileman

Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A. Pereira

Meeting with Peter Wileman, Senior Community Safety Caseworker

- 1.0 Peter Wileman (PW) was surprised to receive my email; he could not see any reason why Ms Pereira (AP) would have reason to complain about Councillor Wealls (AW) conduct.
- 2.0 PW explained that members of the public feel they have suffered or have been experiencing Anti Social Behaviour.
- 3.0 Staff and councillors were at the meeting to try to help resolve the problem.
- 4.0 Naturally, EFL feel under pressure, as they are seen by members of the public as the source of the problem.
- 5.0 PW said the meeting was initially fraught because there was a situation where residents were against the school. The professionals and the councillors were in the middle.
- 6.0 PW said he has seen this type of tension hundreds of times before and in many instances it had been far worse.
- 7.0 The professionals and councillors played a significant part in achieving the positive outcomes to the meeting. For example a reporting system has been agreed where residents will report their complaints about the students to the school.
- 8.0 In his discussion with the school PW addressed the issue of 'what good neighbours do'. PW offered induction meetings where this can be discussed. PW recognised that other neighbours can cause problems and that students can be victims too. However, students will have to appreciate this is a residential area and standing outside in the street for two hours smoking will be viewed as anti-social behaviour by the residents.
- 9.0 PW repeated that he had attended huge numbers of meetings and this has developed his ability to immediately recognise when officers or members are saying something or acting in a way which can be considered to be 'out of line'.
- 10.0 Thinking back to the meeting PW could think of nothing that gave him the impression AW was biased.
- 11.0 PW thought the meeting had been uneventful compared to meetings he was used to.

- 12.0 PW described a passage in the meeting where he had a difficult time with AP. PW wanted to know about the policy at EF for student security, and what warning systems they had for misconduct. His objective was to understand the college's processes so he could help them manage student behaviour to alleviate problems. PW said he thought EF were being evasive about their systems and he as probed he found there were contradictions.
- 13.0 PW said AP told him he was being hostile.
- 14.0 PW said he thought AW allowed this point to be explored and for the meeting to move on.
- 15.0 PW said there were 3 EF staff present: 1 very senior officer, the person who raised the complaint and a member of staff who he presumed managed the St Aubyns College. The manager thanked PW, was smiley and there was no adverse feeling between them.
- 16.0 Regarding the allegation that PW knew AW. He had previous contact with AW about another case but that was the limit of their previous interactions.
- 17.0 PW said it appeared to him that AW knew the others as constituents. He was not over friendly, there was no indication that they were personal friends but PW did think AW called them by their first names.
- 18.0 PW said there was never any sense that EF were being pushed to do something they did not wish to.
- 19.0 At the end of the meeting Bev (the manager) and PW found each other and it felt positive.
- 20.0 PW said it was the local residents who were of the view that EF were the cause of the problem. IT was not AW who was suggesting this. The Police and PW wanted to check this position, to challenge and to open it out.
- 21.0 The discussion they had was about how some, not all, students can be a problem sometimes and how this issue can be dealt with.
- 22.0 PW certainly did not recall AW saying to AP "you keep quiet". Nor did he have any sense that AP was not given room speak.

Appendix 5

Notes of meeting between Investigating Officer and Tim Nichols

Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Interview between Brian Foley and Tim Nichols, Head of Regulatory Services

04 December 2012

- 1.1 BF asked TN if he would take account of the issues of complaint as set out in the email, i.e. that Councillor Wealls, and with this in mind describe how the meeting went, to think about questions that AP asked and what AW's reaction was to her questions and interjections.
 - made no effort to be partial and fair
 - formed an opinion that it was the EF students and only them who caused the noise disturbance
 - did not react well to any interjections made by EF
 - on one occasion said to the complainant, "you keep quiet"
 - would not give the complainant an opportunity to speak even when she raised her hand
 - did not give the same response to her as he did to the residents of St. Aubyns when they wanted to interject
 - seemed to know the other people present on a personal level
 - had an accusatory tone and lacked professionalism in a way that was unnecessary and unbecoming of someone in his position within the council.
- 1.2 TN said that to some extent he thought it was an unnecessary meeting. He said there had been complaints for about 20 years, but none had been substantiated to the point where a statutory nuisance was being caused.
- 1.3 TN said he thought that some residents were more sensitive to noise issues than others.
- 1.4 TN felt it was right to point out how decent and responsive EF had been towards the issue of complaints about their students. Asked what he would do about the noise disturbances he said "nothing", he had no authority to intervene and EF have security personnel and CCTV. TN thought EF were thoroughly responsible and showed a commitment to resolve problems over and above what was required.
- 1.5 TN remarked that AW may have been a victim of his good will to try to intervene to resolve an issue. But EF had done nothing wrong.
- 1.6 TN described the agenda from his notes,
 - Residents complaints and evidence
 - Licences and Certificate of Lawfulness
 - EHL Perspective
 - Police Perspective

It appeared as though EF were missing from the agenda and they may have thought they would not have an opportunity to speak.

- 1.7 TN described the meeting as 'spikey'.
- 1.8 Members of the public set out their complaints.
- 1.9 EF, however, were trying to pin down from the statements being made if their students were responsible for the noise nuisance and whether they would have jurisdiction to deal with the matter. If the students or young people were away from the building it would not be possible for EF to deal with the matter.
- 1.10 EF were asking the residents for the times and details of the complaints being spoken of because they had not previously been made aware of them.
- 1.11 TN thought AW had allowed these interjections and he could recall from his notes that Bev had asked "what else can we do?"
- 1.12 TN thought PW was giving the impression that EF were trying to deflect the allegations were reacting aggressively against suggestions how the problem could be solved.
- 1.13 TN said there were raised voices.
- 1.14 TN said EF accused PW of being aggressive towards them, particularly with reference to students sitting on the wall.
- 1.15 TN thought AW had been completely impartial and had been neutral and fair.
- 1.16 TN concluded that there have been noise problems but understood from an EF perspective that they had done what could be expected of them therefore the meeting was in some respects misplaced.
- 1.17 TN thought AW had tried to be supportive but he reflected that you cannot please everyone.

Appendix 6

Notes of meeting between Investigating Officer and Scott Castle

Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Interview between Brian Foley and Scott Castle, Senior Environmental Health Officer

04 December 2012

- 1.0 BF described the complaints to SC and asked if he would describe to BF how the meeting had flowed, paying particular attention to AW's role and how he involved the people present. AP's complaints were in front of SC for reference.
- 2.0 SC showed BF the contemporaneous notes that he had taken during the meeting and we talked through these. Copy attached.
- 3.0 The notes seemed to demonstrate that the meeting had been well run and that each party had an input.
- 4.0 SC said that AA and YJ had canvassed their neighbours and had a lot to say about the disturbances they had experienced.
- 5.0 It was difficult for AW to manage this because EF wanted to question the statements and allegations being made by residents.
- 6.0 But SC described AW's chairing as robust, forthright, unbiased, and that he clearly wanted to keep people on track.
- 7.0 It was easy for people to get side-tracked and to forget to focus on trying to find solutions.
- 8.0 Looking through the list of complaints SC said he did remember AW saying to AP "you keep quiet".
- 9.0 But this was in the context of AP frequently trying to interject and AW trying to steer a very clear line.
- 10.0 SC noted that AP was taken aback, and he cannot remember if she raise her point at a later time.
- 11.0 SC was very clear that the meeting was solution focussed.
- 12.0 SC also commented that EF had been spot on with regard to 'Best Practical Means' in that they had systems in place for dealing with nuisance and security.
- 13.0 SC felt residents got a better understanding of what Env Health can do about noise in the street.

Appendix 7

Notes of meeting between Investigating Officer and Emma Bullen

Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Interview between Brian Foley and Emma Bullen, Technical Officer, Environmental Protection

04 December 2012

- 1.0 EB was at the meeting for the first half an hour.
- 2.0 EB thought it would be an awkward meeting because residents have very high expectations of what should be achieved in preventing the noise disturbances.
- 3.0 EB thought the residents attributed all complaints in the street to EF students.
- 4.0 EB said there were examples, when diaries were closely checked, that noise nuisance had corresponded with other people in the street holding parties.
- 5.0 EB thought EF made an effort to deal with instances of nuisance in the street but are limited to the school grounds and the immediate area outside.
- 6.0 EB said Env Health had witnessed no statutory nuisance.
- 7.0 In the meeting EF responded saying what steps they had taken to deal with the nuisance. EB knew that both councillors were very much involved. However she questioned the value of the meeting as EF had already done a lot and no statutory nuisance has been identified.
- 8.0 EB said that nothing particularly stood out for her regarding the chairing of the meeting. It was a difficult meeting but it was being well controlled.

Appendix 8

Notes of meeting between Investigating Officer and Sergeant Sean Preston

Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Interview between Brian Foley and Sergeant Sean Preston, Sussex Police. 11 December 2012

1. Sergeant Sean Preston (SP) explained that he and Michelle Shepherd (MS), PCSO attended the meeting. MS had day to day information about the issues being discussed. SP took observed the meeting from a more detached position.
2. He described that the meeting was conducted in a room where the space was limited and he reflected that it may have been helpful if there had been more space.
3. SP thought that Councillor Wealls (AW) might not have been aware of quite how many people were going to be present. He wasn't however certain who had set the meeting up.
4. SP was clear that AW ensured everyone introduced themselves. He was equally sure there was an agenda although this wasn't printed. SP said AW wanted to first of all hear from the resident representatives for St Aubyns.
5. SP thought there probably wasn't a clear understanding of what items were going to be heard through the meeting and what the running order would be. It would have been helpful if that had been made clear.
6. SP said the sense of an agenda did seem to get lost at some points. He described how the residents were describing complaints and saying what they wanted. The EF representatives understandably wanted to protect their organisation and wanted to speak to challenge or question what was being said.
7. SP said AW did allow EF to make their representations. He said this was slightly difficult for the chair (AW) because the three EF representatives were speaking from a perspective relative to their status in the organisation.
8. On balance SP thought however, that the residents spoke for longer than the EF representatives, possibly in a ratio of 60:40.
9. SP described how Environmental Health and the Police were able to make their input to the meeting. Env. Health talked about the relevant legislation. Sussex Police described how they can offer support to residents and the school. This section of the meeting was easy to manage.

10. SP did not think AW gave the impression that he knew anyone on a personal level; that is, he didn't seem to know anyone 'out of work'. SP said AW called people by their first names, and that would not be unusual for a councillor talking to officers, residents and other agency employees. He also reflected that AW would have known the residents from the LAT meetings, but that would be as constituents.
11. SP said that if AW had formed an opinion that EF students were the source of the problem in St Aubyns he did not give that impression. SP said AW was chairing the meeting and was not bring examples of conduct and behaviour to the table for discussion.
12. SP confirmed it was a challenge to manage the discourse between the residents and EF. On balance SP's view was
 - AW overall did ok chairing this part of the meeting
 - Some people were behaving quite forcibly
 - The subject matter was highly emotive which would meant it was going to be a difficult meeting
13. SP said that EF staff put their hands up when they wanted to speak, and waited. Whereas, the residents simply spoke when they could.
14. SP could sense the frustration EF were feeling that residents were speaking when they wanted and EF were waiting to make their case but sometimes did not get the chance.
15. SP said AW was not being dismissive towards the EF representatives. It was just that time was limited and the meeting at one point lost its way.
16. SP said that EF did get the opportunity to talk about the security arrangements they have in place, they were given time to state their position and SP thought that worked well.
17. SP thought the EF representatives acted very reasonably throughout the meeting and he thought that they were not perhaps being given as much positive feedback as they could have been provided.
18. SP said the response EF give to complaints about their students is over and above that which some other establishments provide. SP said this probably did not come through in the meeting.
19. On the subject of whether AW said to AP "you keep quiet" he could not be sure this was what AW said, however he thought something similar was said but could not recall who exactly it was directed towards.
20. AW said this happened when the meeting was becoming very heated; he thought it was during the exchange between residents and EF representatives. SP said AW needed to get the meeting back on track and to do so he had to assert his position.

21. SP said there was another difficult part of the meeting when there was an exchange between AP and PW.
- AP appeared to be saying PW wasn't listening to her and that PW was talking over her.
 - AP complained to the chair (AW)
 - AW then set out how they would proceed
 - AP was not happy, she was not aggressive or rude, she was distressed and upset
 - AW sorted this out at the time with AP and PW
22. SP recalled that the Police explained what resources they could commit and this contributed to the positive outcomes of the meeting. He said his PCSO colleague had also given some data which showed the neighbourhood problems were low for the last three month period and that potentially incidents were not all down to the EF students.
23. SP re-iterated that overall AW did a good job. With hindsight it may have been helpful to have given a longer pre-ambule so that people would know when they would have an opportunity to explain their point of view and possibly a printed agenda.
24. SP summarised by saying AW had not been disrespectful, his behaviour did not come close to it. He had to manage what at times was a difficult situation and he never intentionally ignored anyone.
25. SP said AW did the best possible under the circumstances. He did nothing that could be considered inappropriate or unprofessional.

I confirm this is an accurate record of our discussion

Signed: Sean Preston

Date: 13/12/12

Sean Preston
Police Sergeant CP803

Brighton & Hove Neighbourhood Policing Team
Hove Central / Hove Coastal / Wish / Westbourne

Appendix 9

Notes of meeting between Investigating Officer and Alastair Alexander

Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Interview between Brian Foley and Alistair Alexander, local resident.

04 December 2012

1. AA gave background information to set context for the meeting on 03 October 2012.
2. AA said he had lived in the street since 2001 and there had always been problems.
3. He was first contacted by YJ in either August 2009 or 2010 about the noise problems. He thinks YJ has lived in St Aubyns for about 5 or 6 years.
4. The previous manager Sue Williams had been looking into the prospect of turning the building into a teaching facility rather than residential. When she left there was not follow up to this idea.
5. YJ contacted AA again in March 2012. AA leafleted other residents on the issue of noise and had a response from about 40 people who had complaints.
6. AA attended the April 2012 LAT and AW was present. AA raised the subject of noise nuisance and the PCSO offered to arrange for the Police van to be present. But the Police are limited to the times they can be there.
7. AA described how in the summer the nuisance becomes worse as students stay for a shorter period and are their mainly to holiday.
8. At the LAT in June and Sept further contact was made with AW. Both AW and CH were at that meeting and offered to explore how to take the issue forward with EF. AW said he would invite a variety of people to the meeting.
9. AA described how he has tried to contact AP and said she ignored him until he threatened to contact Bev Garth. He said that the hostel manager Caroline Spencer has left and has been replaced by someone called Isabella.
10. AA said residents are contacting EF directly. He said there is very little good will towards a business in a residential area that is causing so much of a problem.

11. AA said people are so tired they are missing work and are being made to feel very unwell.
12. At the October meeting in TN's office AA could not see how AW could be accused of bias. AA said AW went around the table and let everyone have their say.
13. AA said AP tried to deflect blame about noise nuisance to another school. AA said TN did not help because he said EF had a system in place.
14. AA explained that PW suggested an induction process for new students, but AP clashed with PW and was quite nasty towards him.
15. AA asked, rhetorically, where was the problem with PW's suggestion about standards of behaviour. AA said AP tried to cut across PW.
16. AA described the complaint as malicious and vexatious. He said he would hope there was some comeback on AP for making such a spurious allegation.
17. AA said AW was not rude or impolite. He was a good chair and facilitator. AA said there is no way the allegations are true, they are spurious.
18. AA said he certainly did not recall AW telling AP to shut up. AA said AP was certainly having a go at PW and was trying to deflect criticism. She always said it was other young people (not EF students) who were the cause of the problem.
19. AA said there was very little recognition that EF bring the students to St Aubyns and should show a level of responsibility for their conduct. AA said EF used to have a bursar who would go out and usher the young people in encouraging them to be quiet.
20. AA said AW tried to facilitate a difficult meeting and did it very well, he did a really good job. He tried to come up with a way forward without apportioning blame.
21. AA concluded by saying AW was trying to find a solution to a problem brought to him and the other ward councillor by residents and he invited a good range of people to discuss the issue and try to resolve it. These are not the actions of a person who has a biased approach. It was fair and balanced.

Appendix 10

Notes of discussion between Investigating Officer and Yvette Jeal

Standards Complaint BHC 009921

Code of conduct complaint against Councillor Wealls by Ms A Pereira

Telephone interview between Brian Foley and Yvette Jeal 30 November 2012

- 1.0 Yvette Jeal (YJ) said she was shocked there was a complaint against Councillor Wealls (AW).
- 2.0 YJ said AW was professional. YJ has a strong professional background and is a good judge of character.
- 3.0 YJ thought that AW had been very diplomatic throughout the meeting.
- 4.0 BF asked if YJ knew AW on a personal level.
- 5.0 YJ said that she and Mr Alexander had seen AW and his fellow ward councillor Christopher Hawtree (CH) at the Local Action Team on two occasions and met with AW once before the meeting.
- 6.0 YJ said she and her neighbours had been experiencing problems with the EF school during the six years she had been living there. The subject of the noise nuisance from students at the language school was raised at the LAT meeting.
- 7.0 AW (&CH) listened to what residents were saying and were obviously keen to support their cause.
- 8.0 BF wanted to know if this indicated a bias.
- 9.0 YJ said the councillors recognised there is a problem and were prepared to set up a meeting to try to resolve the issues. As YJ recalled, AW contacted the officers and CH contacted the staff at EF. Between them they organised the meeting.
- 10.0 YJ said that the noise nuisance had a serious impact on the health and well-being of some residents.
- 11.0 YJ commented that when she reflected on the meeting she might have thought AP may have had some issue with one of the officers who challenged EF on the policies they have in place.
- 12.0 As she recalled, AW was very professional throughout the meeting and allowed everyone time to speak and raise the issue they wanted.

- 13.0 She thought he chaired the meeting well, sometimes he would have to ask people to wait whilst another speaker finished the point they were making.
- 14.0 YJ's impression was that AP had plenty of time to speak and her allegations that she was not given an opportunity to speak or that AW reacted in an unwelcome way to interjections from the EF staff was without basis.
- 15.0 YJ again confirmed she did not know AW on a personal level, she explained that she is has a full time career which absorbs her time and she in not and nor does she wish to be involved in politics.
- 16.0 YJ described how they all left the meeting, which was convivial and appeared to be a good note. No one made any remarks about the meeting being biased.
- 17.0 YJ is therefore very surprised to see the complaint. She described it as totally unfounded and said she is upset on AW's behalf that such a complaint was made.

I confirm this is an accurate record of my telephone conversation

Signed: Yvette Jeal

Date: 30/11/2012

Appendix 11

Notes of the action points arising from the meeting of 03 Oct 2012 between residents, EF Language School, and various professionals

St Aubyn's Residents and EF Language School

3rd October 2012

Attendees;

EF: Angela Pereira, Caroline Spencer, Bev Garth

BHCC: Pete Wileman, Tim Nichols, Scott Castle

Sussex Police: Michelle Shepherd, Sean Preston

St Aubyn's: Yvette Jeal, Alistair Alexander

Councillors: Hawtree, Wealls

Agreed Action Points as follows;

- Meeting to be arranged between Pete Wileman, Police and EF to discuss security processes. Best use of security staff, possible opportunities for security staff (not with existing company) to go into the street to ask students to be quiet on approaches. Questions were asked about whether there are security firms which patrol beyond defined boundaries. This to be explored at this meeting, and is recognised as an opportunity to engage with security providers to see what is feasible.
- Bev offered to review current security arrangements and providers should positive suggestions and opportunities come out of this process.
- Police, Community Safety Team and EHL to set up monthly presentations at the school to explain (in a positive and welcoming way), the impact of late night noise on nearby residents and work with students to reduce impact.
- Agreed that all resident complaints should be directed to EF Language School. These will be collected by Caroline, who will respond and take necessary internal action, including checking CCTV. Caroline will e-mail the whole resident group (Yvette and Alistair to supply e-mail list), who can then monitor progress. E-mail list to include Cllr Wealls and Hawtree.
- EF to review smoking area and whether can be situated elsewhere to reduce impact.
- We will hold a follow up meeting in two months' time (beginning Dec) to review progress and a follow up meeting six months after that (early June 2013) to plan for the summer season. AW to arrange.