

# Public Document Pack

## **Standards Committee – Hearings Sub-Committee: 17<sup>th</sup> May 2010**

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**Case reference:**

Report of an investigation under Section 59 of the Local Government Act 2000 by Jonathan Goolden, appointed by the Monitoring Officer for Leeds City Council, into allegations concerning Councillor John Procter.

9<sup>th</sup> February 2010

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CONFIDENTIAL REPORT

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## CONFIDENTIAL REPORT

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## CONFIDENTIAL REPORT

### 1. Summary

- 1.1 Councillor John Procter has been a member of Leeds City Council (the Council) since 1994.
- 1.2 The Council's Plans Panel (East) considered a planning application submitted by the St John's Catholic School for the Deaf (the School) at its meeting on 10<sup>th</sup> April 2008. The School's application had been deferred from the previous meeting of the Plans Panel, held on 13<sup>th</sup> March 2008.
- 1.3 Councillor Procter spoke in opposition to the application, stating that the School had not taken the advice of the Panel to use the deferment to consult with neighbours and Ward members over the proposals.
- 1.4 The Head Teacher of the School, Mrs. Ann Bradbury, addressed the Panel in support of the application and in response to Councillor Procter's comments.
- 1.5 Mrs. Bradbury alleged that Councillor Procter stood behind her and said "*Liar, liar*", whilst she was addressing the Panel in response to his comments. Mrs. Bradbury made a complaint to the Council about the conduct of Councillor Procter.
- 1.6 As a result of my investigation, I have found that:-
  - (a) Councillor Procter commented "*that is a lie*" to constituents whilst Mrs. Bradbury was speaking. These words were spoken at a normal volume and heard by some witnesses near Councillor Procter;
  - (b) the use of these words was an indication that Councillor Procter considered that what Mrs. Bradbury was saying was incorrect rather than that she herself was a liar. Though the use of such words was inadvisable and risked causing offence, they were in themselves not a comment directed at her personal characteristics and were not in themselves a failure to treat her with respect;
  - (b) however, to comment in public using such words whilst Mrs. Bradbury was addressing the Panel and in her hearing was a failure to treat her with respect and, on balance, likely to bring Councillor Procter's office or authority into disrepute.
- 1.7 My finding under regulation 14 of the Standards Committee (England) Regulations 2008, is that there has been a breach of the code of conduct of the authority concerned by Councillor John Procter.

## **2 My appointment**

- 2.1 The Assessment Panel of the Council's Standards Committee referred Mrs. Bradbury's complaint against Councillor Procter to Nicole Jackson, the Council's Monitoring Officer for investigation.
- 2.2 Under section 82A of the Local Government Act 2000, Ms. Jackson nominated me to perform her investigatory functions as a Monitoring Officer in respect of Mrs. Bradbury's complaint.
- 2.3 I hold an honours Bachelor of Arts in Law degree from the University of Sheffield. I am a solicitor and an accredited mediator. I have been employed by various local authorities as a solicitor for a period of 14 years and have held the position of Monitoring Officer in two authorities for six years. I now practice law as a solicitor on my own account and have acted as a nominated investigator of approximately 35 complaints against members of local authorities across England and Wales.
- 2.4 I was assisted in the conduct of the investigation by Mr. Martin Dolton and Mr. Alan Tasker. Mr. Dolton holds an honours Bachelor of Science degree in Local Government Studies from the University of Birmingham. He was a police officer for a period of 29 years, attaining the rank of Superintendent, and is an associate investigator for the Standards Board for England. Mr. Tasker is a former Monitoring Officer, has undertaken a number of code of conduct investigations and has 11 years experience of advising planning committees.

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### **3 Relevant Legislation**

3.1 The Council had adopted the 2007 Model Code of Conduct as its code of conduct at the time of the complaint.

3.2 Paragraph 3 (1) of the Code of states:-

*“You must treat others with respect”*

3.3 Paragraph 5 of the Code states:-

*“You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”*



## 4 Evidence and facts

### *The investigation*

- 4.1 During the investigation, Mr. Dolton held face to face meetings with, and obtained signed statements from:-
- Mrs. Ann Bradbury - complainant
  - Councillor Mark Dobson
  - Councillor Alan Taylor
  - Councillor Graham Latty
  - Councillor Donald Wilson
  - Councillor Michael Lyons OBE
- 4.2 Mr. Dolton conducted a face to face taped interview with Councillor Procter from which a transcript was prepared. Councillor Procter was accompanied by Ms. Hardy and Mr. McKay of Eversheds Solicitors at the interview. He was given an opportunity to comment on the transcript of the interview and did so through his representatives.
- 4.3 Ms. Hardy has also on Councillor Procter's behalf made detailed comments on a draft version of this report. These comments are set out in section 6 below and also referred to as appropriate in the main body of the report.
- 4.4 In the light of comments made on behalf of Councillor Procter, I asked Mr. Tasker to attend and observe a meeting of Plans Panel East held on 10<sup>th</sup> December 2009 and to provide a statement in relation to this.
- 4.5 Copies of the above, together with other relevant documents are annexed to this report and listed in a schedule of evidence at section 8.
- 4.6 I wish to record my thanks and those of Mr. Dolton for the co-operation and courtesy shown to us by all those we had cause to contact during the investigation.

### *Background*

- 4.7 A planning application was made on behalf of the St. John's Catholic School for the Deaf for a new expressive arts building. This was considered initially at a Plans Panel (East) meeting on 13<sup>th</sup> March 2008. Councillor Procter was not a member of the Panel but attended the meeting and spoke in opposition to the application in his capacity as a ward councillor. The Panel decided to defer its decision for one month to allow the School to discuss issues with Councillor Procter and neighbours to the development (see extract from minutes attached at JTG 1).
- 4.8 The application was considered again at the Plans Panel (East) meeting on 10<sup>th</sup> April 2008. Councillor Procter spoke in opposition to the application in his capacity as a ward councillor. Mrs. Bradbury

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spoke in response in support of the application (see extract from minutes attached at JTG 2).

### *Mrs. Bradbury's complaint*

- 4.9 Mrs. Bradbury is the head teacher of the St John's Catholic School for the Deaf. She acted on behalf of the school in relation to the planning application for a new expressive arts building.
- 4.10 Mrs. Bradbury submitted a written complaint on 30<sup>th</sup> May 2008 to Mr. Rogerson, Chief Executive at Leeds City Council. She alleged that Councillor Procter stood behind her (committee seating plan at JTG 3) shaking his head and saying "liar, liar" during her three minute response at the meeting on 10<sup>th</sup> April 2008 (complaint enclosed at JTG 4).
- 4.11 Ms. Hardy has commented on the draft report that the seating plan is not accurate in that members of the press were between Mrs. Bradbury and Councillor Taylor, and that Councillor Wilson was next to Councillor Taylor. I have marked the plan with the names of those present as identified in the statements obtained and the plan does show members of the press between Mrs. Bradbury and Councillor Taylor and Councillor Wilson as next to Councillor Taylor.

### *Mrs. Bradbury*

- 4.12 Mrs. Bradbury was interviewed in person and a signed statement obtained (JTG 5) in which she stated :-
- (a) in October 2007 the Governors of the School submitted a planning application to Leeds City Council in relation to the building of an expressive arts centre;
  - (b) during May, June and July 2007 she sent correspondence to Councillor Procter asking for meetings to discuss the project, but no meeting took place;
  - (c) the application was to be considered at the Plans Panel (East) on the 13<sup>th</sup> March 2008;
  - (d) up to February 2008, eight attempts to set up meetings with Councillor Procter had been made by the school. A meeting took place on 6<sup>th</sup> February 2008. A chronology of the communications is attached at JTG 6;
  - (e) at the meeting on 13<sup>th</sup> March 2008 the Panel deferred its decision for one month for the School to contact near neighbours and Councillor Procter to discuss the site position and nature of the building;

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- (f) the School made contact with near neighbours prior to the next meeting of the Panel on 10<sup>th</sup> April 2008. Their response was that they did not wish to meet with the School as Councillor Procter was handling the issue;
- (g) Councillor Procter contacted the School's architects on 17<sup>th</sup> March 2008 to arrange a meeting. Councillor Procter told Alan Hunt from the architects firm that it was not necessary for a member of the School staff to be present at that meeting;
- (h) at the Panel meeting on 10<sup>th</sup> April 2008 Councillor Procter spoke opposing the application. The main argument in his opposition was that the school had not tried to set up the meetings that the Panel had previously requested. He implied that the school had disregarded the Panel's advice from the earlier meeting;
- (i) Mrs. Bradbury had not intended to address the Panel. She decided she would speak to the Panel as she felt that what Councillor Procter had said was unfair and misrepresented the facts;
- (j) she sat at the Public Speaking Desk and explained to the Panel that Councillor Procter was mistaken;
- (k) Councillor Procter stood immediately behind her whilst she was speaking, approximately 2 or 3 feet away, with Councillor Dobson standing beside him;
- (l) whilst she was speaking she heard very clearly from behind her the words "*Liar, liar, she's lying*". She was certain that it was Councillor Procter as she recognised his voice;
- (m) Councillor Procter continued to speak loudly over her whilst she tried to carry on speaking. She found this to be intimidating and bullying;
- (n) she was personally very angry, upset and humiliated by Councillor Procter. She also felt the comment had degraded the school, her position within it, and her personal integrity.

### *Councillor Mark Dobson*

4.13 Councillor Dobson was interviewed in person and a signed statement obtained (JTG 7) in which he stated:-

- (a) he attended the Plans Panel (East) meeting on 10<sup>th</sup> April 2008 to speak on an unrelated planning application;
- (b) he remained in the room after he spoke on the matter as the local Member of Parliament had asked him to remain to hear the outcome and brief him later on the School's planning application;

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- (c) he was standing just behind the Public Speaking Desk. The room was completely full. Councillor Procter was standing immediately in front of him and a couple of feet behind Mrs. Bradbury. Councillor Dobson's head was within one foot of Councillor Procter's;
- (d) whilst Mrs. Bradbury was speaking he heard Councillor Procter say "*Liar, liar, liar*" over her, definitely repeating the word '*liar*' three times. He saw Councillor Procter lean down and towards Mrs. Bradbury, which he thought was intimidating;
- (e) Councillor Procter repeatedly shook his head and sought eye contact with members of the Panel throughout Mrs. Bradbury's speech;
- (f) Councillor Procter said the words "*Liar, liar, liar*" in a loud enough voice for members of the public and members of the Panel sitting closest to the public end to hear, although Councillor Dobson thought Panel members at the far end of the room might not have heard;

### *Councillor Alan Taylor*

4.14 Councillor Taylor was interviewed in person and a signed statement obtained (JTG 8) in which he stated:-

- (a) he was present at the meeting on 10<sup>th</sup> April 2008 as a member of the Plans Panel (East);
- (b) the public seating area was full with people standing;
- (c) whilst the head teacher (Mrs. Bradbury) was speaking, Councillor Procter was positioned just behind her. He was unsure whether Councillor Procter was standing or sitting;
- (d) he observed Councillor Procter shaking his head and heard him say "*Lies*" or "*not true – lies*" or words to that effect whilst the head teacher was speaking. He is sure that the actual words included either '*Liar*' or '*Lies*';
- (e) he was approximately 5 yards from Councillor Procter when the words were spoken, and Councillor Procter said them in a normal volume;
- (f) he believed that Councillor Procter said the words in a more dismissive than aggressive manner.

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### *Councillor Graham Latty*

- 4.15 Councillor Latty was interviewed in person and a signed statement obtained (JTG 9) in which he stated:-
- (a) he was the Chair of the Plans Panel (East) of the Council;
  - (b) he recalled that the School's planning application was deferred at the 13<sup>th</sup> March 2008 meeting of the Panel for further investigation of site options in consultation with Ward members;
  - (c) he recalled Councillor Procter speaking on behalf of the objectors at the meeting on 10<sup>th</sup> April 2008 when the application was again considered. The objection was that alternative sites within the School complex were available and the School had not fully consulted locally on those options;
  - (d) he was unsure exactly where Councillor Procter was in the room when Mrs. Bradbury was speaking;
  - (e) he did not hear Councillor Procter say anything;
  - (f) there was between 25 and 30 feet between him where he thought Councillor Procter was;
  - (g) sound did not travel the length of Committee Room 6/7 where the meeting was held without amplification;
  - (h) anyone speaking in a normal voice volume in the public seating area would be unlikely to be heard by him.

### *Councillor Donald Wilson*

- 4.16 Councillor Wilson was interviewed in person and a signed statement obtained, (JTG 10) in which he stated :-
- (a) he was a member of the Plans Panel (East) of the Council;
  - (b) at the meeting on 13<sup>th</sup> March 2008 he recalled the decision on the School's application was deferred one cycle to the next meeting to enable further consultation between Ward members and residents by the applicant;
  - (c) he was present when the application was again considered at the meeting on 10<sup>th</sup> April 2008 and that the room was totally full;
  - (d) he heard Councillor Procter speaking to the Panel and asking it to refuse the permission due to objections raised by residents;

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- (e) the head teacher of the School sat at the Public Speaking Desk to respond, with Councillor Procter standing immediately behind her and Councillor Dobson immediately behind Councillor Procter due to the room being so full;
- (f) he recalled the head teacher (Mrs. Bradbury) stating that she had been attempting to contact Councillor Procter but had been unable to do so;
- (g) he clearly remembered Councillor Procter standing behind the head teacher and shaking his head as she stated this;
- (h) he did not hear Councillor Procter say anything, but states it is unlikely that he would have heard Councillor Procter say anything due to the size of the room, the distance of about 5 yards between them and the general 'buzz' of background noise.

### *Councillor Michael Lyons OBE*

4.17 Councillor Lyons was interviewed in person and a signed statement obtained (JTG 11) in which he stated :-

- (a) he was a member of the Plans Panel (East) of the Council;
- (b) he attended the Panel meeting on 13<sup>th</sup> March 2008 when a planning application by the St John's Catholic School for the Deaf was considered. The decision was deferred to the following meeting to enable the applicants to consult with neighbours and Ward Councillors on all the options;
- (c) he attended the Panel meeting on 10<sup>th</sup> April 2008 where the application was reconsidered. He recalled the public area being very full;
- (d) Councillor Procter spoke opposing the application, after which Mrs. Bradbury spoke whilst seated at the Public Speaking Desk;
- (e) he was very close to Mrs. Bradbury whilst she was speaking, estimating only 4 or so feet distance, with Councillor Procter standing about 3 feet behind Mrs. Bradbury, so he could see Councillor Procter clearly;
- (f) Mrs. Bradbury began speaking about a lack of response from Councillor Procter, who went red in the face. Councillor Lyons believed that Councillor Procter shook his head at this point;
- (g) he heard the word "*lies*" come from a person standing in the doorway, and believed the comment to have been addressed and directed to Councillor Procter;

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- (h) he could say that Councillor Procter did not use the words 'Lies' or 'Liar' or anything similar. Had Councillor Procter said those words Councillor Lyons would have heard him.

### *Councillor John Procter*

4.18 Councillor Procter was interviewed in person on 4<sup>th</sup> March 2009, accompanied by his legal representatives. The interview was recorded and a transcript prepared. A copy of the transcript was provided to Councillor Procter and he was invited to comment upon it. Councillor Procter signed the transcript as a true record of interview and added comments through his legal representatives. The transcript and Councillor Procter's Comments are attached (JTG 12). In the interview Councillor Procter stated :-

- (a) the School's application was added to his monthly briefings and he had a number of conversations with officers over the months expressing his sympathy with the objectors, and how he found it bizarre that the applicants would not consider relocating the proposal;
- (b) he held off meeting with representatives with the School because he felt sure the application would be amended given time;
- (c) his office emailed Miss Taylor on 7<sup>th</sup> August 2007 seeking a meeting with representatives of the School, but after a number of exchanges it was not organised due to diary commitments on both sides;
- (d) his office sent a letter in September 2007 setting out his concerns and those that had been expressed to him;
- (e) the plans were then revised and a meeting date set for February 2008;
- (f) during the site visit on 13<sup>th</sup> March 2008 he asked about the ownership of a piece of land to the rear of the School in front of Panel Members and was informed that it belonged to a local farmer;
- (g) at the meeting of the Panel on 13<sup>th</sup> March 2008 he spoke against the application and requested a deferment to allow discussion over the siting to take place;
- (h) on 20<sup>th</sup> March 2008 he met with Allan Hunt, the agent for the scheme, and was surprised that Mr. Hunt would not make comment. During the meeting he was shown a site map which showed the land he had asked about at the site visit as being owned by the school;

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- (i) at the Panel meeting on 10<sup>th</sup> April 2008 the public area of the meeting room was overflowing and a number of his constituents who were objecting to the proposal were present;
- (j) he addressed the Panel expressing regret that the School had not taken advantage of the deferment to negotiate with Ward members and making the Panel aware that they had been misled as to the ownership of the land to the rear of the School;
- (k) Mrs. Bradbury spoke on behalf of the School but did not deal with any material planning matters. She just sought to rubbish the objectors and himself. She focused on not being able to contact him and that she had repeatedly tried to meet with him since the deferment;
- (l) as his constituents were clearly troubled by the allegation, he turned to them and said to them *"That is a lie"* in response to Mrs. Bradbury's untrue allegation and to reassure his constituents;
- (m) Mrs. Bradbury produced a log at the meeting of when the school had tried to contact him which showed that no attempt was made to contact him after the deferral date;
- (n) he was at the meeting on 10<sup>th</sup> April 2008 as a member of the Council;
- (o) he did not at any point say the words *'liar, liar'*, only *"That is a lie"*;
- (p) he would find it amazing if Mrs. Bradbury had heard him say *"That is a lie"* and would not know if anybody else in the room could have heard him;
- (q) he said the words in a normal volume, however the committee room did have a loop system which might have picked up some of what he was saying, but he was unsure if it did or not.

### *Mr. Tasker*

4.19 Mr. Tasker is a former local government officer who has 11 years experience of attending planning committee meetings. At my request, he attended the meeting of the Plans Panel East held on 10<sup>th</sup> December 2009 and provided a statement (JTG 13). He said in his statement:-

- (a) he attended the Plans Panel East meeting in order to establish the conduct of the meeting and in particular how members of the public who spoke at the meeting were dealt with;



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- (b) the meeting was held in what appeared to be two rooms with a moveable divider. Members of the Panel and officers were in the larger of the two rooms. Members of the public were in the other room in which there was seating for about 35 people;
- (c) there were 27 people in the public area at the start of the meeting, with no more than 30 people present during the meeting at any one time;
- (d) 8 planning applications were considered of which 4 had public speaking. 8 persons spoke including professional planning agents, an applicant, objectors and Councillor Procter;
- (e) an amplification system was used whilst Panel members and members of the public were speaking. At times some of the members of the Panel could be seen speaking to each other, though they could not be heard in the public area;
- (f) two members of the Panel spoke to each other whilst one member of the public addressed the meeting. Whilst their conversation could not be heard in the public area, Mr. Tasker was sure that it would have been intrusive for the speaker. However the Chairman intervened quickly to ask the members to be quiet;
- (g) in general, speakers were treated with courtesy and listened to by Panel members. There was no evidence of general noise and interruption of speakers.

### *Conclusions on facts*

- 4.16 Though not always so, at the meeting in question the committee room was crowded and noisy and that should be taken into consideration when examining the evidence of individual witnesses.
- 4.17 There are two areas on which it is helpful to reach a judgement. These are:-
- (a) what words did Councillor Procter use;
  - (b) in what manner did he speak them.

### *What words did Councillor Procter use?*

- 4.18 Mrs. Bradbury said she heard, but did not see Councillor Procter say "*liar, liar, liar*" behind her. Councillor Dobson said that he heard and saw Councillor Procter say "*liar, liar, liar*". Councillor Taylor said that he saw and heard Councillor Procter say either "*liar*" or "*lies*".

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- 4.19 Councillor Lyons said that he heard the word “*lies*”, but thought it was a comment directed at Councillor Procter by someone else in the vicinity. Councillor Wilson said that he saw Councillor Procter shaking his head but did not hear him say anything. Councillor Latty said he did not hear Councillor Procter say anything but said he would have been unlikely to have done.
- 4.20 Councillor Procter is very clear that he used the words “*that is a lie*”, speaking to reassure his constituents. He believed the information Mrs. Bradbury to be giving was incorrect.
- 4.21 Given that the room was crowded and noisy it is unrealistic to expect witnesses to be able to give a firm view on the exact words used by Councillor Procter. Having regard to that and on balance, I consider that Councillor Procter used the words which he has stated in interview to using which were “*that is a lie*”. meaning that what Mrs. Bradbury was saying to the committee was incorrect.

*In what manner did Councillor Procter use these words?*

- 4.22 Mrs. Bradbury says that Councillor Procter was near to her. She heard him speak whilst she was addressing the committee. She says he continued to speak loudly over her which she found intimidating and bullying.
- 4.23 Councillor Dobson was close to Councillor Procter and heard him speak and shake his head in disagreement whilst Mrs. Bradbury was addressing the committee. Councillor Lyons who was also close to Councillor Procter did not hear him.
- 4.24 Councillor Taylor and Councillor Wilson were the other side of the room to Councillor Procter. Councillor Taylor heard Councillor Procter speak, Councillor Wilson did not.
- 4.25 Councillor Latty was chairing the meeting at the end of the room. He did not hear Councillor Procter say anything.
- 4.26 Councillor Procter said he spoke in a normal voice to his constituents and would have been amazed if Mrs. Bradbury had heard him.
- 4.27 Again, given that the room was noisy and crowded and that the extent of individuals’ hearing ability varies, I would not expect that all those interviewed to have necessarily heard Councillor Procter speak. Councillor Procter said he spoke in a normal voice. The fact that some witnesses heard him and others did not is supportive of this. If he had shouted, they might all have heard him. If he had whispered, none of them would have heard him. Mrs. Bradbury says he spoke loudly, but Councillor Procter was sufficiently close to her that a normal voice volume might well have sounded loud to her.

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- 4.28 I conclude that Councillor Procter spoke in a normal voice to his constituents but he did so whilst Mrs. Bradbury was addressing the committee. She heard him speaking to his constituents and found this intimidating.

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### 5 Reasoning

- 5.1 Having decided in section 4 above that Councillor Procter did make comments to the effect that Mrs. Bradbury was lying, I must now consider whether or not Councillor Procter:-
- (a) was acting in his official capacity as a member of the Council, and if so,
  - (b) whether or not his actions were a breach of:-
    - (i) Paragraph 3 (failing to show respect to others)
    - (ii) Paragraph 5 (likely to bring the office of councillor or the authority into disrepute) of the Code of Conduct.

#### *Official Capacity*

- 5.2 Paragraph 2 of the Code of Conduct states that the Code will only apply (with certain exceptions not relevant in this case) when a member is acting in their official capacity. This includes when they are acting as a representative of the authority.
- 5.3 The meeting of the Plans Panel (East) held on 10<sup>th</sup> April 2008 was clearly a formal meeting of the Council. Whilst Councillor Procter was not a member of the Panel he addressed the meeting as a councillor making representations on behalf of residents who would be affected by the proposed development.
- 5.4 I am therefore satisfied that Councillor Procter was acting in his official capacity as defined by the Code.

#### *Disrespect - generally*

- 5.5 Under the Code, a member will have failed to treat others with respect if they direct unwarranted, unreasonable or demeaning behaviour against another. The requirement to treat others with respect must be viewed objectively. Account should be taken of the member's intent and how their behaviour would reasonably be perceived.
- 5.6 The Adjudication Panel for England has decided that a person can be the victim of disrespect even if they did not witness the disrespectful behaviour themselves.
- 5.7 The Standards Board for England Case Review 2007 provides guidance by indicating a 'rule of thumb' comparison. Q15 on page 23 of the Case Review 2007 advises that:-

*"A very clear line has to be drawn between the Code of Conduct's requirement of respect for others, including members of the authority with opposing views, and the freedom to*

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*disagree with the views and opinions of others. In a democracy, members of public bodies should be able to express disagreement publicly with each other.*

*A rule of thumb is expressed in this comparison:*

- *“You’re talking drivell” is likely to be an acceptable expression of disagreement.*
- *Calling someone a “useless, fat, dimwitted, ugly four-eyed git”, on the other hand, is more likely to be a failure to comply with paragraph 3(1).*

*We can see that the first comment is aimed at the expression of an idea or argument. The second is aimed at the person and their personal characteristics”.*

- 5.8 It is therefore the personalisation of comments that cause the user to breach the Code.

*Disrespect – use of the words “that is a lie”*

- 5.9 Councillor Procter has admitted and I have concluded that he used the words *“that is a lie”* whilst Mrs. Bradbury was addressing the committee.
- 5.10 The Concise Oxford Dictionary defines the word *“lie”*, as *“an intentionally false statement”*, or *“an imposture; false belief”*.
- 5.11 There are a number of case tribunal decisions of the Adjudication Panel for England which have considered whether the use of *“lie”* or *“liar”* amounts to disrespect. These are set out below, but some care must be taken in their application as each case may turn on its own facts and some relate to calling someone a liar which may be different to describing what they are saying as lies.
- 5.12 In *Adkins, Ashfield District Council (2007) APE 386* the case tribunal of indicated that calling a complainant a liar was capable of amounting to disrespect, even if the respondent thought the complainant had not told the truth.
- 5.13 *Adkins* considered whether publicly calling a senior police officer a liar in a council meeting was disrespect. The council had invited two guests to a special council meeting, one of which was the local police divisional commander, Chief Superintendent Holmes. Whilst Chief Superintendent Homes was addressing the meeting, Councillor Adkins interjected and suggested he was not telling the truth. Councillor Adkins accused Chief Superintendent Holmes of not returning telephone calls and called him a liar.

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- 5.14 Councillor Adkins made a submission to the case tribunal that Chief Superintendent Holmes had made a remark to the effect that he had returned Councillor Adkin's telephone calls, which was not true. Councillor Adkins submitted that if someone lied to him, he was entitled to respond and that anyone who did not tell the truth was a liar.
- 5.15 The case tribunal held that Councillor Adkins had failed to treat Chief Superintendent Holmes with respect. It said (at paragraphs 4.4.3 and 4.4.4) that:-

*"There is nothing wrong with making fair criticism of a public official in an appropriate manner but to impugn the integrity of a police officer on the flimsiest of information in a public forum was clearly unacceptable.*

*"Councillor Adkins has submitted that the fact that Chief Superintendent Holmes stated that he returned all telephone calls made to him, whereas Councillor Adkins did not receive a call from the Chief Superintendent, was a reason to call the Chief Superintendent a liar. The Case Tribunal does not accept that this was in any way sufficient to justify his offensive behaviour."*

- 5.16 In *Hayhurst, Fylde Borough Council* (2009) APE 410, the case tribunal held that stating to the chief executive of the council that *"You should also tell the truth to the people of Lytham St Annes"* was not an accusation of lying but a request for more accurate information and that this did not imply there had been previous lies. Hence there had not been a breach of the code of conduct.
- 5.17 In *Mason, Needham Market Town Council* (2009) APE 427, the member made a pre-meditated attack on the mayor elect and an officer, calling them *"proven liars"* although there had been no finding by a court or other body to that effect. The case tribunal said:-

*"while the truth of comments will often have a direct bearing on whether comments amount to show respect, in this case the Tribunal was satisfied that the comments of the Respondent were, in the particular circumstances, a breach of the Code whether or not they were true".*

- 5.18 In *Whipp, Pendle Borough Council* (2009) APE 441, the appeals tribunal considered an appeal from the Standards Committee's finding that the member had shown disrespect to the authors of a leaflet when he used the words in a council meeting *"It is you who owe the apology as you are the liars. The CPS got it wrong. You are the guilty ones."*
- 5.19 The appeals tribunal considered that the approach adopted by the investigating officer and the Standards Committee was flawed. Both had considered simply whether or not the word *"liar"* went beyond political expression, was rude and offensive and amounted to an expression of anger and personal abuse. Neither appeared to have

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considered whether or not the member was justified in using the word on the basis that it might be true.

- 5.20 The appeals tribunal indicated that if the authors of the leaflet had deliberately and knowingly included false information in it and manipulated it for electoral gain, then no reasonable person could consider there had been disrespect.
- 5.21 The appeals tribunal distinguished *Mason* on the basis that the member in that case had made a premeditated attack, whereas in *Whipp* the member responded to a question and did not imply that the term liar was other than his own belief. However, the appeals tribunal also commented that:-

*“...the use of the word ‘liars’ is inappropriate in the proceedings of a public body even where it does not amount to disrespect. The term is a strong one, which may generally be expected to generate more heat than light in debate. Its use might breach the provision of the Code of Conduct which require a councillor not do anything which might bring his office or authority into disrepute..”*

- 5.22 The SBE guidance and case tribunal decisions indicate that it is acceptable for a councillor to express disagreement with a third party at a meeting and even to say that the third party should tell the truth.
- 5.23 The case tribunal decisions are less clear on the approach to be taken if a councillor accuses a third party of being a liar. It appears that use of the word “*liar*” may bring the member’s office or authority into disrepute but that the term can be justified if reasonably believed to be true.
- 5.24 In this case, Councillor Procter described what Mrs. Bradbury was saying as “*a lie*”. This is not the same as calling her a liar and is, in my view, comparable to *Hayhurst* where saying “*you should also tell the truth to the people of Lytham St Annes*” was not an accusation of lying but a request for more accurate information and was not disrespectful.
- 5.25 Even if Councillor Procter reasonably believed that Mrs. Bradbury was incorrect, I consider that his use of language was unwise in that:-
- (a) it was likely to give offence if misheard (and did so); and
  - (b) unnecessary in that he could have used a less forceful and potentially offensive expression to convey his views to his constituents.
- 5.26 However, the actual words he used did not amount to disrespect because he was commenting on the accuracy of the information Mrs. Bradbury was giving (in terms of the SfE guidance - a comment aimed at the expression of an idea or argument), rather than accusing Mrs. Bradbury of being a liar (making a personal comment aimed at the person and their personal characteristics).

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5.27 On that basis and taking into account the comments set out in the *Buchanan* and *Boughton* APE cases considered in more detail at paragraph 5.35 below, he did not treat Mrs. Bradbury with disrespect by referring to what she was saying as “*that is a lie*”.

### *Disrespect – manner of Councillor Procter’s comments*

5.28 The other matter to consider is the context and timing of the comments.

5.29 I have concluded that Councillor Procter spoke in a normal voice to his constituents but he did so whilst Mrs. Bradbury was addressing the committee. She heard him speaking to his constituents and found this intimidating.

5.30 I said in the draft version of this report that I consider it is common courtesy and accepted good practice that when a member of the public is invited to make representations to a council meeting they are allowed to do so without interruption or distraction.

5.31 I have considered the comments provided by Councillor Procter’s solicitor, Ms. Hardy in relation to this issue. She has said:-

*“Councillor Procter suggests that [members of the public be able to make representations without interruption or distraction] needs to be balanced against the reality of common practice at the meetings of Plans Panel (East) of Leeds City Council. The meetings are crowded and it is not uncommon for people who attend as observers to speak to each other whilst the formal proceedings are taking place. There are also occasions when members of the Plans Panel also speak to each other and to officers whilst someone else is addressing the meeting. It is unlikely that any member of Plans Panel (East) would be able to say that they have listened to every speech made at meetings of the Panel in complete silence, It was for that reason that Councillor Procter needed to speak in a normal voice in order to make a comment to his constituents, rather than whisper to them. Furthermore, Councillor Procter would not have been given a formal opportunity to respond to the representations being made by Mrs Bradbury. Therefore, it was necessary for Councillor Procter to respond to the concerns of his constituents by pointing out to them whilst Mrs Bradbury was speaking that what she was saying was not correct.”*

5.32 Though I accept that the meeting of the Plans Panel East that Mr. Tasker attended may have been far less busy and noisy than the meeting at which Mrs. Bradbury spoke, it is clear that public speakers were allowed to speak at it without interruption or distraction. At the meeting Mr. Tasker attended, the Chairman intervened to ask two Panel members to stop talking when a member of the public spoke and those present in the public area did not interrupt or make any noise whilst others were speaking.



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- 5.33 It is not possible to extrapolate from just two meetings what is the general practice at Plans Panel East, but it can be said that if one of the two meetings for which there is evidence was very noisy, the other was not. If those in the public area spoke to each other whilst a member of the public was addressing the Panel at the first meeting, they did not in the second. Councillor Procter's suggestion that it is common practice for observers and Panel members to speak to each other whilst someone is addressing the meeting needs to be tempered by the experience of Mr. Tasker, who did not experience this practice.
- 5.34 Even if on some occasions Panel meetings may be noisy and crowded, the determination of a planning application is a formal regulatory process. It is important that those participating, especially members of the public who may be unfamiliar or unused to the process, are given the opportunity to make representations without interruption or distraction. Councillor Procter was under no compulsion to make his observation to his constituents whilst Mrs. Bradbury was speaking and could have done so after the meeting in private.
- 5.35 I have also considered the comments provided by Ms. Hardy in relation to disrespect. She referred to *Buchanan, Somerset County Council* (2009) APE 0409, in particular to paragraphs 51 and paragraph 95.
- 5.36 Paragraph 51 says:-

*"In the Tribunal's view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect."*

- 5.37 Ms. Hardy has urged me to consider that Councillor Procter's comments at the committee meeting fell far below the threshold indicated in this case.
- 5.38 Ms. Hardy also referred to *Boughton, Dartmouth Town Council* (2009) APE 0419 in which the submissions on behalf of the Ethical Standards Officer included the comment:-

*"Paragraph 3(1) of the Code was not intended to stand in the way of lively debate or disagreement with the views of others. Such activity is a crucial part of the democratic process. However, the Code did distinguish between acceptable expressions of disagreement and making disrespectful personal*

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*comments directed at the person and their characteristics rather than the idea.”*

5.39 She has referred me to the findings of the case tribunal which include the comment:-

*“A failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour including the place, who observed it, the character and relationship of the people involved will all be relevant in assessing whether the behaviour was disrespectful.”*

5.40 She has commented that Councillor Procter did not make personal comments at the meeting but merely pointed out to his constituents that something untrue was being said. Ms. Hardy has said that Councillor Procter’s behaviour was not unfair, unreasonable or demeaning and that he intended his comments to be confined to his constituents.

5.41 I have already concluded that the words Councillor Procter said he used were not aimed at a personal characteristic and therefore disrespectful within the meaning of the code.

5.42 Though the room was noisy and Councillor Procter spoke in a normal voice and intended his comments to be confined to his constituents:-

- (a) several people, including Mrs. Bradbury, did hear what he said;
- (b) the effect of his actions were such as to cause Mrs. Bradbury to feel intimidated;
- (c) though not disrespectful within the meaning of the code, the words he has stated he used were unwise and unnecessarily forceful;
- (c) he could have waited until after she had finished speaking to express his opinions to his constituents;

and for these reasons I consider that the manner in which Councillor Procter spoke was such as to fail to treat Mrs. Bradbury with respect.

### *Disrespect - conclusion*

5.43 I conclude that the use of the term *“that’s a lie”* was not a failure to treat Mrs. Bradbury with respect, but that speaking whilst Mrs Bradbury was addressing the meeting was disrespectful towards her and therefore a failure to comply with paragraph 3(1) of the code of conduct.

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### *Disrepute*

5.44 Q43 on page 55 of the Case Review 2007 advises that disrepute is:-

*“...a lack of good reputation or respectability.*

*In the context of the Code of Conduct, a member’s behaviour in office will bring that member’s office into disrepute if the conduct could reasonably be regarded as either:*

- 1) Reducing the public’s confidence in that member being able to fulfil their role; or*
- 2) Adversely affecting the reputation of members generally, in being able to fulfil their role.”*

5.45 Q44 on the same page of the Case Review 2007 advises that:-

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

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

5.46 In applying the Code to the circumstances of an alleged breach of disrepute, it is established that it is not necessary for the member’s actions to have actually diminished public confidence, or harmed the reputation of the authority. The test is whether or not the conduct could ‘reasonably be regarded’ as having these effects.

5.47 In summary, disrepute can be characterised as conduct which, viewed objectively, is sufficient to damage or reduce the public’s confidence in the member or members generally in being able to fulfil their role or the authority being able to fulfil its functions and duties.

5.48 Speaking in a normal voice whilst Mrs. Bradbury was addressing the committee might not in itself, be necessarily regarded as a serious matter. However, Councillor Procter’s comments took place in a public meeting and were in relation to a member of the public addressing the Council on a regulatory matter. I am concerned that members of the public could be discouraged from making representations at planning meetings of the Council if comments such as Councillor Procter’s were to be expected and thus such conduct would be sufficient to damage or reduce the public’s confidence in members generally and / or the Council being able to fulfil their functions and duties.

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5.49 Ms. Hardy has commented on this issue as follows:-

*“the investigator says that he is concerned that members of the public could be discouraged from making representations at planning meetings if comments such as Councillor Procter’s were to be expected. However, this does not take account of the fact that Councillor Procter’s comment was made in order to draw attention of members of the public (ie his constituents) to the fact that they were hearing something that was not true. If he had not done this, the confidence of members of the public in their councillors and their involvement in the planning process could be lessened as a result of incorrect comments at meetings being allowed to go unchallenged.”*

5.50 Whilst I accept there is a need to maintain public confidence in councillors’ involvement in the planning process (indeed that is one of the reasons for the existence of the code of conduct), this must be balanced against the need to maintain public confidence in public participation in planning committees.

5.51 In this case, the measures taken by Councillor Procter to maintain the confidence of his constituents in himself were in conflict with the exercise by a member of the public of her rights to participate in the planning process. Had he waited until she had finished speaking before addressing his constituents and used less pejorative language, he could have avoided or minimised that conflict.

5.52 On balance, I therefore conclude that Councillor Procter’s conduct was capable of bringing his office or authority into disrepute and thus a failure to comply with paragraph 5 of the code.

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### 6 Comments by the complainant and respondent

- 6.1 A draft version of this report was provided to Mrs. Bradbury and Councillor Procter for comment. It should be noted that the final version of the report may have different paragraph and page numbering to the draft and have been changed in response to the comments received. In particular, the final version of the report differs from the draft version in that my findings as to what words were used by Councillor Procter and whether they constituted a lack of respect have changed significantly.

*Mrs. Bradbury*

- 6.2 The following comments were received from Mrs. Bradbury:-

*“Thank you for forwarding the report. On page 13, point c the person Cllr Procter emailed was Mrs. Christine Taylor not Miss Taylor.*

*I don't suppose it is relevant now but Cllr Procter never mentioned the farm land when he was objecting to [our] planning permission. I certainly never said it belonged to a local farmer?”*

*Councillor Procter*

- 6.3 The following comments were received from Clare Hardy of Eversheds Solicitors, on behalf of Councillor Procter:-

#### 1. **General Comments**

1.1 *This case is about the truth. When speaking at the April 2008 meeting of Leeds City Council's Plans Panel (East) Councillor Procter explained that the school had not contacted him or his office contrary to expectations of the Panel at its March meeting. Mrs Bradbury, when speaking, said she had contacted Councillor Procter and his office during the month. This was completely untrue as is borne out by her own statement at JTG6 (Communications with Councillor Procter). The investigator has not uncovered any evidence that Mrs Bradbury contacted Councillor Procter. If she had, she would have set these out in her own document. Mrs Bradbury was not telling the Panel the truth.*

1.2 *Councillor Procter's constituents were confounded and all he did was put them right. He directed his comment to his constituents at the meeting. In an action for defamation - slander or libel - the fact that the statement was true is a defence in law. Telling the truth cannot therefore constitute disrespect. Telling the truth cannot be a breach of the Council's Code of Conduct.*

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- 1.3 *Councillor Procter did not expect to encounter someone not telling the truth at a meeting of the Plans Panel (East). Councillor Procter suggests that the investigation of Councillor Procter's conduct needs to take account of the fact that it was an immediate reaction to unexpected poor conduct from another person and the fact that Councillor Procter would have had no formal opportunity at the meeting to address this.*
- 1.4 *Comments on individual sections of the investigator's draft report are set out below.*

### **2. Summary**

- 2.1 *Paragraph 1.5 says that Mrs Bradbury alleged that Councillor Procter stood behind her and said "Liar, liar, she's lying". However, in Mrs Bradbury's letter of complaint (JTG4), there is no mention of "she's lying".*
- 2.2 *In paragraph 1.6(b), the investigator has concluded that Councillor Procter's conduct was a failure to treat Mrs Bradbury with respect and likely to bring his office or authority into disrepute. Even if the investigator has concluded that Councillor Procter failed to treat Mrs Bradbury with respect, it is not automatic that this would bring his office or authority into disrepute. We will return to this later but we do not believe that the investigator has properly considered both of these alleged breaches, which Councillor Procter refutes.*

### **3. Evidence and Facts**

- 3.1 *Paragraph 4.9(l) reports that Mrs Bradbury said that she heard very clearly from behind her the words "Liar, liar, she's lying" and that she recognised Councillor Procter's voice. See the comment at 2.1 above, regarding the actual words used. In her letter of complaint (JTG4), she says that this could be heard by the planning committee, members of the public and Councillor Mark Dobson. She did not say that she had heard it herself. The fact that her letter referred to Councillor Procter shaking his head indicates that she was reporting what she was told by others, as she could not have seen this when Councillor Procter was behind her. Also, Councillor Procter has confirmed to the investigator that he was seated at the time when Mrs Bradbury was speaking and not standing as suggested in Mrs Bradbury's letter.*

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- 3.2 *Paragraph 4.9(m) sets out Mrs Bradbury's claim that Councillor Procter continued to speak loudly over her whilst she was speaking. That is not confirmed by any of the other people who have been interviewed as part of the investigation.*
- 3.3 *Paragraph 4.9(n) reports Mrs Bradbury as having said that three members of the school staff and Ian Hirst confirmed that Councillor Procter said "Liar, liar, she's lying". This is hearsay, which is not supported by direct evidence from those four people.*
- 3.4 *Paragraph 4.9(o) says that Mrs Bradbury was personally very angry, upset and humiliated by Councillor Procter. However, it took more than a month before Mrs Bradbury complained to the Council about this, and this was after Councillor Procter had written to her twice to complain about her behaviour at the meeting of Plans Panel (East) and request an apology. This suggests a less strong sense of feeling on the part of Mrs Bradbury. Furthermore, Mrs Bradbury's statement (JTG5) reports that she finished speaking and the statement from the Chair of Plans Panel East, Councillor Graham Latty, does not indicate that the Panel was made aware either of any unusual behaviour in the public area or of any distress on the part of Mrs Bradbury. If Councillor Procter's conduct was shocking, as Mrs Bradbury has suggested, then Councillor Procter would expect that the Chair of the meeting would have been made aware of it and would have been asked to address it at that time. No such action took place.*
- 3.5 *At paragraph 4.11(c), "Mrs Dobson" should be "Mrs Bradbury". This paragraph also acknowledges that Councillor Taylor was unsure whether Councillor Procter was standing or sitting, which is an example of the general confusion of the witnesses as to what Councillor Procter was doing.*
- 3.6 *Paragraph 4.15(n) refers to a meeting on 10th April 2009. This should be 10th April 2008.*
- 3.7 *Paragraph 4.17 says that Councillor Taylor said that he saw and heard Councillor Procter say either "liar" or "lies". However, paragraph 4.11(d) says that Councillor Taylor heard "Lies" or "not true - lies" or words to that effect. This shows Councillor Taylor's uncertainty about the actual words used by Councillor Procter.*

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- 3.8 *Paragraph 4.19 says that Councillor Procter acknowledged that he used the words “that’s a lie”. This is incorrect. The words that Councillor Procter acknowledged that he used were: “That is a lie”. Paragraph 4.19 should also mention that Councillor Procter explained that he used these words in the context of speaking to constituents whom he was representing.*
- 3.9 *Paragraph 4.20 says that it is clear that Councillor Procter stood close to Mrs Bradbury. This is incorrect. The report shows general confusion among the witnesses as to exactly where Councillor Procter was and whether he was standing or sitting.*
- 3.10 *In paragraph 4.21, the investigator comments that there is some uncertainty as to the exact words used by Councillor Procter but that he made comments to the effect that Mrs Bradbury’s representations were a lie and that he used the word “lie” or “liar”. This lack of distinction between these two different words follows through to paragraph 5.1, where the investigator says that he has decided that Councillor Procter made comments “to the effect that Mrs Bradbury was lying”. Comments later in this note point out that there is a lot of difference between saying “that is a lie” and calling someone “liar”. Councillor Procter suggests that if the investigator is not able to reach a conclusion as to what he said, the investigator is not in a position to reach a conclusion as to whether or not, on the balance of probabilities, Councillor Procter’s comments amounted to a breach of the Code of Conduct of Leeds City Council. It is also inaccurate for 4.21 to suggest that Councillor Procter’s comments were on Mrs Bradbury’s “representations”. Councillor Procter was not commenting on Mrs Bradbury’s representations in general. He was simply pointing out to his constituents that one allegation that she made, namely that she had made repeated attempts to meet him between the Plans Panel (East) meetings on 13 March 2008 and 10 April 2008 was not true. Councillor Procter has confirmed that the exact words used by him were “That is a lie”. No attempt has been made by the investigator to verify this with any of the constituents to whom Councillor Procter addressed his comments.*
- 3.11 *As a general comment on the witness evidence, Councillor Procter observes that there is inconsistency in the descriptions of the meeting of Plans Panel (East) on 10 April 2008. The accounts of witnesses differ as to where in the meeting room Councillor Procter was, whether he was standing or sitting, and the words he used. Councillor Procter suggests that this illustrates the*



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*general uncertainty as to what people think he said at the meeting and the effect of what he said.*

3.12 *The actual words Councillor Procter said were: "That is a lie". He does not dispute that he said this and has been honest about this in the investigation. He was shocked to read the statements saying that he had said something different.*

### 4. **Reasoning**

4.1 *Paragraph 5.5 says that under the Code a member will have failed to treat others with respect if they "direct unwarranted, unreasonable or demeaning behaviour against another". The investigator has not demonstrated that Councillor Procter did this. The investigator has merely established that Councillor Procter made a comment to point out that something untrue was being said. Councillor Procter did not direct his comments to Mrs Bradbury but to his constituents and his comments did not amount to unwarranted, unreasonable or demeaning behaviour. Paragraph 5.5 goes on to say that account should be taken of the member's intent and how their behaviour would reasonably be perceived. Councillor Procter has explained that his intent was to address the concerns of his constituents, who were hearing untrue comments and understandably were looking to him for an explanation of his actions.*

4.2 *Paragraph 5.9 quotes the Concise Oxford Dictionary definition of "lie, lies, lying and lied" as "to speak untruthfully with intent to mislead or deceive" or "to convey a false impression or practice deception". When Mrs Bradbury told the members of Plans Panel (East) that she had made repeated attempts to meet Councillor Procter between the meetings on 13 March 2008 and 10 April 2008, she was giving a false impression. It was therefore accurate for Councillor Procter to make the comment "That is a lie".*

4.3 *Paragraph 5.10 says "there is little or no difference to the meaning between saying "liar" and "that's a lie". It goes on to say that the meaning in both cases is that the statement is untruthful and intentionally said to mislead or deceive. This is not correct. As paragraph 5.9 explains the dictionary definition makes it clear that the words "lie, lies, lying and lied" are verbs which describe the act of speaking untruthfully. The word "liar" describes a person who has lied. There is therefore a clear distinction between the two. When these are considered against the guidance from the Standards Board for England's Case Review (quoted in paragraph 5.7 of the draft report), it*

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can be seen that “that is a lie” would be an expression of disagreement, whereas “liar, liar” is a comment aimed at a person.

- 4.4 Paragraphs 5.10 to 5.13 refer to APE Case 386, a case tribunal decision relating to Councillor Adkins from Ashfield District Council. Whilst that case did relate to an allegation that the councillor had called another person a liar, the case tribunal in that case found that the councillor “had called Chief Superintendent Holmes a liar in a rude and offensive way”. In Councillor Procter’s case, the investigator has not been conclusive as to whether the word “liar” was used by Councillor Procter and has not suggested that he spoke in a rude and offensive way. In fact, one of the witnesses, Councillor Alan Taylor, is reported as having said that he believed that Councillor Procter spoke in a dismissive manner rather than an aggressive manner. There are other significant differences between the conduct and circumstances described in APE Case 386 and the conduct of Councillor Procter at the meeting of Leeds City Council’s Plans Panel (East) on 10 April 2008 and the circumstances relevant to that. In the case of Councillor Adkins in APE Case 386, the Chair of the meeting in question intervened to ask Councillor Adkins to sit down and to tell him that his behaviour was unacceptable. The Chair also wrote to Chief Superintendent Holmes to apologise on behalf of the Council for Councillor Adkins’ behaviour. By contrast, the Chair of Leeds City Council’s Plans Panel (East) has told the investigator that he did not hear Councillor Procter saying anything whilst Mrs Bradbury was speaking. In the case of Councillor Adkins, the Case Tribunal found that it was unacceptable to impugn the integrity of a police officer “on the flimsiest of information”. By contrast, Councillor Procter knew that Mrs Bradbury was not telling the truth about trying to contact him between the two meetings of Plans Panel (East) on 13 March 2008 and 10 April 2008 and the log which Mrs Bradbury later sent to Councillor Procter supported this. This is also reflected in the minutes of the meeting of Plans Panel (East) on 10 April 2008 (JTG2), which say that members discussed matters, including “that the application had been deferred pending negotiations which regrettably did not seem to have taken place”. Also, as the investigator notes at paragraph 5.11, in APE Case 386, Councillor Adkins was alleged to have “publicly” called someone a liar at the meeting. Although the Plans Panel (East) meeting on 10 April 2008 was open to the public, Councillor Procter made the remark “That is a lie” privately to some constituents of his who were present at the meeting.

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- 4.5 *The investigator should also refer to the recent Adjudication Panel case tribunal decision APE 0409, relating to Councillor Paul Buchanan of Somerset County Council. Councillor Procter would draw the investigator's attention in particular to paragraphs 51 and paragraph 95.*
- 4.6 *Paragraph 51 says: "In the Tribunal's view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect." Councillor Procter's comments at the meeting of Plans Panel (East) fell far below the threshold indicated in this case.*
- 4.7 *Paragraph 95 is part of the tribunal's findings of fact about evidence from an officer of Somerset County Council. Councillor Procter suggests that this is relevant because the officer quotes her director as having said "That's a lie" when she was told about comments from Councillor Buchanan. This is not a comment which the tribunal considered in depth, as it was not something which Councillor Buchanan was alleged to have said. Nevertheless, Councillor Procter suggests that it is relevant that the case report makes no comment on it, whereas in other parts of the report, reference is made to an officer's "colourful language" (paragraph 83) and another officer is said to have said "in my language" when making a comment (paragraph 41). If the phrase "That is a lie" is genuinely a phrase which on the face of it is disrespectful, then Councillor Procter would have expected it to have attracted some comment in this case. We would argue that it was a statement of truth and not a breach of the Code of Conduct.*
- 4.8 *Paragraph 5.15 says that the SBE guidance and case tribunal decisions indicate that it may well be acceptable for a councillor to express disagreement and to say that a third party should tell the truth "but not to accuse them of lying, even if the councillor had grounds for their belief". Councillor Procter suggests that the investigator needs to recognise the distinction between those cases in which a*

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*comment about lying was made as part of offensive behaviour committed by a councillor and his own case in which he made one comment to point out that something untrue was being said. For example, in case APE 0280, a case relating to Councillor Rumney of Malvern Hills District Council, a comment by Councillor Rumney to the effect of "If they tell you there is no money in the Capital Budget for it they are lying" was found to be a breach of the Code of Conduct but in that case the comment was said to be "inappropriate and without basis" and it was one of many actions of Councillor Rumney which formed the substance of the complaint against him. In Case SBE22177.08, a case relating to Councillor Houston of Dersingham Parish Council, Councillor Houston was found to have breached the Code of Conduct by calling another member a "lying cow" and then by failing to comply with the sanction imposed by King's Lynn and West Norfolk Borough Council that he should apologise to the member in question. In Case APE 0419, a case relating to Councillor Boughton of Dartmouth Town Council, the submissions on behalf of the Ethical Standards Officer included the comment: "Paragraph 3(1) of the Code was not intended to stand in the way of lively debate or disagreement with the views of others. Such activity is a crucial part of the democratic process. However, the Code did distinguish between acceptable expressions of disagreement and making disrespectful personal comments directed at the person and their characteristics rather than the idea." The findings of the case tribunal included the comment: "A failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour including the place, who observed it, the character and relationship of the people involved will all be relevant in assessing whether the behaviour was disrespectful." At the meeting of Leeds City Council's Plans Panel (East) on 10 April 2008 Councillor Procter did not make personal comments but merely pointed out to his constituents that something untrue was being said. His behaviour was not unfair, unreasonable or demeaning. Furthermore, Councillor Procter intended his comments to be confined to his constituents.*

- 4.9 *The use of the word "admitted" at paragraph 5.16 is not appropriate. In the context of this investigation, this suggests some level of acceptance of allegations about his conduct. Councillor Procter has merely told the investigator that he spoke in a normal voice whilst Mrs Bradbury was speaking and has explained why he needed to do so.*

## CONFIDENTIAL REPORT

- 4.10 *In paragraph 5.17, the investigator says that he considers it is common courtesy and accepted good practice that when a member of the public is invited to make representations to a council meeting they are allowed to do so without interruption. Councillor Procter suggests that this needs to be balanced against the reality of common practice at the meetings of Plans Panel (East) of Leeds City Council. The meetings are crowded and it is not uncommon for people who attend as observers to speak to each other whilst the formal proceedings are taking place. There are also occasions when members of the Plans Panel also speak to each other and to officers whilst someone else is addressing the meeting. It is unlikely that any member of Plans Panel (East) would be able to say that they have listened to every speech made at meetings of the Panel in complete silence, It was for that reason that Councillor Procter needed to speak in a normal voice in order to make a comment to his constituents, rather than whisper to them. Furthermore, Councillor Procter would not have been given a formal opportunity to respond to the representations being made by Mrs Bradbury. Therefore, it was necessary for Councillor Procter to respond to the concerns of his constituents by pointing out to them whilst Mrs Bradbury was speaking that what she was saying was not correct.*
- 4.11 *Paragraph 5.17 also refers to Councillor Procter calling Mrs Bradbury a liar, when the report has not decided conclusively that he used the word "liar" rather than "that is a lie".*
- 4.12 *At paragraph 5.18, the investigator concludes that by speaking whilst Mrs Bradbury was addressing the meeting and using the term "that's a lie" or "liar", Councillor Procter failed to treat Mrs Bradbury with respect. We suggest that both of these aspects of the conclusion need to be reconsidered. Councillor Procter needed to speak whilst Mrs Bradbury was addressing the meeting because he would not have been given an opportunity to address the meeting again and reassure his constituents. As explained above, it is not unusual for members, officers and observers to speak to each other at meetings of Plans Panel (East) whilst another person is addressing the meeting. As explained earlier, there is a clear distinction between "that is a lie" and "liar". By stating "that is a lie", Councillor Procter was merely pointing out to his constituents that what was being said was not true. Information provided by Mrs Bradbury as to the school's communications with Councillor Procter (JTG6) show that the comments that she was making about having tried to meet Councillor Procter between the meetings of Plans Panel (East) were not true. Councillor*

## CONFIDENTIAL REPORT

*Procter would question how a comment pointing out that something untrue is being said can be disrespectful. Councillor Procter would not consider it unusual to expect to comment if something untrue is said.*

- 4.13 *Paragraph 5.19 refers to the guidance on page 55 of the Standards Board for England's Case Review 2007, which says that disrepute is "a lack of good reputation or respectability" and that a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either: "1) Reducing the public's confidence in that member being able to fulfil their role; or 2) Adversely affecting the reputation of members generally, in being able to fulfil their role". Councillor Procter believes that the interpretation of this guidance needs to be stretched incredibly and unreasonably far in order for the investigator to come to the conclusion that his conduct at the meeting of Plans Panel East on 10 April 2008 was capable of bringing his office or authority into disrepute. As stated above, the investigation has not even shown that Councillor Procter's conduct amounted to unwarranted, unreasonable or demeaning behaviour against another person capable of amounting to disrespect. Councillor Procter made comments to reassure his constituents, when he heard untrue comments being made at a meeting and when he would have had no formal opportunity to respond.*
- 4.14 *In paragraph 5.24, the investigator says that he is concerned that members of the public could be discouraged from making representations at planning meetings if comments such as Councillor Procter's were to be expected. However, this does not take account of the fact that Councillor Procter's comment was made in order to draw attention of members of the public (ie his constituents) to the fact that they were hearing something that was not true. If he had not done this, the confidence of members of the public in their councillors and their involvement in the planning process could be lessened as a result of incorrect comments at meetings being allowed to go unchallenged. See also above comments regarding the nature of the meetings.*
- 4.15 *Councillor Procter also draws the investigator's attention to the reports of the local press on the meeting of Plans Panel (East) on 10 April 2008, which are attached. These are the results of a search which was undertaken to identify what press coverage there was on the meeting. None of these refer to the application in respect of which Mrs Bradbury and Councillor Procter spoke and none of them refer to any disrespectful or unacceptable conduct at the meeting. Councillor Procter suggests that if his*

## CONFIDENTIAL REPORT

*behaviour at the meeting had differed from behaviour usually considered acceptable at meetings of Plans Panel (East), it would have attracted comment in the press. There were two reporters present at the meeting.*

- 4.16 *As we explain later, in our comments on the schedule of evidence, the press representatives were close enough to where Mrs Bradbury was speaking to have noticed if any disturbance was affecting her ability to continue speaking.*
- 4.17 *It is also relevant to note that there is evidence that members of Leeds City Council do not consider it unusual to say when they think someone is telling lies at a meeting. Verbatim reports of the Council meetings of Leeds City Council are published on its website. These records include examples of members suggesting that lies have been told. We refer the investigator in particular to the verbatim report of the meeting of Leeds City Council on 5 April 2006. On page 98 of that report, Councillor J L Carter, who is a member of Leeds City Council's Standards Committee is recorded as having said to another councillor "I believe you have lied on this issue. That is different to calling you a liar, alright? You know that, you are a barrister." Every member who was present at that meeting will be aware of the distinction that was drawn within the Council between referring to a lie and calling someone a liar.*

### **5. Conclusion and Finding**

- 5.1 *Paragraph 7.1 refers to the investigator "having considered the facts". We suggest that he has not considered facts but has considered statements from some selected individuals which set out their recollections and views on the matter being investigated.*
- 5.2 *The last sentence of paragraph 7.1 refers to Councillor Procter having made a comment "to the effect that she was lying" and says that this was disrespectful. Councillor Procter did not comment "to the effect that she was lying". His exact words were "That is a lie". As explained earlier, the use of those words in response to the allegation made by Mrs Bradbury and in the context in which Councillor Procter said them was not disrespectful.*
- 5.3 *The investigator has concluded that Councillor Procter failed to treat Mrs Bradbury with respect and that his actions were capable of bringing his office or authority into disrepute. For the reasons explained earlier, Councillor Procter suggests that the draft report does not provide evidence to support either of those conclusions. He therefore suggests that the finding that there has been*

## CONFIDENTIAL REPORT

*a failure to comply with the Code of Conduct of Leeds City Council is not appropriate and he would expect the investigator and the Standards Committee to accept his version of events.*

### 6. **Schedule of Evidence**

6.1 *The plan of the committee room used for the meeting of Plans Panel (East) on 10 April 2008 (JTG3) is not an accurate plan. The press were between Mrs Bradbury and Councillor Alan Taylor. Councillor Donald Wilson was next to Councillor Alan Taylor.*

6.2 *Councillor Procter has the following observations on Mrs Bradbury's statement (JTG5):*

6.2.1 *At paragraph 13, Mrs Bradbury says that she felt the need to speak to the Panel because Councillor Procter misrepresented the facts about the lack of contact from the school between the meetings of Plans Panel (East) on 13 March 2008 and 10 April 2008. In fact, Councillor Procter was correct in the comments he made and, as explained earlier, this is supported by the minutes of the meeting of Plans Panel (East) on 10 April 2008.*

6.2.2 *It would not be possible for three members of the school staff to have sat immediately behind Mrs Bradbury when she was at the Public Speaking Desk, as she suggests at paragraph 15.*

6.2.3 *At paragraph 17, Mrs Bradbury says that she "tried to continue speaking" but that Councillor Procter continued to speak loudly over her from behind. If Councillor Procter's conduct had made it difficult for Mrs Bradbury to continue speaking, members of the Plans Panel (East) would have noticed and the Chair of the Panel would have intervened. Moreover, Mrs Bradbury herself makes it clear that she was able to continue speaking when she refers in paragraph 18 to what happened when she finished speaking.*

6.2.4 *At paragraph 18, Mrs Bradbury says that three members of her staff and Ian Hirst from Aedas Architects confirmed that Councillor Procter had spoken and what he had said and commented that they were appalled. After Mrs Bradbury had finished speaking, the members of Plans Panel (East) would have discussed the application. Councillor Procter finds it surprising that Mrs Bradbury and her colleagues would have had the*



## CONFIDENTIAL REPORT

*extent of discussion described in paragraph 18, rather than listening to the discussion of the Panel members.*

6.4 Ms. Hardy also submitted the following suggested redrafting of the of the report:-

- 1.1 *“Paragraph 1.5 should be redrafted to say: “Mrs Bradbury alleged that Councillor Procter said “liar, liar” whilst she was addressing the Panel in response to his comments. Mrs Bradbury made a complaint to the Council about the conduct of Councillor Procter.”*
- 1.2 *Paragraph 1.7 should be redrafted to say: “My finding under regulation 14 of the Standards Committee (England) Regulations 2008 is that there has not been a breach of the code of conduct concerned by Councillor John Procter”.*
- 1.3 *Paragraph 4.15(n) should be redrafted to say: “He was at the meeting on 10th April 2008 as a member of the Council”.*
- 1.4 *Paragraph 4.19 should be redrafted to say: “Councillor Procter explained that he used the words “That is a lie” and that this was in the context of speaking to his constituents to reassure them”.*
- 1.5 *Paragraph 4.20 should be redrafted to say: “Mrs Bradbury has said that Councillor Procter spoke from behind her whilst she was addressing the Plans Panel (East) on 10 April 2008 but she has acknowledged that she could not see him. The evidence from other witnesses as to where Councillor Procter was and whether he was sitting or standing is inconsistent.”*
- 1.6 *Paragraph 4.21 should be redrafted to say: “There is no consistent witness evidence to support Mrs Bradbury’s allegation that Councillor Procter said “liar, liar”. Councillor Procter has explained that he said “That is a lie” when Mrs Bradbury made an untrue point at the meeting of Plans Panel East on 10 April 2008.”*
- 1.7 *Paragraph 5.1 should be redrafted to say: “Having decided in section 4 above that Councillor Procter did make comments to the effect that Mrs Bradbury was lying, even though I have not reached a conclusion as to what exactly he said, I must now consider whether or not Councillor Procter:- (a) was acting in his official capacity as a member of the Council, and, if so, (b) whether or not his actions were a breach of Paragraph 3 (failing to show*

## CONFIDENTIAL REPORT

*respect to others) and Paragraph 5 (likely to bring the office of councillor or the authority into disrepute) of the Code of Conduct.”*

- 1.8 *Paragraph 5.10 should be redrafted to say: “There is some dispute as to the actual word(s) used by Councillor Procter and this is significant to the question of whether there is potential for the words to be capable of amounting to disrespect. “That is a lie” refers to an untrue statement made by a person and, in accordance with the Standards Board for England guidance is likely to be an acceptable expression of disagreement. In Adkins, Ashfield District Council (2007) APE 386 a case tribunal of the Adjudication Panel for England indicated that calling a complainant a liar was capable of amounting to disrespect, even if the respondent thought the complainant had not told the truth. However, in that case, the councillor in question was also found to have acted in a rude and offensive manner.”*
- 1.9 *Paragraph 5.15 should be redrafted to say: “The SBE guidance and case tribunal decisions indicate that it may well be acceptable for a councillor to express disagreement with a third party at a meeting, even to say that the third party should tell the truth, but not to subject them to a rude and offensive personal attack. The evidence I have considered does not show Councillor Procter to have made a rude and offensive personal attack on Mrs Bradbury.”*
- 1.10 *Paragraph 5.16 should be redrafted to say: “The other matter to consider is the context and timing of the comments. Mrs Bradbury was addressing the meeting as part of the formal consideration of the planning application. Councillor Procter has said that whilst she was speaking he turned to people close to him and spoke in a normal voice. However, the committee room in which the meeting was held was crowded and noisy and Councillor Procter needed to speak in a normal voice in order to be heard by his constituents, to whom his comments were addressed.”*
- 1.11 *Paragraph 5.17 should be redrafted to say: “I consider it is common courtesy and accepted good practice that when a member of the public is invited to make representations to a council meeting they are allowed to do so without interruption. Comments that might be acceptable in the normal exchange and cut and thrust of political debate between Members should not necessarily be made when a member of the public is speaking. However, I acknowledge that I am not familiar with what is common practice at meetings of Leeds City Council’s Plans Panel (East) and that I was not present at the*

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*meeting on 10 April 2008. I also recognise that I need to take account of the fact that when Councillor Procter heard Mrs Bradbury's comments, he would not have had a formal opportunity in the meeting to respond to them and to point out to his constituents that they were untrue."*

- 1.12 *Paragraph 5.18 should be redrafted to say: "I conclude that Councillor Procter did not fail to treat Mrs Bradbury with respect and therefore did not breach paragraph 3 of the Code of Conduct of Leeds City Council."*
- 1.13 *Paragraph 5.24 should be redrafted to say: "Councillor Procter's comments took place in a public meeting and were in relation to a member of the public addressing the Council on a regulatory matter. However, the conditions in the meeting room meant that his comments would have been heard by a limited number of people only. I have considered the possibility that members of the public might be discouraged from making representations at planning meetings of the Council if they heard such comments being made but I believe that this needs to be balanced against the likelihood that the confidence of members of the public in the planning process could be lessened if they hear incorrect comments at meetings being made and being allowed to go unchallenged."*
- 1.14 *Paragraph 5.25 should be redrafted to say: "On balance, I therefore conclude that Councillor Procter's conduct was not capable of bringing his office or authority into disrepute and was not therefore a breach of paragraph 5 of the Code of Conduct of Leeds City Council."*
- 1.15 *Paragraph 7.1 should be redrafted to say: "Having considered the evidence obtained during this investigation as set out in section 4 of this report, the considerations set out in the section 5 and the comments set out at section 6, I have concluded that there is no evidence of unacceptable conduct by Councillor Procter at the meeting of Plans Panel (East) on 10th April 2008 and that there is no evidence that Councillor Procter failed to treat Mrs Bradbury with respect."*
- 1.16 *Paragraph 7.2 should be redrafted to say: "I also consider, on balance, that his actions were not capable of bringing his office or authority into disrepute. "*
- 1.17 *Paragraph 7.3 should be redrafted to say: "I therefore consider that Councillor John Procter has not failed to comply with the Council's code of conduct in respect of the complaint."*
- 1.18 *Paragraph 8.1 should be redrafted to say: "Under regulation 14(8)(a) of the Standards Committee (England)*

## CONFIDENTIAL REPORT

*Regulations 2008, my finding is that there has not been a failure to comply with the code of conduct of the authority concerned.”*

### *Response to comments made on behalf of Councillor Procter*

- 6.4 I have carefully considered the comments received and where appropriate, I have made changes in the final version of this report.
- 6.5 In particular, I have taken account of Ms. Hardy's comments in relation to the use of words by Councillor Procter and whether that constitutes disrespect. As I have, in essence, agreed with her comments on that area of the report, I have not set my response out in detail.
- 6.6 Where I have not agreed with her (in relation to whether the manner of Councillor Procter's speaking was disrespectful and brought his office or authority into disrepute) I have highlighted comments of hers which are relevant in the main body of the report and considered them at that point.

## CONFIDENTIAL REPORT

### 7 Conclusion

7.1 Having considered the facts as set out in section 4 of this report, the considerations set out in the section 5 and the comments set out at section 6, I have concluded that

(a) Councillor Procter commented "*that is a lie*" to constituents whilst Mrs. Bradbury was speaking. These words were spoken at a normal volume and heard by some witnesses near Councillor Procter;

(b) the use of these words was an indication that Councillor Procter considered that what Mrs. Bradbury was saying was incorrect rather than that she herself was a liar. Though the use of such words was inadvisable and risked causing offence, they were in themselves not a comment directed at her personal characteristics and was not therefore a failure to treat her with respect;

(b) however, to use such words in public whilst Mrs. Bradbury was addressing the Panel and in her hearing was a failure to treat her with respect and, on balance, likely to bring Councillor Procter's office or authority into disrepute.

7.2 I therefore consider that Councillor John Procter has failed to comply with the Council's code of conduct in respect of the complaint.

### 8 Finding

8.1 Under regulation 14(8)(a) of the Standards Committee (England) Regulations 2008, my finding is that there has been a failure to comply with the code of conduct of the authority concerned.

8.2 Under regulation 14(8)(c) and (d), I am sending a copy of this report to Councillor Procter and referring my report to the Standards Committee of Leeds City Council.



Jonathan Goolden BA(Law), Solicitor

**Nominated person**

9<sup>th</sup> February 2010

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**9 Schedule of evidence**

Page	Number	Description
45	JTG 1	Extract from minutes of Plans Panel East meeting held on 13 <sup>th</sup> March 2008
46	JTG 2	Extract from minutes of Plans Panel East meeting held on 10 <sup>th</sup> April 2008
47	JTG 3	Committee seating plan
48	JTG 4	Letter of complaint from Mrs. Bradbury to Chief Executive, Leeds City Council
50	JTG 5	Statement of Mrs. Ann Bradbury
55	JTG 6	Chronology of communications provided by Mrs. Bradbury
56	JTG 7	Statement of Councillor Mark Dobson
59	JTG 8	Statement of Councillor Alan Taylor
62	JTG 9	Statement of Councillor Graham Latty
66	JTG 10	Statement of Councillor Donald Wilson
69	JTG 11	Statement of Councillor Michael Lyons OBE
72	JTG 12	Transcript of interview with Councillor John Procter with comments
82	JTG 13	Statement of Alan Tasker

**Plans Panel (East)**

**Thursday, 13th March, 2008**

**PRESENT:** Councillor G Latty in the Chair

Councillors A Castle, D Congreve,  
P Gruen, M Lyons, K Parker, A Taylor,  
P Wadsworth and D Wilson

**242 Application 07/05963/FU - Detached performing arts suite with theatre to school and extension to car parking area - St John's Catholic School for the Deaf - Church Street Boston Spa LS23**

Plans, drawings, graphics and photographs were displayed at the meeting. The Panel had visited the site earlier in the day

Officers presented the report which sought permission for a performing arts suite, theatre and car park extension at St John's Catholic School for the Deaf in Boston Spa, which was situated in the Green Belt

Officers reported the receipt of a further letter from Clifford Parish Council which whilst supporting elements of the proposals, requested further consideration be given to resiting the development, and that to progress the matter, any approval should be given in outline to enable further discussions to take place. The Panel was informed that a full application had been submitted and must therefore be dealt with on that basis

20 additional letters of support had been received and 2 further letters of objection

The Panel considered verbal representations from the Headteacher, and from Councillor John Procter who was objecting to the proposals

Following the representations, the Panel discussed the application and commented on the following matters:

- the proposed siting of the development, the other options on site and why these might be less/more favourable
- the proposed community uses
- the increase in the level of car parking on the site
- the design of the proposals
- whether very special circumstances had been established to justify allowing the development within the Green Belt

**RESOLVED** That determination of the application be deferred for one cycle to enable Officers to negotiate with the applicant in consultation with Ward Members regarding possible alternative siting for the proposals based upon the options considered at Panel, and that a further report be submitted to the next meeting

**Plans Panel (East)**

**Thursday, 10th April, 2008**

**PRESENT:** Councillor G Latty in the Chair

Councillors A Castle, D Congreve,  
P Gruen, M Lyons, A Taylor, P Wadsworth  
and D Wilson

**266 Application 07/05963/FU - Detached performing arts suite with theatre to school and extension to car parking area - St John's Catholic School for the Deaf - Church Street, Boston Spa LS23**

Further to minute 242 of the Plans Panel (East) meeting held on 13<sup>th</sup> March 2008, where Members deferred consideration of the application for one cycle to enable further negotiations with the applicant in consultation with Ward Members regarding siting, the Panel considered a further report

The Chief Planning Officer reported 2 additional letters of support and further comments from the Parish Council

Officers stated that the applicant had considered the alternative sites as discussed at the previous meeting and set out the reasons why these had been rejected by the applicant, who wished to proceed with the original proposals. Some minor resiting of the of the building and car parking further back into the site was proposed, together with a landscaped buffer to reduce the visibility of the building

To address concerns about the use of the theatre for non-educational uses, a condition restricting the use of the theatre to one evening event per week, with an 11.00pm finish had been suggested. A further condition preventing the use of the building for commercial events including weddings, parties etc was also proposed

Officers reported two additional letters of support and a further letter from Boston Spa Parish Council requesting that natural materials be used

The Panel heard representations from the Headteacher of St John's Catholic School for the Deaf and Councillor John Procter who attended the meeting

Members discussed the following matters:

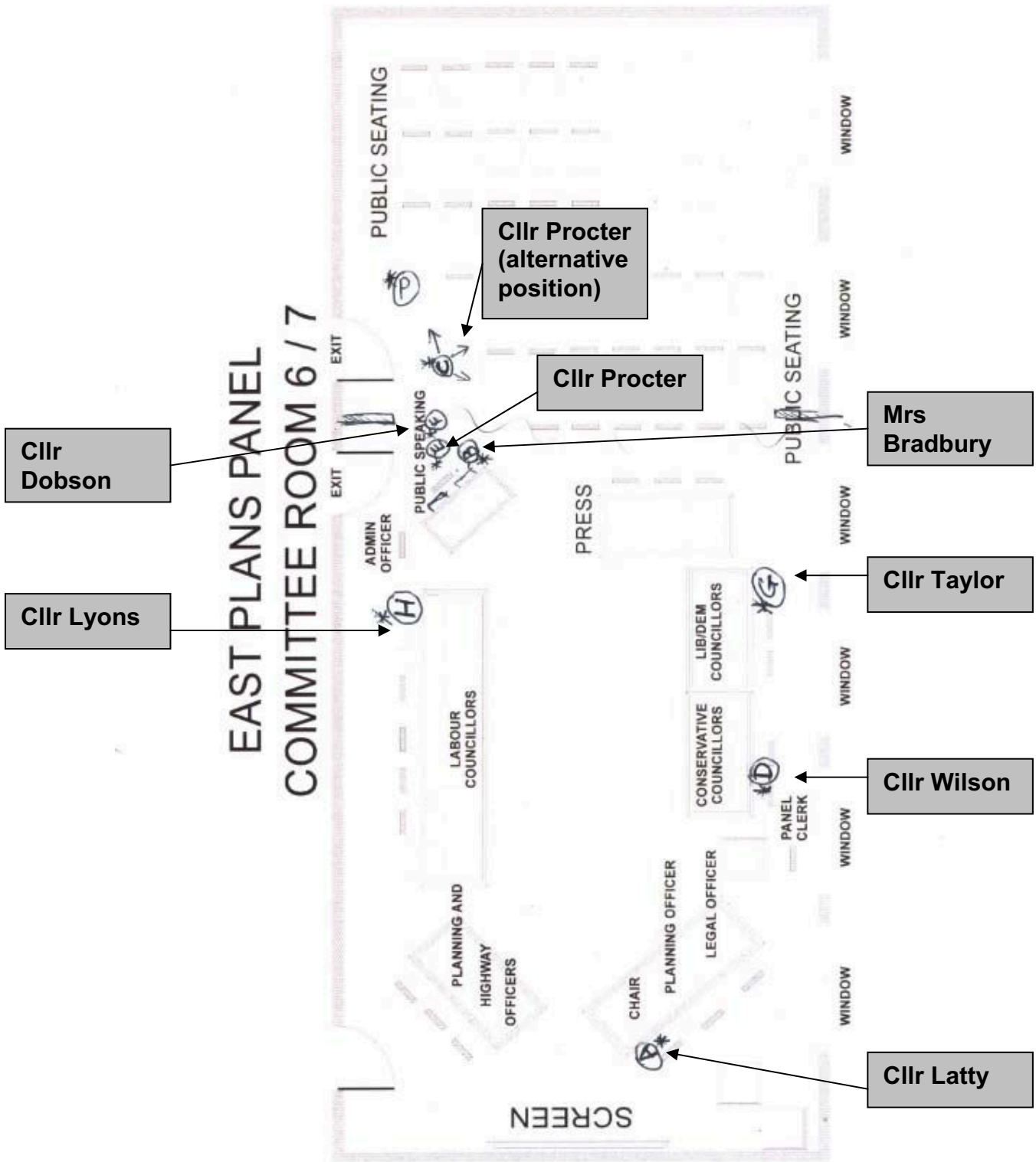
- the siting of the theatre
- that the application had been deferred pending negotiations which regrettably did not seem to have taken place
- the need to consider planning policy
- the view that special circumstances had been demonstrated in this case

**RESOLVED** - To approve the application in principle and to defer and delegate final approval to the Chief Planning Officer subject to the conditions set out in the submitted report, an additional condition to prevent commercial use of the facility and any other conditions he may consider appropriate following discussion and agreement with Officers in respect of the materials, and for Officers and the applicant to consider the possibility of a minor resiting of the building to set this back from Church Street, and provide enhanced planting

(Under Council Procedure Rule 16.5, Councillor Lyons required it to be recorded that he abstained from voting on this matter)



JTG/3

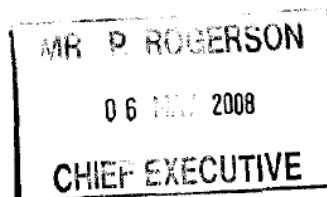


# St John's

Catholic School for the Deaf

30<sup>th</sup> May 2008

Mr P Rogerson  
Chief Executive  
Leeds City Council  
Chief Executives Office  
Civic Hall  
Leeds  
LS1 1UR



Dear Mr Rogerson

**Re : Planning Applications 07/02929 and 07/05963**

Recently my school submitted a planning application for a new expressive arts building. Our ward Councillor is Councillor Procter and during the planning application we contacted him many times to arrange meetings. He responded only once by letter and once to set up a meeting shortly before the Plans Panel East meeting on 13<sup>th</sup> March 2008.

At this meeting, a decision was made to defer the decision for one month to allow us to discuss issues around the siting of the building with our neighbours and Councillor Procter. We attempted to do this and returned to the Plans Panel East meeting on 10<sup>th</sup> April 2008.

A representative from Aedas architects was to speak on the school's behalf about the planning issues.

However, Councillor Procter, speaking on behalf of some objectors, did not raise planning issues. He tried to insinuate that the school staff had not tried to meet with him nor our neighbours but had ignored the request of the previous Plans Panel East meeting.

I was very upset at his attempt to denigrate the school and so I replied to Councillor Procter's speech, explaining how many times we had contacted him but had received no response.

During my three minute reply, Councillor Procter stood behind me, shaking his head saying 'liar, liar'.

This could clearly be heard by the planning committee, members of the public and Councillor Mark Dobson who was standing next to Councillor Procter.



St Johns Catholic School for the Deaf  
Head Teacher: Mrs A Bradbury BA (Hons) MSc  
T: 01937 842 144 F: 01937 541 471 E: [info@stjohns.org.uk](mailto:info@stjohns.org.uk) W: [www.stjohns.org.uk](http://www.stjohns.org.uk)  
Church Street • Boston Spa • West Yorkshire • LS23 6DF

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## CONFIDENTIAL REPORT

I have now received a letter from Councillor Procter who has asked for an apology from me!

From the enclosed correspondence, you will see that remarks I made were entirely accurate.

I feel Councillor Procter's behaviour is not acceptable and has brought Leeds City Council into disrepute. My treatment at the public meeting was quite shocking and I wished to draw it to your attention in the hope that members of the public will not be treated in such a way in future.

Yours sincerely



Mrs A Bradbury BA (Hons) MSc  
Head Teacher

Enc

Cc : Mr P Crabtree - Chief Planning Officer  
Mr C Burgon M.P. - Elmet Constituency

**STATEMENT  
FRONT COVER**

Case Ref:	L6.2
Name:	Mrs Ann Bradbury
Position Held:	Head Teacher
Contact Address:	St John's Catholic School For The Deaf Church Street Boston Spa West Yorkshire LS23 6DF
Contact Tel:	01937 842144
Email:	abradbury@bostonspa.org.uk

I A Bradbury declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....A. M. Bradbury Date 7/1/09

Signed original held on file – Jonathan Goolden Solicitors

Case Ref: L6.2

**STATEMENT of: - Mrs A. Bradbury**

1. I am the head teacher of the St John's Catholic School for the Deaf, Boston Spa, and have held this position for some two and a half years.
2. In October 2007 the Governors of the School submitted a planning application to Leeds City Council in relation to the building of an expressive arts centre.
3. During May, June and July 2007 I had sent correspondence to Councillor J. Procter relating to the proposed development asking for meetings to discuss the project. No such meeting took place.
4. The school was informed that the application would be considered by the 'East Leeds Plans Panel' on the 13<sup>th</sup> March 2008. Up to February 2008 the school had made eight attempts to set up meetings with Councillor Procter to no avail, and a meeting finally took place on the 6<sup>th</sup> February 2008.
5. I provide in evidence a chronology of these communications, and attempted communications, with Councillor Procter together with supporting documents (JTG 6).
6. On 13<sup>th</sup> March 2008 I attended the 'East Leeds Plans Panel' and I spoke on behalf of the school, supporting the application, and Councillor Procter spoke opposing the application.
7. On that date the Panel deferred their decision for one month, and stated that they wished the school to contact the near neighbours and Councillor Procter to discuss the site position and nature of the building.

## CONFIDENTIAL REPORT

8. In the period prior to the next meeting of the Panel (10<sup>th</sup> April 2008), the school did make contact with the near neighbours, who stated that they did not wish to meet with us as Councillor Procter was handling the issue. Councillor Procter had contacted (on 17<sup>th</sup> March 2008) our architects (Aedas Architects – Alan Hunt). Alan Hunt from the architects asked if a member of the school staff should be present at a meeting between the architects and the Councillor, and Councillor Procter said that would not be necessary.
9. In preparation for the 10<sup>th</sup> April 2008 Panel meeting Alan Hunt had prepared a very detailed technical paper on planning issues / law.
10. I attended the Panel meeting on the 10<sup>th</sup> April 2008, as did three members of my staff, Christine Taylor, Jackie Butterwick and Isabel Gibson. Mr Ian Hirst also attended on behalf of Aedas Architects.
11. When the school's planning application came under consideration, Councillor Procter spoke opposing the application. The thrust of his opposition was that the school had not tried to set up the meetings as requested by the Panel, and he implied that the school had disregarded the Panel's advice at the previous meeting. He did not argue on technical planning issues which we had anticipated he would.
12. I had planned for Ian Hirst to respond to the Panel, relating to Councillor Procter's remarks, however, Ian Hirst said to me that the Councillor was not opposing on planning issues, but rather on the behaviour of the school.
13. I felt that what Councillor Procter had said was very unfair and misrepresented the facts so I decided to speak to the Panel and make a response, although I had not expected to do so.
14. I explained to the Panel that Councillor Procter was mistaken. At this moment in time I was seated at the 'Public Speaking Desk'

## CONFIDENTIAL REPORT

marked at position B on the plan (JTG 3). Councillor Procter was standing immediately behind me, at point E on the plan (JTG 3) and Councillor Dobson was standing beside Councillor Procter, I cannot recall on which side. Councillor Procter was very close behind me, I would estimate only 2 or 3 feet away. The public seating area was 'packed', all the seats were taken, there were people standing, it was very crowded. I did not know Councillor Dobson at all prior to this date, I only know it was him standing next to Councillor Procter because I had heard him speak in the planning application prior to ours.

15. Ian Hirst was either sitting next to me at the Public Speaking Desk or standing immediately behind me, the three members of staff I have named were sitting in seats immediately behind me, only a few feet from me.

16. Whilst I was speaking I heard very clearly from behind me the words "Liar, liar, she's lying". I could not see the person as they said this as they were behind me, but I am certain that it was Councillor Procter's voice. I recognise his voice and have no doubt the words came from him.

17. I tried to continue speaking but Councillor Procter continued to speak loudly over me from behind. I found this intimidating and bullying.

18. When I had finished speaking, all three members of my staff commented to me how 'appalled' they were that a Councillor should speak in that manner, and they confirmed to me that it was Councillor Procter who had said "Liar, liar, she's lying". Ian Hirst commented words to the effect 'I've never seen anything like it' and again confirmed that it was Councillor Procter who had spoken the words.

CONFIDENTIAL REPORT

19. I felt personally very angry, upset and humiliated by Councillor Procter as all I was trying to do was express my view. As there were so many people at the rear of the room who had witnessed this, I felt embarrassed. Not only did I feel insulted as a person, I felt the comments by Councillor Procter had degraded to school, my position within it, and my personal integrity. I was shocked because I could not believe that a member of the public would or could be treated in this way at a public Council meeting.

20. Prior to the planning application matter I had no previous contact with Councillor Procter, did not know him and to my knowledge had never met him. I have absolutely no reason to make such an allegation if it were not true.

Signature..... A.M. Bradbury      Date.....



**Communications with Cllr Procter****First Planning Submission (ref 07/02929)**

ref	DATE	DETAILS
	14 May 2007	Invitation sent to ward councillors to the community launch event on 15 June. Apologies received from Cllr Wilkinson. No response from Cllr Procter. Colin Burgon MP attended.
1	13 June 2007	Letter (copy attached) to Cllr Procter. No response. Followed up by phone call and e-mail.
2	16 July 2007	Letter e-mailed again to Cllr Procter, including invitation to visit school. Receipt acknowledged by Conservative Group Office.
3	Aug 2007	Phone calls to Conservative Group Office to try to arrange a visit to St John's by Wetherby Ward councillors. Proposed date of 29 August suggested, but Headteacher, Assistant Head and Finance Mgr on holiday (all out of the country) on this date. <i>(Planning application 07/02929 subsequently withdrawn)</i>
4	18 Sept 2007	Letter from Cllr Procter to CT explaining reasons for his objections and suggestions for amendments to the plans. <i>Revised planning application 07/05963 submitted October 2007</i>
5	10 Dec 2007	Letter from CT to Cllr Procter explaining the amendments to the plans. No response
6	24 Jan 2008	CT phoned Conservative Group Office (Pat Atkins) to set up a meeting with Cllr Procter. Explained that we were happy to meet at any time, and that we were keen to go to panel as soon as possible as some of our funding may be at risk if the decision was made after March.
7	28 Jan 2008	Letter to 3 Wetherby Ward councillors explaining proposed use of the building and emphasising the school's charitable (ie non-commercial) status. Letter e-mailed. Response from Cllr Wilkinson (attached)
8	29 Jan 2008	E-mail from Conservative Group Office proposing 4 dates for a meeting with Cllr Procter. Meeting arranged for the first available date on 6 Feb.
9	6 Feb 2008	Ann Bradbury, Christine Taylor (St John's School), Allan Hunt (Aedas Architects) and Steve Behrens (parent of school pupil) met Cllr Procter at the Civic Offices.
10	13 Mar 2008	East Leeds Plans Panel. Decision deferred for 1 month to enable further consultations with near neighbours to take place.
11	14 Mar 2008	Isabel Gibson (Assistant Head) phoned Mrs Taylor (Church street resident ) to arrange a meeting in the light of the plans panel advice. Mrs Taylor advised her to call back on Monday.
12	17 Mar 2008	Isabel Gibson phoned Mrs Taylor again – Mrs Taylor advised her that a meeting was not necessary, as Cllr Procter was handling this issue.
13	W/c 17 Mar 2008	Cllr Procter's office contacted Allan Hunt at Aedas. Meeting arranged for 20 March between Allan Hunt & Cllr Procter. Allan Hunt enquired whether any representative from St John's should be present, and was advised that this would not be necessary.

**STATEMENT  
FRONT COVER**

Case Ref: L6.2  
Name: Councillor Mark Dobson  
Position Held: Member: Leeds City Council  
Contact Address: Leeds City Council  
Civic Hall  
Leeds  
Contact Tel: 0113 287 4610 or 07974 963280  
Email: mark.dobson@leeds.gov.uk

I Mark Dobson declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....M. Dobson Date...8/1/09

Signed original held on file – Jonathan Goolden Solicitors

Case Ref: L6.2

**STATEMENT of: - Councillor M. Dobson**

1. I am a Ward Councillor for Garforth and Swillington Ward, Leeds City Council. I was first elected in May 2007 and I am a member of the Labour Group.
2. On 10<sup>th</sup> April 2008 I attended the 'Plans Panel East' meeting in Committee Room 6/7 at the Leeds Civic Hall. The main purpose of my attendance was to speak on a planning application under consideration in relation to the Garforth Cemetery (minute 262 of 10<sup>th</sup> April 2008). I spoke on this matter and I then remained in the room, and stood just behind the 'Public Speaking Desk' at approximately position F marked on the Plan (JTG 3).
3. The reason for my remaining within the room was that a planning matter due to be considered by the Panel a couple of items later, relating to the St John's Catholic School for the Deaf, was of interest to the local MP Colin Burgon who had asked me to remain to hear the outcome and brief him later. I had no other formal input or interest in the School planning item, I was there merely to gather information.
4. The public seating area and doors area of the room was completely full, there were several persons standing.
5. I heard Councillor John Procter speak on the St John's School planning application, he raised objections on behalf of the Parish Council, and stating that there had been no change in the situation since the deferment from the last meeting.
6. Councillor Procter then stood in a position behind the Public Speaking Desk, which I estimate to be at point E on the Plan (JTG 3). He was immediately in front of me, his head and mine were within one foot of each other.

## CONFIDENTIAL REPORT

7. The head teacher of the school started to speak from the Public Speaking Desk, explaining to the Panel that the school had been trying to contact Councillor Procter but had not had a response. She also held up some documents referring to this. Councillor Procter was standing a couple of feet behind her.
8. At this point I heard Councillor John Procter say “Liar, liar, liar”. He was speaking over her, as she was speaking. He definitely repeated the word ‘Liar’ three times. He leant down and towards her which I thought was intimidating. I was stood behind him, but I am absolutely certain the words came from his mouth. It is beyond doubt that it was not someone else who said ‘Liar’, it was Councillor Procter.
9. Throughout Mrs Bradbury’s speech to the Panel, Councillor Procter was repeatedly shaking his head in disagreement with her comments, and seeking eye contact with members of the Panel. In my opinion, I believe this was an attempt by him to influence the Panel and denigrate what she was saying.
10. Councillor Procter said the words “Liar, liar, liar” in a voice that was loud enough for the members of the public in our end of the room to hear clearly, and members of the Panel sitting closest to the public end, to hear. I would think that Panel members seated at the far end of the room may not have heard it.
11. As a member of the Leeds City Council I consider Councillor Procter’s behaviour on this occasion to be disrespectful to the head teacher, the public, and members of the Panel who were trying to listen to her evidence, and I am concerned that such conduct, particularly in a public arena is likely to bring the office of councillor and this council into disrepute.

Signature .....M.G. Dobson

Date...8/1/09

**STATEMENT  
FRONT COVER**

Case Ref: L6.2  
Name: Councillor Alan Taylor  
Position Held: Councillor: Leeds City Council  
Contact Address: Leeds City Council  
Civic Hall  
Leeds  
Contact Tel: 0113 248 6992  
Email: alan.taylor@leeds.gov.uk

I Alan Taylor declare that this statement is true and accurate to the best of my knowledge and belief.

Signed Alan Taylor Date...7/1/09

Signed original held on file – Jonathan Goolden Solicitors

Case Ref: L6.2

## CONFIDENTIAL REPORT

### **STATEMENT of: - Councillor A. Taylor**

1. I am a Councillor at Leeds City Council, first elected in 1998/9 and I have served continuously to date. I am a member of the Plans East Panel.
2. On the 10<sup>th</sup> April 2008 I was present at a meeting of the Panel in Committee Room 6/7 at the Civic Hall.
3. The meeting considered a planning application by the St John's Catholic School for the Deaf which had been deferred by an earlier meeting of the Panel.
4. At this point the public seating area was full and I estimate there were 40 or so persons present. There were persons standing.
5. I was seated at a point I have marked G on plan JTG 3.
6. I believe Councillor John Procter spoke, from the Public Speaking Desk, for his maximum 3 minutes objecting to the application.
7. The head teacher, a lady, then spoke on behalf of the application from a seated position, at the Public Speaking Desk.
8. I recall that whilst the head teacher was speaking Councillor Procter was positioned just behind her but I am unable to say whether he was seated or standing. The head teacher was at the point B and Councillor Procter in the region of E on plan JTG 3.
9. Whilst the head teacher was speaking, I observed that Councillor Procter was shaking his head, and I heard him say "Lies" or "not true – lies" or words to that effect. I am sure that the words he used included either 'Liar' or 'Lies'.

CONFIDENTIAL REPORT

10. I was at a distance of approximately 5 yards from Councillor Procter when I heard him say this. He did not shout the words, it was in a normal volume voice. There were several other persons including members of the public closer to Councillor Procter than I was, and I feel sure they would have heard it.

11. I comment that Councillor Procter, in my opinion, said those words in a more dismissive manner rather than an aggressive manner.

Signature

A. Taylor

Date...7/1/09

**STATEMENT  
FRONT COVER**

Case Ref:	L6.2
Name:	Councillor Graham Latty
Position Held:	Conservative Councillor
Contact Address:	Leeds City Council Civic Hall Leeds
Contact Tel:	07973 323105
Email:	graham.latty@leeds.gov.uk

I Graham Latty declare that this statement is true and accurate to the best of my knowledge and belief.

Signed           Graham Latty   Date 6/1/09

Signed original held on file – Jonathan Goolden Solicitors

Case Ref: L6.2



**STATEMENT of: - Councillor G. Latty**

1. I have been a Councillor of Leeds City Council since May 2000 and served continually to date. I am the deputy whip of the Conservative Group, and I am the Chair of the 'Plans East' panel of the Council.
2. In early 2008 I can recall a planning application made by St John's Catholic School for the Deaf at Boston Spa. I can recall attending a site visit in the early part of 2008.
3. I have been shown the minutes of the meeting of the Plans East Panel dated Thursday the 13<sup>th</sup> March 2008 by Mr Dolton, and I confirm that minute 242 refers to the planning application number 07/05963/FU made by the St John's School for the Deaf.
4. At that meeting of 13<sup>th</sup> March I can recall that the meeting deferred decision on the application in order that the applicant could investigate further, other site options in consultation with Ward members.
5. At the next meeting of the Plans East Panel, held in Committee Room 6/7 at the Civic Hall Leeds, on Thursday 10<sup>th</sup> April 2008, the same application was again considered by the Panel, having been deferred from the meeting of 13<sup>th</sup> March 2008 (minute 266 of 10<sup>th</sup> April 2008 refers). I believe the minutes accurately record the other Councillor members of the Panel present.
6. I can recall Councillor John Procter speaking in relation to this application to the Panel. He spoke on behalf of the objectors. In summary, the objections were that there were alternative sites within the school complex and that the applicants had not fully consulted locally on such options. Councillor Procter would only have been allowed a maximum of 3 minutes.

## CONFIDENTIAL REPORT

7. I can recall the head teacher of the school, Mrs Bradbury, then speaking on behalf of the applicants. I cannot recall the exact content of what she said but I believe she was explaining the view that the application for the siting was where the extension had to be. I cannot recall any further detail of what she said, and I am unable to say with certainty whether she spoke about attempts to contact local Ward members or not.
8. Whilst Mrs Bradbury was speaking, I cannot recall exactly where Councillor Procter was located within the room. As I looked from the front I do not think he was on the right side of the room, as my view is obstructed by the press table, and I do recall seeing him, but I am unsure of exactly where he was.
9. On the plan of the room marked JTG 3 I have marked my position at A, Mrs Bradbury at B, and Councillor Procter somewhere in the area marked C. I do not think Councillor Procter would have been standing, that is most unusual.
10. Whilst Mrs Bradbury was speaking on the planning application for her 3 minute maximum, I did not hear Councillor Procter say anything.
11. I have no recollection of the exact number of persons present in the public seating area, but I do recall that at that meeting the area was full, so I can estimate that at least forty people were there.
12. I would estimate the distance between my seat at point A on JTG 3 and points B / C to be between 25 to 30 feet.
13. I would comment that in Committee Room 6/7 the acoustics leave something to be desired in that sound does not travel the length of the room without amplification. All Panel members and officers have a microphone in front of them as does the member of the public speaking (as at B on JTG 3).

CONFIDENTIAL REPORT

14. Therefore, someone shouting from the public seating area may well be heard at my end of the room, but any person speaking in a normal voice volume would be unlikely to be heard by me.

15. I would comment that Councillor Procter is a friend of mine. Whilst not a close personal friend, I have known him for about 20 years or so, and he is the Conservative Group Chief Whip and I am the Deputy Whip as stated in Paragraph 1 of this statement.

Signature      Graham Latty      Date...6/1/09

**STATEMENT  
FRONT COVER**

Case Ref:	L6.2
Name:	Councillor Donald Wilson
Position Held:	Liberal Democrat Councillor
Contact Address:	Leeds City Council Civic Hall Leeds
Contact Tel:	0113 282 2819
Email:	Donald.wilson@leeds.gov.uk

I Donald Wilson declare that this statement is true and accurate to the best of my knowledge and belief.

Signed D. Wilson Date 6/1/09

Signed original held on file – Jonathan Goolden Solicitors

## CONFIDENTIAL REPORT

**STATEMENT of: - Councillor D. Wilson**

1. I am a Councillor of Leeds City Council and I was first elected in May 2000, I have served continuously since then. I have been a member of the 'Plane East Panel' of the Council from May 2000 to date.
2. During the morning of the 13<sup>th</sup> March 2008 I can recall attending a site visit at the St John's Catholic School for the Deaf in Boston Spa in relation to a planning application for a theatre extension.
3. During the afternoon of the same day I was present at the Panel meeting and the minutes show that item minute 242 related to that planning application. The decision of the application was deferred on cycle to the next meeting, in four weeks time. The deferment was to enable further consultation between Ward members and residents by the applicant.
4. On Thursday 10<sup>th</sup> April 2008, I was present at the Panel meeting when this application was again considered (Minute 266 of 10<sup>th</sup> April 2008 refers).
5. I can recall the minute item discussion relating to the application. The room (Committee Room 6/7) was totally full and in fact there were people waiting to get in. I was seated at a position I have marked as D on the plan JTG 3.
6. I can recall Councillor John Procter speaking to the Panel from the 'Public Speaking Desk' addressing the Panel and in summary he was asking the Panel to refuse the permission due to objections raised by residents.

## CONFIDENTIAL REPORT

7. I recall the head teacher of the St John's School then taking her seat at the Public Speaking Desk to respond. Her position was at B on the plan JTG 3. Due to the room being so full and busy Councillor Procter had nowhere to sit, so stood immediately behind the seated head teacher. I have marked his position at this point as E on JTG 3, and Councillor Mark Dobson was standing immediately behind him at F on the plan JTG 3.
  
8. The head teacher spoke to the Panel asking for approval of the application. I do recall her stating that she had been attempting to contact Councillor Procter but had been unable to do so.
  
9. I clearly remember at this point Councillor Procter, whilst standing immediately behind the head teacher, was shaking his head. I was concentrating on what the head teacher was saying and was not particularly watching Councillor Procter. I did not hear him say anything, but it is unlikely that I would have heard him if he did. This is due to the size of the room, the distance I was from him (some 5 yards), and the general 'buzz' of the background noise within the room. The head teacher was using the microphone and I could not hear anything from Councillor Procter. I therefore do not know whether he made any comment or not.

Signature    D. Wilson    Date...6-1-2009

**STATEMENT  
FRONT COVER**

Case Ref:	L6.2
Name:	Councillor Michael Lyons OBE
Position Held:	Councillor: Leeds City Council
Contact Address:	Leeds City Council Civic Hall Leeds
Contact Tel:	0113 260 9054
Email:	

I Michael Lyons declare that this statement is true and accurate to the best of my knowledge and belief.

Signed Mick Lyons OBE Date 7/1/09

Signed original held on file – Jonathan Goolden Solicitors

Case Ref: L6.2

**STATEMENT of: - Councillor M. Lyons OBE**

1. I was first elected to Leeds City Council in May 1980, and have served continuously since that date. For most of my period as a Councillor I have been a member of the Plans East Panel of the Council, and I have chaired the Panel for a number of years in the past. I am deputy whip of the Labour Group, and shadow chair of the West Yorkshire Passenger Transport Authority.
2. I attended a meeting of the Plans East Panel on Thursday 13<sup>th</sup> March 2008, when a planning application by the St John's Catholic School for the Deaf at Boston Spa was considered. The Panel moved to defer the decision on the application to the following meeting to enable the applicants to consult with neighbours and Ward Councillors on all the options.
3. At the following meeting, held on 10<sup>th</sup> April 2008 the application was reconsidered and I was in attendance. I was seated at position H on the room plan JTG 3. There were many people in attendance, the public area being very full, there were people standing in the doorway and people standing in the rear public seating area.
4. Councillor John Procter spoke opposing the application, and then answered questions from the Panel.
5. The head teacher, Mrs Bradbury, then spoke from a seated position at the 'public speaking desk', marked B on plan JTG 3.
6. I was very close to Mrs Bradbury whilst she was speaking, I would estimate only 4 or so feet distance. Councillor Procter was standing behind Mrs Bradbury, about 3 feet behind her. I could see Councillor Procter clearly.



## CONFIDENTIAL REPORT

7. Mrs Bradbury started to speak about a lack of response from Councillor Procter. At this point I saw Councillor Procter go red in the face, and I think he shook his head. I heard the word "lies" come from a person stood in the doorway. I believe that comment was addressed and directed to Councillor Procter. [redacted]. When he said this [redacted] was in the doorway, to the side of Councillor Procter about 3 to 4 feet from Councillor Procter, and there were other people squeezed between them.
  
8. Not only can I say that I did not hear Councillor Procter use the words 'Lies' or 'liar', I am able to state that he did not say those words or anything similar. I had a good view of Councillor Procter, my attention was toward him and Mrs Bradbury all the time, which meant I could see them both at all times, and had Councillor Procter have said those words I would have heard him say that and would have no hesitation in saying so in this statement.

Signature.....Mick Lyons OBE      Date...7/1/09

Leeds City Council (L6.2)

Transcript of Interview of Councillor John Procter

MD = Martin Dolton            JP = Councillor John Procter  
PM = Peter McKay            CH = Clare Hardy

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MD: Ok I'm Martin Dolton from Jonathan Goolden solicitors, and it's now 10.20am on Wednesday 4<sup>th</sup> March 2009 and I'm at the Civic Hall, Leeds City Council in Leeds. I'm here together with, speaking with Councillor Mr John Procter from Leeds City Council. Also present in the room, if I could ask you to introduce yourselves please.

PM: Peter McKay, consultant with Eversheds.

CH: Clare Hardy, solicitor from Eversheds.

MD: Thank you, so there are four of us in the room. Firstly Councillor, thank you very much for your time today, I know how valuable it is and for inviting me here to the Civic Hall. Can I firstly ask you to agree that you have consented to me recording this discussion?

JP: Yes indeed I have.

MD: Thank you. If at any stage you need a break or wish to have a break for any reason whatsoever, please just say so and I'll immediately stop recording. Likewise if I need a break, I often lose my train of thought, then I shall also ask to stop for a few moments and may I address your good selves from Eversheds and likewise if you want to stop this interview at any point, please just say so and I'll immediately stop it. Could I ask you to agree that you have had a copy of the complaint that has been made under the Standards regime in writing?

JP: Yes I have.

MD: Thank you. For the sake of clarity and to make sure that we are both talking about the same matter, may I just summarise to say that I'm here to discuss with you a complaint that has been made by Mrs Ann Bradbury, the head teacher of St John's Catholic School for the Deaf in Boston Spa, who complains that at the meeting of Leeds City Council Plans East Panel, held on the 10<sup>th</sup> April 2008, whilst she was speaking to the Panel she alleges that you stood behind her and you said 'liar, liar' and shook your head. Is that your understanding of the complaint?

JP: It is yes.

## CONFIDENTIAL REPORT

MD: Thank you. Can I ask you if you wish to make any response or say anything in response to that complaint before I say anything else?

JP: Yes, I would if I may, I have prepared some notes which perhaps forms the basis almost of a statement, really just to get my thoughts in order as much as

MD: Yes.

JP: As much as anything else. You will have to forgive me if I stumble over some of the text, I'm a registered disabled person, and suffer from dyslexia, but as I did write it, hopefully I can read it reasonably well.

I was elected to Leeds City Council in 1994. I dealt with planning matters in the Weatherby Ward since that time and was a member of the Plans East Panel from 1994 until 2006. I've seen and dealt with literally thousands of planning applications. I have been the Chief Whip of the Conservative Group since 1998; I am presently the Chief Whip of the Council. In this role I have supported many colleagues through the standards process and am knowledgeable about the proceedings. In 2003 I became the Chairman of the Neighbourhoods and Housing Scrutiny Board. In 2004 I became the Executive member for Culture and Leisure. I serve in the Cabinet, Chair the Leeds Cultural Partnership, Chair the Member Management Committee and I also Chair the Elections Working Group. I further Chair the Board of the Grand Theatre and Opera House Ltd. I further Chair the City Varieties, and also the Hyde Park Picture House. In addition, I'm a member of the Regional Board of the Arts Council for England and of the Grand Theatre and Opera House Development Trust. I am a member of the National Core City Culture Group and in a personal capacity I serve on the Board of Northern Ballet Theatre. My wife has served as a Parish Councillor and in 2004 she was elected to Leeds City Council representing the Harewood Ward. In my private life for the past 21 Years I have run our family facilities maintenance company and further I'm a founding director of a national bio-mass energy solution company. I have a support team based within the Conservative Group office of the Civic Hall that supports all of my Civic responsibilities.

I became aware of a planning application to develop a site within the green belt for a community theatre, within the [inaudible] of St John's School, Boston Spa, sometime 2007. Any development within the Green Belt is contentious. The subject site was adjacent to residential properties, clearly visible from approaches to Boston Spa and from the village of Clifford. The application was added to my monthly briefings on planning applications which takes place in my office. At that time these briefings were provided by David Newbury, the area planning team leader. I had a number of conversations regarding the application with officers over the months and expressed my sympathy with the objectors. I found it quite bizarre that the applicants would not consider relocating the proposal. I should also like to add at this time that in no way was I, or I might say the objectors, opposed to the development of a theatre or a community facility at St John's School indeed I and in

## CONFIDENTIAL REPORT

particular the objectors offered to assist with fundraising and also technical help, to see if they could support the activities of the school. The sole issue was the location of this facility.

MD: Right I understand. Thank you, so it was purely where the application was not the application in being, so to speak.

JP: Indeed.

MD: Thank you.

JP: I held off meeting with representatives of the school because I was sure the application would be amended given time, and subsequently would have to be re-advertised. I hoped the re-advertised application would go some way to satisfying objectors. My office emailed Miss Taylor on the 7<sup>th</sup> August 2007 seeking a meeting with representatives of the school. After a number of exchanges a meeting was not organised due to diary commitments on the part of both parties.

MD: Sorry meaning the school and yourself?

JP: I have an email trail that substantiates that.

MD: Thank you.

JP: My office sent a letter in September 2007 mapping out my concern and those that had been expressed to me. This was done in an attempt to try and draw to the attention of the school the concerns of local people and to enable them to address those concerns. The plans were subsequently revised and the date to meeting in February 2008 was agreed. During this time my office had regular communication with the objectors. On the 6<sup>th</sup> February 2008 representatives from the school attended a meeting with me in the Civic Hall.

I was warned in advance of the meeting by planning officers, they had experienced aggressive behaviour from representatives from the school. One particular parent was prone to such behaviour. As the meeting unfolded I listened to the applicant, I'd sought to explain some of the concerns of local people. I had to suspend the meeting after repeated shouting and aggressiveness from one of the parents. He subsequently apologised and the meeting went on. During the course of his apology, he did make it clear that it was an emotive issue; he had a child at the school. All of which I could quite understand. The meeting concluded with me urging the school to reconsider the location of the proposed development, the siting was the crucial element and in my view the objections could be satisfied by re-siting the proposal.

On the 13 March 2008, the Plans Panel East visited the school in advance of considering the application. The site visit was what I can only describe as a staged performance which broke the Council's protocol for planning site visits. The objectors were not permitted to be present on the tour of the school nor the lobbying of the Plans Panel

## CONFIDENTIAL REPORT

members that took place. During the course of the site visit I asked in the presence of Panel Members who owned a piece of land to the rear of the school. We were informed that the land was in the ownership of the local farmer and did not belong to the school.

The plans panel convened at 1.30pm in Committee rooms 6 & 7 of the Civic Hall in Leeds. I spoke against the application but did not urge members to refuse the application I simply requested the deferment of the application to allow discussion to take place regarding the siting of the proposal. The panel agreed with my proposition and the application was deferred. In an attempt to try and understand the school's outright objection to even consider relocating the proposals, my office sought a meeting with the agent for the scheme who I understand at that time was Mr Allan Hunt. It is often easier to negotiate with an agent who is not as close or as precious about an individual proposal. On the 20<sup>th</sup> March, Allan Hunt, the agent for the scheme met with me and planning officers, I was surprised that Mr Hunt would not make comment and said he would take back my thoughts to the school. My office sought feedback from the school but there was none. At this meeting, I was shown a site map that clearly showed the land behind the school which I had enquired about on the site visit, was in the ownership of the school. On the 10<sup>th</sup> April 2008 the Plans East Panel reheard the application. The agenda was very full; the public area of the meeting room was overflowing. The door, the door had to be held open so that people who were stood in the corridor could hear the proceedings. A number of my constituents who were objecting to the proposal were present. The meeting, the meeting started with me holding the door open as proceedings moved through the applications. I was able to sit on the side tables close to my constituents. I addressed the panel and expressed regret that the school had not taken advantage of the deferment to negotiate with Ward members. I further drew the panel's attention, the panels' attention, and mentioned that they had been misled over the ownership of the land to the rear of the school.

Mrs Bradbury spoke on behalf of the school. She did not deal with material planning matters and sought to rubbish the objectors and me. She focused on not being able to contact me and that she had repeatedly tried to meet with me since the deferment of the application the previous month. My constituents were clearly troubled by this untrue allegation. Turning to my constituents and in response to Mrs Bradbury's untrue allegation to the panel, I stated to my constituents, "That is a lie". This formed, this formed part of a conversation I then had with my constituents. I think it's important at that stage to note that Mrs Bradbury subsequently produced a log of when she did or didn't try to contact me and indeed that log reflects the view that I've just expressed in that no attempt was made to contact me after the deferral date.

MD: You are handing me that now, may I just put your initials on that.

JP: Indeed.

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MD: JP1, OK, thank you.

JP: A letter was sent from my office on the 16<sup>th</sup> April 2008, it says 2009 on my crib sheet, 8 to Mrs Bradbury requesting an apology in relation to the untrue statements she had made at the Plans Panel. A response was received in which Mrs Bradbury made no reference to any complaint. No apology however was forthcoming. On the 16<sup>th</sup>, sorry on the 15<sup>th</sup> May 2008 a follow up letter was sent from my office to Mrs Bradbury further requesting an apology. No response was received. On the 30<sup>th</sup> May 2008 Mrs Bradbury sent a letter of representation to the Chief Executive of the Council. At that stage it was not a letter of complaint, and was copied I might say to the local Labour Member of Parliament. It was clear to me throughout this process that the school was dissatisfied with the planning process and indeed that formed the basis of Mrs Bradbury's letter to the Chief Executive.

MD: Thank you. Ok, you've covered an awful lot of ground there Councillor thank you and indeed much of the ground that I intended to discuss with you, you have very kindly covered for me. If I may just going back on a few things, more to clarify and make sure that I have understood what you have said correctly. Firstly can we just clearly agree that you went to the Plans East Meeting on the 10<sup>th</sup> April and you were present there? Would you agree you were there in a role as a member of this Council?

JP: I was.

MD: Thank you. And you have explained that you spoke giving views on the application. You said there that you, whilst Mrs Bradbury was speaking, when you say turn to your constituents, do you mean you physically turned? Turned your head or turned your body or, can you recall?

JP: I'm more than happy to show you the particular room, there are tables at the side of the room that are pushed to the side, because of the lack of space when these meetings take place which are down this side of the room.

MD: Right, which are near the "public seating" words. Thank you.

JP: Indeed where the "public seating" words are, they are all tables that are aligned there.

MD: Thank you.

JP: And I sat on the corner, I have to say that is what I normally do when the gallery. When the seats are full most people do do the same, people sit all along the tables. My constituents were sat in the public area and, yes I turned to my constituents and made those comments.

MD: Thank you so from, it's obviously difficult on recording, from the plan that we have in front of us, which I accept the public speaking table is not at the right angle as it was on the day but its in that area.

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JP: Indeed it is, yes.

MD: Were you then around here, where I am pen marking?

JP: At that time, yes.

MD: Right.

JP: Because of how the Plan Panel meetings work, people get up and down and move in and out, normally when their applications have been heard so I started off holding the door open but as people moved away and moved out of the room as proceedings happened, where you indicated on that map is approximately where I was.

MD: Thank you. So when Mrs Bradbury was speaking you were at or around point P that I have indicated on this map JTG3 in front of us.

JP: Indeed.

MD: And please don't get me wrong I'm not asking within inches, but in that area, and you were sitting on the edge of a table at P and when you said you said the words 'that is a lie' turning to your constituents, you would mean you clearly turned towards these seats here, and just said 'that is a lie'.

JP: Indeed.

MD: Thank you. Mrs Bradbury...

JP: I'm sorry, I might also say at the same time that that is quite common, Plans Panel meetings certainly in Leeds aren't hushed places, conversations go on all the time, between applicants and their agents and their consultants and indeed between objectors often their elected representatives or people who they have hired to represent them as well, and so in turning to my constituents and making that comment that wasn't unusual to me earlier in the proceedings the plans had been explained before I spoke, I'd had other conversations with the objectors as well.

MD: Thank you. So when Mrs Bradbury, as I think are aware, has said that you said the words 'liar, liar' that that's a mistake, what you said is 'that is a lie'.

JP: Indeed.

MD: Thank you. Would you accept that Mrs Bradbury may have heard you say that or could have heard you say that.

JP: No. Mrs Bradbury could not have heard me say the words 'liar, liar' because I did not say them.

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MD: No, no sorry, could she have heard you say 'that is a lie' to your constituents?

JP: I find that quite amazing frankly as she was from my recollection and certainly from her commentary she was in the process of making her representations to members of the Plans Panel.

MD: How many feet would you say you were from here as well roughly, or yards or metres or whatever you work in?

JP: I wouldn't like to say. The speaking table that is used, dependent on how many clerks come with the plans panel on the day, can move, it really just depends on how busy the meeting is as to where the speaking table was on that particular day in terms of that table it could have been nearer or further away.

MD: Ok, do you, you said you said those words to your constituents, I take it that's the only time you used the word 'lie'.

JP: Indeed.

MD: Thank you. You obviously said it so your constituents could hear you say it because that's why you said it. Would that be in agreement? You turned to them and said it.

JP: Indeed.

MD: Would you believe that anybody else in that room could have heard you say it other than the people sitting very close to you?

JP: I wouldn't know.

MD: Ok. Did you shout it?

JP: I certainly didn't shout it, Plans Panels aren't the place where you would shout anything, certainly I wouldn't...

MD: Sorry I'm not suggesting you did...

JP: No, no, no.

MD: I'm simply trying to...

JP: I quite understand.

MD: Put a volume on it.

JP: No, no certainly not.

MD: And in fairness, you didn't whisper it either? You said it in a normal voice?



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- JP: Indeed, yes.
- MD: Thank you, ok. The evidence I have gathered during the investigation has involved...
- JP: Sorry, I'm sorry to interrupt you, can I just say for a point of clarity in terms of just thinking about the issue you say about who may or may not have heard it. Within the rooms in question, rooms 6 & 7 there is a microphone what's called a 'loop' system that's in place, its hardly high technology, and doesn't always function as it should do. Whether those microphones picked up part of what I was saying and distributed it on this loop system I do not know, its very clear in my mind the circumstances and what took place and my comments were solely in response to what had been said and also I might add my constituents were clearly troubled by this allegation that had been made, namely that I had not made myself available to meet with representatives of the school.
- MD: So the comment 'that is a lie' that you were making to your constituents, was to, in a way reassure your constituents that what they were hearing was not the truth.
- JP: Absolutely, absolutely the case.
- MD: It was reassurance to your constituents.
- JP: Absolutely the case.
- MD: Mrs Bradbury as you know has made the complaint, stating that she feels that that behaviour from a Councillor is disrespectful. Obviously that will be a decision ultimately for the standards committee to decide, not you or I, but I'd ask you as an experienced member, would you consider saying those words, in that circumstance in that environment would you like to comment on whether you think its disrespectful or not?
- JP: I don't think I want to necessarily make that comment, what I do want to say is that I did not say the words that I am alleged to have said.
- MD: Right thank you, thank you. Ok, as part of this investigation I have interviewed other members of the Council who were present at that meeting and indeed I have provided a list at the request of your legal representatives and I think they have given you that list. Of various members, and I have to say many of them because as you have quite rightly pointed out the acoustics of the room, have been unable to assist, they simply can't help us at all, either saying what you did or didn't say. But indeed, a couple of Councillors have confirmed that you said words to that effect and indeed it does fit in with what you have been able to tell me, just so you know. Ok?
- JP: Can I just say...

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MD: Yes.

JP: I think it's an important point there is a very big difference between commenting in what I perceived to be a private conversation to my constituents and making the comment 'that is a lie' to Mrs Bradbury's allegation of shouting 'liar liar' and within that I think it should be clear in terms of, I'm not particularly clear about the specific evidence that has been given but I certainly want attention drawing to it's a very specific allegation and I think if there are statements that are there, when the evaluation is subsequently done, I hope that that is taken into account.

MD: Thank you. Indeed, clearly the decision that is made by Jonathan Gooden and will be in the report to the standards committee will just look at the balance of probabilities of what indeed it was that you did say and taking your evidence, your evidence being as important as anybody's evidence.

JP: Sure.

MD: As to what was said at that meeting and in what circumstance and whether or not that constitutes, in Jonathan's view, a breach of the code.

JP: I understand.

MD: Can I just ask you, just to clarify something in my own mind; did you know Mrs Bradbury from the school before this planning application, to your knowledge?

JP: No I didn't. My understanding is that Mrs Bradbury is relatively new head teacher at the school. I've been aware of the fantastic work that the school has done within the community for a long period of time, I had had previous conversations with other head of the school, a long, long time ago, I think when I first became elected and I have a great regard for the school. I didn't know Mrs Bradbury at all and in fact I wasn't aware that the headship of the school had changed.

MD: Thank you. I've, well, you've covered all the points that I wished to cover by your kindly prepared statement and by clarifying those issues for myself I'm comfortable that I've covered any areas I wish to. Is there anything else that you, or indeed your representatives would wish to comment on, on this matter?

JP: I don't think so, I mean I'm aware you'll have bundles and bundles of paperwork, clearly I've got a file, a substantial file on this matter, rather than burden you with lots of extracts from that file, if there is anything that you haven't got that you see in my transcript that may be of assistance, anything that I have referred to in terms of a letter, I'm more than happy to provide it to you, that's probably the easiest way than giving you wadges of things now.

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- MD: Thank you very much. With that in mind, anything from either of you?
- PM: No, just I wondered John why you sought an apology from Mrs B on the 2<sup>nd</sup> May; I mean you were annoyed, were you? Were you annoyed?
- JP: I... it's very difficult being an elected member in these circumstances, because on the one hand you can see the, you can see and appreciate what the school is trying to do on behalf of its pupils and its parents and you want to assist wherever possible. On the other hand there are constituents, in this case who were objectors who you are elected, or I am elected to represent and in the planning process, unless elected members represent those constituents, frankly they don't have a voice, so if I hadn't of requested the application go to the Plans Panel it wouldn't have done so, and so with that in mind, often constituents turn to people like me for support. I was therefore troubled by Mrs Bradbury's comments when they were clearly untrue. And it is for that reason that I sought to get an apology from Mrs Bradbury.
- MD: Ok. Well, again Councillor thank you for giving up this time today and having this useful discussion which will assist this investigation, the transcript of this interview when typed up will be sent to you for your comment and hopefully your approval as a true record of what we have said and then Mr Jonathan Goolden will issue a draft report at some point in the future of which you will get a copy, again inviting your comment and as we have discussed that draft report will have to come to a conclusion on the balance of probabilities of what it was you said at the meeting, and thank you for sharing with us your account of what it is that you said and then Jonathan will have to decide if something was said, what that is in respect of the code, in other words is that in itself a breach of the code. Ok? So that's where we are and the time is now 10.50 and I'll turn the recorder off. Thank you.

**STATEMENT  
FRONT COVER**

Case Ref:	L6.2
Name:	Alan Tasker
Position Held:	
Contact Address:	Jonathan Goolden Solicitors The Barn Little Grimsby Louth LN11 0TZ
Contact Tel:	0845 3703117
Email:	alan.tasker@golden.co.uk

I Alan Tasker declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....A.Tasker..... Date...18<sup>th</sup> December 2009

Signed original held on file

Case Ref: L6.2

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**STATEMENT of: - Alan Tasker**

1. I am an associate with Jonathan Goolden Solicitors.
2. I was employed in Local Government for over 20 years, most of that time directly engaged in Committee Administration. I have held the senior Committee Administrator position at two local authorities. I have significant experience of advising committees in my capacity as a Monitoring Officer. More recently I have been engaged by a number of local authorities to provide training to members and to undertake standards investigations.
3. For over 11 years I attended Planning Committee and Sub-Committee meetings at a District Council as the legal advisor to the Committee. I am very familiar with planning committee procedure.
4. At the request of Jonathan Goolden Solicitors I attended the meeting of the Leeds City Council, Plans Panel East held on Thursday 10 December 2009. The purpose of my attendance was to establish the conduct of the meeting and in particular how the members of the public who spoke at the meeting were dealt with and the general conduct of the meeting.
5. The meeting was held in what appeared to be two rooms with a movable divider. The members of the Panel and officers were in the larger of the two rooms. Members of the public were in the other room in which there was seating for about 35 people.
6. At the commencement of the meeting there were 27 people in the public area. As applications were dealt with individuals left and others arrived, at no point during my attendance at the meeting was there more than 30 people present.
7. I was present at the meeting from its commencement at 1.30 pm until 4.15 pm. During that time 8 planning applications were dealt with of

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which 4 had public speaking. A total of 8 individuals spoke including professional agents, an applicant, objectors and a Ward Councillor (Councillor John Procter).

8. Whilst members of the Panel and members of the public were speaking an amplification system was used which enabled people in the public area to hear clearly what was being said. At times some of the members of the Panel could be seen speaking to each other although, due to the layout of the room, this could not be heard in the public area.
9. The Council operates a procedure for public speaking at the Panel meetings which provides for each speaker to address the Panel for a maximum of three minutes. I noted that the time is registered on a count down timer although there is little regard given to the time limit. Two of the speakers 'over-ran'; in each case by at least 30 seconds.
10. After the allotted time Members of the Panel are invited to ask questions of the speaker. There is no evident restriction on the time allowed for such questions.
11. During the consideration of one application, whilst a member of the public was addressing the meeting, two Members of the Panel were talking to each other. Whilst their conversation could not be heard in the public area I am sure it would have been intrusive for the speaker who was sitting much closer to the Panel Members. However, the Chairman very quickly intervened and asked the Members to be quiet.
12. With the exception of the timing for speakers the public speaking was well managed by the Chairman.
13. I noted that some of the questions addressed to the speakers were not directly relevant to the planning issues being considered. I also felt that some of the questions were confrontational and delivered in a challenging manner. There was one Member in particular that I

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considered to have a confrontational attitude that at times would have made me feel uncomfortable had I been the speaker.

14. Other than these observations I felt that the speakers were treated with courtesy and that they were listened to by the Members of the Panel. There was no evidence at the meeting I attended of general noise and interruption during the public speaking.
15. Those present in the public area were well behaved and did not interrupt or make any noise whilst the members of the Panel or the public speakers were addressing the meeting.
16. As stated previously members of the public left and others arrived during the course of the meeting. This did not appear to be disruptive particularly as most of the activity was between the consideration of each application.

Signature .....A. Tasker . Date...18<sup>th</sup> December 2009

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**Pre-Hearing Process Summary Report**

Authority	Leeds City Council
Member	Councillor John Procter
Complainant	Mrs Ann Bradbury
Case reference number	0809006
Chair of the Hearings Sub-Committee	Mr M Wilkinson
Monitoring Officer	Ms N Jackson
Investigator	Mr J Goolden
Committee Clerk	Miss L Ford
Date the pre-hearing process summary was produced	29 <sup>th</sup> April 2010
Date, time and place of the hearing	17 <sup>th</sup> May 2010, 9:00am, Committee Room 2, Civic Hall, Leeds, LS1 1UR

**1. Summary of the complaint**

The Council's Plans Panel (East) considered a planning application submitted by the St John's Catholic School for the Deaf (the School) at its meeting on 10<sup>th</sup> April 2008. The School's application had been deferred from the previous meeting of the Plans Panel, held on 13<sup>th</sup> March 2008.

Councillor Procter spoke in opposition to the application, stating that the school had not taken the advice of the Panel to use the deferment to consult with neighbours and Ward Members over the proposals.

The Head Teacher of the School, Mrs Ann Bradbury, addressed the Panel in support of the application and in response to Councillor Procter's comments.

Mrs Bradbury alleged that Councillor Procter stood behind her and said "*Liar, liar*", whilst she was addressing the Panel in response to his comments.

**2. Relevant section(s) of the Code of Conduct**

The following sections of the Code of Conduct are relevant to the complaint:

- The Leeds City Council Members' Code of Conduct states at paragraph 2(1) that:

'Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.'

- Paragraph 3(1) of the Code states:

'You must treat others with respect.'

- Paragraph 5 of the Code states:

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

### 3. Findings of fact in the report that are agreed

Two findings of fact are agreed:

- ***'I consider that Councillor Procter used the words which he has stated in interview to using which were "that is a lie", meaning that what Mrs Bradbury was saying to the Committee was incorrect.'***
- ***'I conclude that Councillor Procter spoke in a normal voice to his constituents but he did so whilst Mrs Bradbury was addressing the committee. She heard him speaking to his constituents...'*** – Councillor Procter agrees that he spoke to his constituents in a normal voice whilst Mrs Bradbury was addressing the Committee. However, whilst not disagreeing with the finding of fact, he has commented on the background within which the facts arose. He comments that *'there are no specific rules or guidance against this and it happens at other meetings of Plans Panel (East). Mrs Bradbury thought that she heard [me] speaking but she misheard the words [I] said and the volume at which [I] spoke them.'*

### 4. Findings of fact in the report that are not agreed

One finding of fact is not agreed:

- ***'[She heard him speaking to his constituents] and found this intimidating.'*** – Councillor Procter comments that *'if Mrs Bradbury felt intimidated during her speech, this could not be attributed to [my] conduct.'*

### 5. Attendance

The subject Member will attend, and will be represented by Mr Peter Mackay of Eversheds, with support from Ms Clare Hardy of Eversheds. The Investigator will attend and will not be represented.

## **6. Witnesses**

Subject to the power of the Hearings Sub-Committee to make a ruling at the hearing, the following people will be asked to give evidence:

- Councillor Graham Latty – will be asked to give evidence at Stage 3 of the hearing about the conduct at meetings of Plans Panel (East), with reference to what is common practice whilst people are speaking to members of Plans Panel (East);
- Councillor Matthew Lobley – will be asked to give evidence at Stage 3 of the hearing about his experience of meetings of Plans Panel (East), with particular reference to the lack of opportunity for Elected Members to correct incorrect comments made by speakers;
- Councillor Peter Gruen – will be asked to give evidence at Stage 3 of the hearing about his experience as a member of Plans Panel (East), with reference to what is common practice whilst people are speaking to members of Plans Panel (East);
- Mr Alan Tasker – will be asked to give evidence at Stage 3 of the hearing about his experience of the treatment of members of the public addressing planning committees at various Councils, including his observations of Plans Panel (East), and his views as an experienced former local government officer in the field of governance and committee services of the treatment of members of the public addressing planning committees; and
- Mrs Ann Bradbury – will be asked to give evidence at Stage 3 of the hearing about her experience of attending Plans Panel (East) and what effect Councillor Procter's actions had on her.

## **7. Procedure for the hearing**

The hearing will be conducted in accordance with the Hearings Sub-Committee Procedure which is set out in paragraph 4 of the Standards Committee Procedure Rules, as attached at Appendix A.

## **8. Parts of the hearing that will be held in private**

In accordance with Appendix D of Leeds City Council's Standards Committee Procedure Rules, the Monitoring Officer's view is that the hearing should be open to the public, however the final decision on this matter will be taken by the Hearings Sub-Committee.

## **9. Documentation to be withheld from the public prior to the hearing**

The Monitoring Officer's view is that the final investigation report and the additional evidence provided by the subject Member as part of the pre-hearing process should be publicly available although as this is a decision for the Hearings Sub-Committee, it will be treated as exempt information prior to the hearing. The Hearings Sub-Committee will decide whether this information should remain exempt at Stage 1 of the hearing.

## 10. Preliminary issues identified

The following preliminary issues have been identified during the pre-hearing process:

- Whether the hearing or any part of it should be held in private, and whether the final investigation report and additional documentary evidence should remain exempt;
- Whether the Hearings Sub-Committee will hear evidence at Stage 3 of the hearing, from any of the witnesses listed in paragraph 6 of this summary; and
- Whether the Hearings Sub-Committee will consider the additional evidence provided by Councillor Procter during the pre-hearing process, as follows:
  - (i) Leeds City Council's Protocol for Public Speaking at Plans Panels;
  - (ii) Numbers of speakers at meetings of Plans Panel (East) in 2008; and
  - (iii) Verbatim record and minutes of the meeting of Leeds City Council on 24<sup>th</sup> February 2010.

## **4.0 HEARINGS SUB-COMMITTEE PROCEDURE**

### **4.1 PURPOSE OF THE PRE-HEARING PROCESS**

4.1.1 The pre-hearing process will only deal with procedural issues. It will normally be dealt with by the Monitoring Officer, in consultation with the Chair of the Hearings Sub-Committee, and carried out in writing, although the Chair has discretion to convene a pre-hearing meeting of the Hearings Sub-Committee, which may be attended by the Parties, where the Chair considers this is necessary.

4.1.2 The purpose of the pre-hearing process is to:

- identify whether the subject Member disagrees with any of the findings of fact in the investigation report;
- decide whether or not those disagreements are likely to be relevant to any matter the hearing needs to decide;
- decide whether to hear evidence about those disagreements during the hearing;
- decide whether there are any parts of the hearing that should be held in private; and
- decide whether or not any parts of the investigation report or other documents should be withheld from the public prior to the hearing on the grounds that they contain 'exempt' material.

### **4.2 STARTING THE PRE-HEARING PROCESS**

4.2.1 The Committee Clerk will commence the pre-hearing process once the Consideration Sub-Committee has made a decision to refer a complaint to the Hearings Sub-Committee for a hearing.

4.2.2 The Committee Clerk will contact the Chair of the Standards Committee following the decision of the Consideration Sub-Committee to establish who will act as the Chair to the Hearings Sub-Committee. This will normally be the Chair of the Standards Committee<sup>1</sup>, unless he or she is prevented from taking part for some reason, in which case it will be the Chair's nominee, chosen from one of the other Independent Members appointed to the Standards Committee.

4.2.3 After consultation with the Chair of the Hearings Sub-Committee and within 3 days of the decision of the Consideration Sub-Committee the Committee Clerk will:-

- propose a date for the hearing (this must be within 3 months of the date on which the Investigator completed the report or from the date the Monitoring Officer received the report from the ESO, and at least 14 days<sup>2</sup> after the date on which the Monitoring Officer sent the subject Member a copy of the report, unless the subject Member agrees to an earlier date);
- provide a copy of this Hearings Sub-Committee Procedure to the subject Member;

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<sup>1</sup> As stated in Article 9 of the Constitution.

<sup>2</sup> These are not working days.

- send the subject Member an outline of their rights during the hearings process (Appendix C to the Standards Committee Procedure Rules); and
- invite the subject Member to respond in writing by a set time<sup>3</sup> to the questions set out in the Member's Information Form, in order to find out whether the subject Member:
  - wants to be represented at the hearing by a solicitor, barrister or any other person;
  - disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
  - wants to give evidence to the Hearings Sub-Committee, either verbally or in writing;
  - wants to call relevant witnesses to give evidence to the Hearings Sub-Committee (if so, the subject Member should provide outlines or statements of the evidence that their witnesses intend to give);
  - wishes to make representations about any sanctions to be imposed if the Hearings Sub-Committee decide that they have breached the Code of Conduct;
  - can come to the hearing on the proposed date<sup>4</sup>;
  - wants any part of the hearing to be held in private; and
  - wants any part of the investigation report or other relevant documents to be withheld from the public.

4.2.4 If the subject Member does not respond within the time set the Committee Clerk will send the subject Member a reminder giving a further 5 working days in which to respond.

4.2.5 If the subject Member fails to respond following the reminder it will be assumed that the subject Member:

- agrees with the findings of fact in the report;
- does not wish to make representations about any sanctions to be imposed if the Hearings Sub-Committee decide that the subject Member has breached the Code of Conduct;
- does not want to be represented at the hearing by a solicitor, barrister or any other person;
- does not want to give evidence to the Hearings Sub-Committee, either verbally or in writing;
- is content for the hearing to be fixed on any of the proposed dates whether or not the subject Member can attend;
- does not want any part of the hearing to be held in private; and
- does not want any part of the report or other relevant documents to be withheld from the public.

4.2.6 Within 3 days of receiving the subject Member's response the Committee Clerk will send the subject Member's response to the Investigator for comment, and will request that the Investigator responds to the questions set out in the Investigator's

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<sup>3</sup> The Chair will decide the set time in relation to each Complaint, according to the relevant circumstances, but it will be a minimum of 10 working days.

<sup>4</sup> Where ever possible, given the availability of Members of the Standards Committee and the availability of suitable accommodation the Member will be given a choice of dates. These dates will be proposed by the Chair in consultation with the Committee Clerk.

Information Form within a set time<sup>5</sup>. These questions relate to whether the Investigator:

- wants to be represented at the hearing;
- wants to call relevant witnesses to give evidence to the Hearings Sub-Committee (If so, the Investigator should provide outlines or statements of the evidence their witnesses intend to give);
- wants any part of the hearing to be held in private; and
- wants any part of the investigation report or other relevant documents to be withheld from the public.

4.2.7 After the set time periods have expired (or after the Committee Clerk has received responses from both Parties if this is earlier), the Monitoring Officer will review the information received, and, after consultation with the Chair of the Hearings Sub-Committee, will set the date, time and place of the hearing.

4.2.8 In consultation with the Chair of the Hearings Sub-Committee the Monitoring Officer may also decide any issues which will help the Hearings Sub-Committee to determine the complaint. Such matters include:

- Identifying whether the subject Member disagrees with any of the findings of fact in the investigation report;
- Identifying whether those disagreements are likely to be relevant to any matter the hearing needs to decide;
- Identifying whether evidence about those disagreements will need to be heard during the hearing;
- Deciding whether there are any parts of the hearing that are likely to be held in private; and
- Deciding whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' information.

4.2.9 In accordance with the decision of the Standards Committee<sup>6</sup>, where issues arise during the pre-hearing process which relate to decisions which are reserved to the Hearings Sub-Committee<sup>7</sup>, the Monitoring Officer will, in consultation with the Chair of the Hearings Sub-Committee, make preliminary decisions<sup>8</sup> on those matters, as follows:-

- whether the Hearings Sub-Committee consents to the subject Member being represented by a non-legally qualified representative;
- whether witnesses will be heard at the hearing;

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<sup>5</sup> The Chair will decide the set time in relation to each complaint, according to the relevant circumstances, but will be a minimum of 10 days.

<sup>6</sup> Minute 12 of the Standards Committee meeting held on 8<sup>th</sup> July 2009.

<sup>7</sup> As set out in Regulation 18(1) to (6) Standards Committee (England) Regulations 2008.

<sup>8</sup> These preliminary decisions will be presented to the Hearings Sub-Committee as recommendations at the commencement of the hearing for the Sub-Committee to make a formal decision. According to Article 12 of the Constitution the Monitoring Officer has a responsibility to provide support to the Standards Committee and its Sub-Committees.

- whether the Hearings Sub-Committee wishes to call any witnesses to attend who may help the Hearings Sub-Committee to determine the complaint;<sup>9</sup>
- whether the Hearings Sub-Committee is likely to refuse to hear evidence from any of the witnesses notified by either Party, and the reasons for this;<sup>10</sup>
- whether to send a request to either Party to provide by a set date such details, supplementary statement or access to documents as may be reasonably required for the determination of the complaint.

4.2.10 The subject Member will be advised of the Monitoring Officer's preliminary decision and the reasons for it prior to the meeting of the Hearings Sub-Committee.

4.2.11 The Hearings Sub-Committee will then be invited to formally consider these preliminary decisions at the beginning of the Hearing itself. The Hearings Sub-Committee is entitled to reject the Monitoring Officer's preliminary decision if they see fit.

4.2.12 Alternatively the Chair of the Hearings Sub-Committee has the discretion to convene a pre-hearing meeting of the Hearings Sub-Committee to decide such matters, which may be attended by the Parties, where the Chair considers this is necessary.

### **4.3 THE PRE-HEARING PROCESS SUMMARY**

4.3.1 The Monitoring Officer, in consultation with the Chair of the Hearings Sub-Committee will then prepare a pre-hearing process summary. The summary will contain the following information:

- The name of the relevant authority;
- The name of the subject Member;
- The name of the complainant (unless this has been withheld for whatever reason);
- The case reference numbers;
- The name of the Chair of the Hearings Sub-Committee;
- The name of the Monitoring Officer;
- The name of the investigator;
- The name of the Committee Clerk;
- The date the pre-hearing process was produced;
- The date, time and place of the hearing;
- A summary of the complaint;
- The relevant sections of the Code of Conduct;
- The findings of fact in the report that are agreed;
- The findings of fact in the report that are not agreed;
- Whether or not the subject Member or the Investigator will attend or be represented;

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<sup>9</sup> This may include the Complainant. The Committee cannot however order witnesses to appear or give evidence.

<sup>10</sup> The Party will be able to make representations about this to the Committee at the beginning of the hearing, provided that the Party has notified the Committee Clerk at least 10 days before the hearing that they intend to do so.



- The names of any witnesses who will be asked to give evidence (subject to the power of the Hearings Sub-Committee to make a ruling at the hearing); and
- An outline of the proposed procedure for the hearing.

4.3.2 The summary will be sent to everyone involved in the hearing (including the Parties, and the Members of the Hearings Sub-Committee) at least 10 days before the proposed date of the hearing.

## **GENERAL POINTS REGARDING THE HEARING SUB-COMMITTEE MEETING**

### **4.4 FAILURE TO ATTEND THE HEARING**

4.4.1 If either Party fails to attend a hearing, the Committee will consider whether there is sufficient reason for the failure.

4.4.2 If the Committee does not consider that there is sufficient reason, it will consider the complaint and make a determination in the Party's absence. The Committee shall consider any representations submitted by the Party in writing before making any determination in the Party's absence.

4.4.3 If the Committee does consider there is sufficient reason, it will adjourn the hearing to another date.<sup>11</sup>

### **4.5 RECORDING THE HEARING**

4.5.1 It will be normal practice for hearings by the Hearings Sub-Committee to be taped as a matter of course, and the agenda for the hearing will indicate that the proceedings may be taped. It will be the duty of the Chair to inform all parties involved at the start of the hearing that the hearing is being tape recorded.

4.5.2 Access to the tapes will be controlled by the Monitoring Officer<sup>12</sup>. Tapes will be kept by the Monitoring Officer for 2 months from the date of the hearing and will then be erased, except in the event of an appeal in which case the tapes will be retained until the final outcome of the case is known.

### **4.6 LEGAL REPRESENTATION AND ADVICE**

4.6.1 The subject Member may be represented or accompanied during the meeting by a solicitor, counsel, or, with the permission of the Hearings Sub-Committee, another person.

4.6.2 The Monitoring Officer will usually act as the legal advisor to the Hearings Sub-Committee for the hearing. The Hearings Sub-Committee may take legal advice, in private if necessary, from its Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Sub-Committee should be shared with the Parties attending the hearing.

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<sup>11</sup> This is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Investigator issued the final report or when the Monitoring Officer received the report from the ESO.

<sup>12</sup> Access will be provided where required in accordance with the Data Protection Act 1998, or where necessary in relation to an appeal to the Adjudication Panel.

## **4.7 ADJOURNING THE HEARING**

- 4.7.1 The Hearings Sub-Committee will aim to complete a hearing in one sitting or in consecutive sittings.
- 4.7.2 The Hearings Sub-Committee may at any stage prior to the conclusion of the hearing adjourn the hearing<sup>13</sup> and require the Investigator to seek further information or undertake further investigation<sup>14</sup> on any specified point. The Hearings Sub-Committee may not adjourn the hearing on more than one occasion under this paragraph.
- 4.7.3 The Hearings Sub-Committee may at any stage prior to the conclusion of the hearing into a final report issued by an ESO, adjourn the hearing and make a written request to the ESO that the matter be referred back to the ESO for investigation. Any such request must set out the Committee's reasons for making it.<sup>15</sup>
- 4.7.4 The Hearings Sub-Committee shall comply with any direction given by the ESO in response to such a request. Where the ESO directs that the Committee should continue to deal with the complaint, the hearing must be held within three months of the direction.

## **STAGES OF THE HEARING**

### **4.8 STAGE 1: SETTING THE SCENE**

- 4.8.1 The Hearings Sub-Committee and its advisors will assemble in the hearing room<sup>16</sup>. At the start of the Hearing all parties present will be invited to enter the hearing room. The Chair will ensure that the Parties are formally introduced.
- 4.8.2 The Hearings Sub-Committee will consider whether to exclude the public from any parts of the hearing and which parts of the agenda are not to be made available for public inspection<sup>17</sup>. When doing so the Hearings Sub-Committee will have regard to the guidance from Standards for England on "Standards Committee Determinations".
- 4.8.3 The Hearings Sub-Committee will keep this issue under review throughout the hearing.
- 4.8.4 The Chair will explain how the Hearings Sub-Committee will run the hearing.

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<sup>13</sup> This is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Investigator issued the final report or when the Monitoring Officer received the report from the ESO.

<sup>14</sup> Regulation 18(8) Standards Committee (England) Regulations 2008.

<sup>15</sup> Regulation 18(10) Standards Committee (England) Regulations 2008.

<sup>16</sup> At no time before, during or after the hearing, should either party be present or represented before the Committee without the other party being also present or represented, unless the other party has failed to attend and the Committee is discussing whether to proceed in his/her absence or has decided to proceed in his/her absence.

<sup>17</sup> In accordance with Regulation 8(6) Standards Committee (England) Regulations 2008. If evidence is heard in private, the Legal Advisor should warn those present not to mention that evidence during the public parts of the hearing, or outside the hearing.

#### **4.9 STAGE 2: PRELIMINARY PROCEDURAL ISSUES**

- 4.9.1 The Hearings Sub-Committee will invite the Parties to make representations about any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process. This may include any preliminary decisions made by the Monitoring Officer in consultation with the Chair of the Hearings Sub-Committee.
- 4.9.2 The Hearings Sub-Committee will decide these issues or disagreements.

#### **4.10 STAGE 3: MAKING FINDINGS OF FACT**

- 4.10.1 After dealing with any preliminary issues, the Hearings Sub-Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigator's Final Report.
- 4.10.2 If there is no significant disagreement about the facts, the Hearings Sub-Committee will move on to Stage 4 of the hearing.

#### **IF THERE IS DISAGREEMENT OVER THE FINDINGS OF FACT**

- 4.10.3 If there is a disagreement, the Hearings Sub-Committee will invite the Investigator to make any necessary representations to support the relevant findings of fact in the Final Report.
- 4.10.4 The Investigator may, with the agreement of the Hearings Sub-Committee, call any necessary supporting witnesses to give evidence.
- 4.10.5 The Hearings Sub-Committee may give the subject Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.
- 4.10.6 The subject Member will then have the opportunity to make representations to support their version of the facts and, with the agreement of the Committee, may call any witnesses to give evidence.
- 4.10.7 The Hearings Sub-Committee may question any of the people involved or any witnesses and allow the Investigator to challenge any evidence put forward by witnesses called by the subject Member.
- 4.10.8 If the subject Member disagrees with most of the facts, the Hearings Sub-Committee may ask the Investigator to start by making representations about all the relevant facts, instead of discussing each fact individually.
- 4.10.9 If the subject Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Sub-Committee will consider whether it would be in the public interest to continue in their absence.
- 4.10.10 After considering the subject Member's explanation for not raising the issue at an earlier stage, the Sub-Committee may then:

- Continue with the hearing, relying of the information in the investigator's report;
- Allow the subject Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
- Postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.

4.10.11 The Sub-Committee will usually move to another room to consider the representation and evidence in private. The Hearings Sub-Committee will make findings in relation to the facts.

4.10.12 On their return to the hearing room, the Chair will announce the Sub-Committee's findings of fact.

#### **4.11 STAGE 4: DID THE SUBJECT MEMBER FAIL TO FOLLOW THE CODE OF CONDUCT?**

4.11.1 The Hearings Sub-Committee shall consider whether or not, based on the facts it has found, the subject Member has failed to follow the Code.

4.11.2 The subject Member will be invited to give relevant reasons why the Sub-Committee should decide they have not failed to follow the Code.

4.11.3 The Sub-Committee will then consider any verbal or written representations from the investigator.

4.11.4 The Sub-Committee may, at any time, questions anyone involved on any point they raise on their representations.

4.11.5 The subject Member will be invited to make any final relevant points.

4.11.6 The Hearings Sub-Committee will then move to another room to consider the representations and decide whether or not the subject Member has failed to follow the Code.

4.11.7 Once a conclusion has been reached, the Chair will announce the Hearings Sub-Committee's decision as to whether or not the subject Member has failed to follow the Code.

4.11.8 Where the Hearings Sub-Committee decides that the subject Member has not failed to follow the Code, the Sub-Committee can move on to decide whether it should make any recommendations to the authority in accordance with Stage 6 of this procedure.

## **4.12 STAGE 5: DECISION TO APPLY A SANCTION**

4.12.1 If the Sub-Committee decides that the subject Member has failed to follow the Code, it will consider any verbal or written representations from the Investigator and the subject Member about:-

- whether or not the Committee should impose any sanction;
- what form any sanction should take.

4.12.2 The Hearings Sub-Committee may question the investigator and subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision. The Hearings Sub-Committee will also have regard to any advice issued by the Adjudication Panel for England and Standards for England within their guidance on “Standards Committee Determinations”.

4.12.3 The Hearings Sub-Committee will then deliberate in private to consider whether to impose a sanction in the subject Member and, if so, what the sanction should be. The Hearings Sub-Committee can impose any one or a combination of the following:

- Censure of the subject Member.
- Restriction for a period not exceeding six months of the subject Member’s access to the premises of the authority or the subject Member’s use of the Council’s resources, provided that:
  - those restrictions are reasonable and proportionate to the nature of the breach; and
  - they do not unduly restrict the subject Member’s ability to perform the functions of a Councillor.
- Partial suspension of the subject Member for a period not exceeding six months.
- Suspension of the subject Member for a period not exceeding six months.
- That the subject Member to submit a written apology in a form specified by the Hearings Sub-Committee.
- That the subject Member to undertake such training as the Hearings Sub-Committee specifies.
- That the subject Member participates in such conciliation as the Hearings Sub-Committee specifies.
- Partial suspension of the subject Member for a period not exceeding six months or until such time as the subject Member has met either of the following restrictions:
  - They have submitted a written apology in the form specified by the Hearings Sub-Committee.
  - They have undertaken such training or have participated in such conciliation as the Hearings Sub-Committee specifies.
- Suspension of the subject Member for a period not exceeding six months or until such time as the subject Member has met either of the following restrictions:
  - They have submitted a written apology in the form specified by the Hearings Sub-Committee.
  - They have undertaken such training or have participated in such conciliation as the Hearings Sub-Committee specifies.

4.12.4 Suspension or partial suspension<sup>18</sup> will normally start immediately after the Hearings Sub-Committee has made its decision. However if the Hearings Sub-Committee chooses, the sanction may start at any time up to six months following its decision. This may be appropriate if the sanction would otherwise have little effect on the subject Member, for example, in the case of a suspension where there are no authority meetings which the subject Member would normally attend during this period. The Hearings Sub-Committee would also confirm the consequences, if any, for any allowances the subject Member may be receiving.

4.12.5 The Hearings Sub-Committee will retire to consider whether to impose a sanction, and will also decide how much of the information which it has considered should be made available for public inspection after the announcement of its decision in public.<sup>19</sup>

4.12.6 The Chair will announce the Hearings Sub-Committee's decision.

#### **4.13 STAGE 6: RECOMMENDATIONS TO THE AUTHORITY**

4.13.1 The Hearings Sub-Committee will go on to consider any verbal or written representations from the Investigator about whether or not the Committee should make any recommendations to the Authority, with a view to promoting high standards of conduct among Members.

#### **4.14 STAGE 7: MAKING THE FINDINGS PUBLIC AT THE HEARING**

4.14.1 The Chair will verbally confirm the Hearings Sub-Committee's decision, with reasons, in public at the end of the hearing. Where practicable a written summary of the decision will be provided on that day<sup>20</sup>.

4.14.2 The Committee Clerk will where possible prepare the full written hearing decision in draft on the day of the hearing.

#### **4.15 THE HEARING DECISION**

4.15.1 The Hearings Sub-Committee shall within 10 days, or as soon as reasonably practicable, take reasonable steps to give written notice of its findings and the reasons for the findings to:

- the subject Member;
- the ESO (if relevant);
- the Investigator
- the Standards Committee;
- the Standards Committee of any other authority concerned<sup>21</sup>;
- any Parish Council concerned; and
- the Complainant.

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<sup>18</sup> Periods of suspension or partial suspension set by a standards committee do not count towards the six month limit for absences from local authority meetings, after which a member would normally be removed from office under section 85 of the Local Government Act 2000.

<sup>19</sup> The Standards Committee Media Protocol will be followed in relation to any dealings with the media about the Complaint.

<sup>20</sup> If it is not practicable to provide a short written decision on the day of the hearing then it will be provided within 3 days of the hearing.

<sup>21</sup> where at the time of the complaint, the Member was a member of another authority

4.15.2 The Hearing decision shall contain the following information and will be written having regard to the guidance in “Standards Committee Determinations” issued by Standards for England:

- a summary of the Complaint;
- the relevant section or sections of the Code of Conduct;
- a summary of the evidence considered and representations made;
- the findings of fact, including the reasons for them;
- the finding as to whether or not the Member failed to follow the Code of Conduct, including the reasons for that finding;
- the sanctions imposed, if any, including the reasons for any penalties; and
- the right of appeal, including details of the postal and website address for the Adjudication Panel. The appeal form produced by the Adjudication Panel (which can be downloaded from the website) will be attached to the decision.

4.15.3 The Committee Clerk shall also arrange for a summary of the finding to be published in one or more newspaper circulating in the area of the Authority<sup>22</sup> and if considered appropriate by the Committee on the website of any authority concerned or in any other publication, except where the Committee has found that the subject Member had not failed to comply with the Code of Conduct, and the subject Member asks for the summary not to be published.

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<sup>22</sup> In accordance with Regulation 20 of the Standards Committee (England) Regulations

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**LEEDS CITY COUNCIL**

**HEARINGS SUB-COMMITTEE  
REFERENCE 0809006**

**ALLEGATION AGAINST COUNCILLOR JOHN PROCTER  
OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT  
OF LEEDS CITY COUNCIL**

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**WITNESS STATEMENT OF  
COUNCILLOR GRAHAM LATTY**

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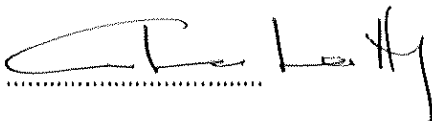
**I, COUNCILLOR GRAHAM LATTY**, of Leeds City Council, Civic Hall, Calverley Street, Leeds LS1 1UR will say as follows:

1. I make this statement from facts and matters in my own knowledge.
2. I am the Chair of Plans Panel (East) of Leeds City Council. I was Chair of this panel on 10 April 2008.
3. Meetings of Plans Panel (East) are carried out in accordance with the requirements of the Council's constitution and public speaking at those panels is subject to the Protocol for Public Speaking at Plans Panels contained in Part 5 of the Council's constitution.
4. There is nothing in the Protocol for Public Speaking at Plans Panels which says that speakers must be heard in silence and there are no other rules and guidance which say this.
5. I know that people do not listen in silence to the proceedings of Plans Panel (East) and that sometimes people in the public area talk to each other whilst a speaker is addressing the Panel. My practice is to consider any such noise on its merits and to react accordingly. I am keen to ensure that all applications considered by the Panel are dealt with fairly. If I am aware of people in the public area speaking to each other, I would not expect to intervene as a matter of course.
6. However, I would expect to intervene if a speaker was being harassed by another person or if a speaker became distressed. I would also expect to intervene if someone attempted to give themselves extra opportunities to address the Panel by making comments from the public area. Therefore, if I have not taken action when people have talked at the same time as speakers, I conclude that on those occasions I had no evidence to suggest that the talking was affecting the speaker or the Panel.

7. I can give a recent example of the meeting of Plans Panel (East) on 11 February 2010. During consideration of application 09/03138/FU, which was an application for houses at Elmete Avenue, Scholes, a person who spoke on behalf of objectors also started speaking again whilst someone else spoke in favour of the application. I pointed out to the objector that he had already had his say and told him to let the other person speak.
8. I am aware that an allegation has been made against Councillor John Procter in respect of his conduct at the meeting of Plans Panel (East) on 10 April 2008. I was interviewed during the investigation into that allegation. I explained to the interviewer that I did not hear Councillor Procter say anything whilst Mrs Ann Bradbury was addressing the Panel but that I was unlikely to have done so if Councillor Procter spoke in a normal voice because of the size and acoustics of the rooms used for the meeting. I believe that if Councillor Procter had spoken as loudly as the objector in February 2010 whom I have mentioned, then I would have intervened. I would also have intervened if there had been any sign of Councillor Procter harassing or upsetting Mrs Bradbury.
9. If members of the Council address the Panel in respect of planning applications, then I would expect them to be treated with the same level of respect that would be shown to other members of the public. Councillor Procter is a frequent speaker at Panel meetings. I would expect that those meetings will have included occasions when other people spoke whilst he was speaking. I am also aware that members of the Panel have subjected Councillor Procter, who is a former member of the Panel, to some teasing when he has addressed them. Since this seemed to be good natured and Councillor Procter did not seem concerned by it, I did not see any need to intervene. I would expect Councillor Procter to have recognised this as an example of my assessing the effect of the noise and allowing it to continue to the extent that it was not causing distress or affecting the fairness of the meeting.

Fairly

I believe that the facts stated in this witness statement are true.

Signed: 

Name: GRAHAM N. LATTY

Date: 3/4/10

**LEEDS CITY COUNCIL**  
**HEARINGS SUB-COMMITTEE**  
**REFERENCE 0809006**

**ALLEGATION AGAINST COUNCILLOR JOHN PROCTER  
OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT  
OF LEEDS CITY COUNCIL**

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**WITNESS STATEMENT OF  
COUNCILLOR MATTHEW LOBLEY**

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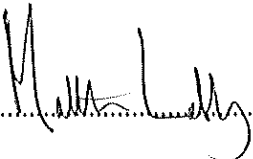
**I, COUNCILLOR MATTHEW LOBLEY**, of Leeds City Council, Civic Hall, Calverley Street, Leeds LS1 1UR will say as follows:

1. I make this statement from facts and matters in my own knowledge.
2. I am a member of Leeds City Council and represent the Roundhay Ward.
3. I have attended meetings of the Council's Plans Panel (East) on a number of occasions.
4. The proceedings of meetings of Plans Panel (East) follow the Protocol for Public Speaking at Plans Panels contained in Part 5 of the Council's constitution. This contains provisions for objectors and applicants to address a plans panel about an application, subject to a maximum time limit of three minutes. The Protocol also provides that if the applicant or supporters of an application recommended for refusal have addressed a panel, the objectors have a right to reply subject to a maximum time limit of three minutes. Members of a panel then have the opportunity to ask questions and seek clarification.
5. When speakers in favour of or against an application have finished their presentations, they have no opportunity to speak again unless they are asked to answer questions put to them by the Chair or other members of the panel. If a misrepresentation is made by a speaker regarding someone in attendance at the meeting, that person has no formal opportunity to correct this. This can put Elected Members in a very difficult position if they are misrepresented in front of their constituents who hear incorrect points being made at panel meetings. I know this from my personal experience at Plans Panel (East).
6. I attended the meeting of Plans Panel (East) on 27 August 2009, when an application by Tesco for a replacement store at Roundhay Road was considered (application 09/01995/FU). One of the objectors to the application made a presentation and then went on to answer questions from members of the panel. The questions enabled the objector to answer with criticisms directly levelled at me which were inaccurate and unfair. I felt it was important to refute these

points and I asked the Chair for an opportunity to address the Panel to correct factual inaccuracies. I believe that I referred to the objector's answers to the questions from members of the panel as "gross misrepresentation". The Chair took advice from the Panel's legal adviser and then told me that I did not have the right to speak to the Panel about this. This meant that every person who heard the discussion of that planning application, including constituents from my ward, would have left the meeting after hearing accusations made against me which I knew to be wrong.

7. I sent written comments for the attention of Plans Panel (East), explaining the way I had been misrepresented at the meeting on 27 August. I expected my comments to be read out at the next meeting of Plans Panel (East) but this did not happen. I asked a planning officer for an explanation and he told me that it had been the Chair's decision not to read out my comments.
8. In my experience, it is not unusual for people to speak to each other at meetings of Plans Panel (East) at the same time as someone is formally addressing the panel. There are no rules or guidance to indicate to people, including members of the Council, that they should not do so. In particular, I would say that when a someone speaks on behalf of a developer in favour of a planning application, it is common for local residents who are in the public area to make some noise. I have never known the Chair of Plans Panel (East) to call for silence when that has happened.

I believe that the facts stated in this witness statement are true.

Signed: 

Name: MATTHEW LOBLEY

Date: 13/4/2010

**LEEDS CITY COUNCIL**  
**HEARINGS SUB-COMMITTEE**  
**REFERENCE 0809006**

**ALLEGATION AGAINST COUNCILLOR JOHN PROCTER  
OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT  
OF LEEDS CITY COUNCIL**

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**WITNESS STATEMENT OF  
COUNCILLOR PETER GRUEN**

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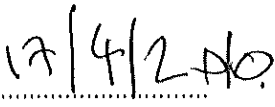
**I, COUNCILLOR PETER GRUEN,** of Leeds City Council, Civic Hall, Calverley Street, Leeds LS1 1UR will say as follows:

1. I make this statement from facts and matters in my own knowledge.
2. I am a member of Plans Panel (East) of Leeds City Council. I have attended many meetings of this Panel, including the meeting on 10 April 2008.
3. The proceedings of meetings of Plans Panel (East) follow the Protocol for Public Speaking at Plans Panels contained in Part 5 of the Council's constitution. There is nothing in that protocol which says that when a speaker is addressing a panel other people present at the meeting must be silent.
4. People in the public area often speak to each other during meetings of Plans Panel (East). This includes times when speakers either in favour of or against particular planning applications are making presentations to members of the Panel.
5. I recognise that many people who attend meetings of Plans Panel (East) and sit or stand in the public area do so because they have a keen interest in particular planning applications which are considered by the Panel. It is therefore understandable that there will be times when they feel the need to speak to each other to seek clarification or make comments.
6. This means that it is fairly common for there to be some noise from the public area during meetings of Plans Panel (East). As a member of the Panel, I would not expect the Chair to take action over this as a matter of course but I have known him to intervene if the noise of talking from the public area is causing difficulty to a speaker or otherwise adversely affecting the consideration of a particular application.

I believe that the facts stated in this witness statement are true.

Signed: .....  .....

Name: .....  .....

Date: .....  .....