

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**

**STANDARDS SUB-COMMITTEE**

**MINUTES**

**Meeting held at the Council Offices, Gernon Road, Letchworth Garden City on Wednesday, 24 February to Friday, 26 February 2016 commencing at 10.00a.m. on each day**

**PRESENT:** *Councillors Mike Rice (Chairman), Alan Millard and Steve Hemingway.  
Mr Nicholas Moss (Independent Person) – non-voting advisory role  
Olwen Dutton – of Bevan Brittan (Investigating Officer)  
Councillor David Leal-Bennett  
Mr Charles Bunker (Councillor Leal-Bennett's representative)*

**IN ATTENDANCE:** *Jeanette Thompson (Legal Advisor)  
Ian Gourlay (Committee & Members Services Manager)*

**ALSO PRESENT:** *Approximately 15 Members of the public attended on each of the three days.*

**1. ELECTION OF CHAIRMAN**

**RESOLVED:** That Councillor Mike Rice be elected as Chairman of the Sub-Committee.

**2. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**3. NOTIFICATION OF OTHER BUSINESS**

No other items were presented for consideration.

**4. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reminded Members that, in line with the Code of Conduct, any Declarations of Interest should be declared immediately prior to the item in question.

**5. MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Sub-Committee held on 2 December 2015 be approved as a true record of the proceedings and signed by the Chairman.

**6. COMPLAINT OF FAILURE TO OBSERVE THE CODE OF CONDUCT – DETERMINATION OF STANDARDS COMPLAINT**

Preliminaries

The Chairman explained the procedure for the meeting, as set out in the bundle of documentation previously circulated. He stressed that this was not a Court hearing, it was a hearing of the Council and related to allegations of breaches of the Code of Conduct and Protocols of the Council and no other matters.

Mr Bunker drew attention to a letter Councillor Leal-Bennett had written to the Chairman of the Sub-Committee, and which had been copied to the Independent Person, alleging that two Members of the Sub-Committee (namely the Chairman, Councillor Rice, and Councillor Millard) were not sufficiently independent to hear the case for the reasons set out in that letter.

Councillors Rice and Millard both replied that they had not pre-determined the case in any way and considered that they were sufficiently impartial to serve on the Sub-Committee for the hearing.

The Chairman advised that a covering report had been prepared by the Acting External Deputy Monitoring Officer (Mr Gavin Miles of Broxbourne Borough Council), who was not

present at the hearing. That report summarised the background and issues for consideration. Appended to that report was a document from the Investigating Officer (Olwen Dutton). If there were any questions or queries regarding Mr Miles' report, the Chairman would ask the Legal Advisor (Jeanette Thompson) to address them. The Investigating Officer would be asked to address any questions or queries relating to the appendix to Mr Miles' report.

### The Complaint

The Chairman invited the Investigating Officer to present her report.

Prior to commencing, the Investigating Officer stated that she was not proposing to call to give evidence in person any of the complaint witnesses who had provided statements in her report. Mr Bunker replied that Councillor Leal-Bennett would not be calling these witnesses to appear either.

The Investigating Officer presented her report (Pages 1-447 of the bundle) and supplementary report (Pages 448-497). The supplementary report set out her views on the relevance of the statements and evidence submitted by Councillor Leal-Bennett (pages 498-1107).

The Investigating Officer's full presentation can be heard on the audio recording of the meeting.

The Investigating Officer concluded that, based on the evidence she had seen, Councillor Leal-Bennett had breached the following paragraphs of NHDC's Code of Conduct, as alleged by the complainants (former Councillor Tricia Cowley and David Scholes, Chief Executive of NHDC):

- Paragraphs 3.2 (b), (c) and (d) – “You must: show respect and consideration for others; not use bullying behaviour or harass any person; and not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority” [ NOT Paragraph 3.2(a), which was included in error in the report];
- Paragraphs 3.4 (a), (b) and (c) – “You must: not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute; not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the authority; and comply with any request of the authority's monitoring officer or section 151 officer, in connection with an investigation conducted in accordance with their respective statutory powers”;
- Paragraph 3.5 – “You must not: in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage; and use, or authorise others to use, the resources of the authority: imprudently; in breach of the authority's requirements; unlawfully; other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or the office to which you have been elected or appointed; improperly for political purposes; or improperly for private purposes”; and
- Paragraph 3.6 – “You must: when participating in meetings or reaching decisions regarding the business of the authority, do so on the basis of the merits of the circumstances involved and in the public interest, having regard to any relevant advice provided by the authority's officers, in particular the authority's head of paid service, the authority's Section 151 Officer/Chief Finance Officer, and the authority's monitoring officer/Chief Legal officer; and give reasons for all decisions, in accordance with any statutory requirements and any reasonable requirements imposed by the authority”;

The Investigating Officer had also found that Councillor Leal-Bennett had breached the Member/Officer Working Protocol, which in itself was a breach of Paragraph 3.7 of the Code of Conduct – “You must comply with any other policy (or part of policy) which sets out required conduct from members, for example the Member/Officer Working Protocol and Planning Code of Good Practice for Members”.

The Investigating Officer had further found that Councillor Leal-Bennett had breached the Code of Conduct by failing to co-operate with the investigation.

Mr Bunker and Councillor Leal-Bennett questioned the Investigating Officer on the content of her report and supplementary report. The full question and answer session can be heard on the audio recording of the meeting.

One issue which arose concerned whether or not Councillor Leal-Bennett had a Disclosable Pecuniary Interest (DPI). Mr Bunker sought to ask the Investigating Officer questions concerning the Articles of Association of Hitchin Town Hall Limited (HTH Ltd), which had not been submitted by Councillor Leal-Bennett in evidence, but which Mr Bunker considered would prove that there was no DPI as HTH Ltd was a charitable company limited by guarantee, from which the Directors received no financial reward.

The Chairman stated that he was not prepared to accept the Articles of Association of HTH Ltd as "late" evidence.

The Legal Advisor referred to the resolutions of the meeting of the Sub-Committee held on 2 December 2015, whereby evidence to be relied upon at the hearing needed to have been submitted by a deadline of 4 January 2016.

Mr Bunker was aware of that date, but questioned why the third report of the Investigating Officer (appended to Mr Miles' report) had been allowed to form part of the documentation even though it must have been drafted after the above deadline date.

Mr Bunker also questioned the advice on the case given by Tim Straker QC. He felt that, if Mr Straker had been provided with the full information (namely the Articles of Association of HTH Ltd), he may well have concluded differently about whether or not Councillor Leal-Bennett had a DPI.

The Independent Person commented that it might be more profitable for the Sub-Committee to concentrate on matters relating to Councillor Leal-Bennett's conduct, rather than whether or not he had a DPI (which was not a matter before the Sub-Committee).

Mr Bunker was dismayed that the Investigating Officer, who worked for one of the country's leading law firms specialising in the public sector, had allowed her report to be submitted alleging that Councillor Leal-Bennett had breached Paragraph 3.2(a) of the Code of Conduct (which concerned the carrying out of duties with the principles of equality of opportunity for all people), and had only just corrected the error earlier in the hearing.

A discussion arose about the calling of witnesses by Councillor Leal-Bennett. At its conclusion, the Chairman agreed that Councillor Leal-Bennett would be permitted to call and question witnesses, provided they were questioned in relevance to the allegations made against him.

During the early part of Councillor Leal-Bennett's presentation it became apparent that a number of documents to which he was referring had been mistakenly excluded from the bundle of paperwork. The Sub-Committee briefly adjourned for these missing documents to be photocopied and supplied to all parties.

The proceedings on Day 1 closed at 6.05pm.

#### DAY 2 – 25 FEBRUARY 2016

The day began with Mr Bunker asking the Chairman to re-consider his decision not to admit the Articles of Association of HTH Ltd as evidence. He felt that it would be against the rules of natural justice if this document was not admitted as evidence.

The Chairman replied that, on the basis that he and his fellow Sub-Committee Members had accepted that Councillor Leal-Bennett had received no personal remuneration from HTH Ltd (a charitable company limited by guarantee), the Sub-Committee would not be considering whether or not Councillor Leal-Bennett had a DPI.

Mr Bunker questioned the approach of the Investigating Officer in preparing her report, in that it had appeared to him and Councillor Leal-Bennett that she had acted as investigator and

“prosecutor”. They had felt that her report should have been purely factual. They were also concerned about the lack of any terms of reference given to her before she had commenced the investigation.

Mr Bunker therefore considered that the use of the word “findings” in the Investigating Officer’s report was counter to the principles of the Localism Act. He asked that the evidence statements against Councillor Leal-Bennett should stand, but that the 3 reports of the Investigating Officer should be removed and not taken into account by the Sub-Committee in its decision-making process.

The Investigating Officer replied that she had followed the process she had used in the numerous other Code of Conduct investigation reports she had prepared for other local authorities. She commented that it had not been possible to have produced what perhaps would have been a more impartial report as Councillor Leal-Bennett had failed to co-operate with her investigation.

The Chairman ruled that the Investigating Officer’s reports would remain in the bundle of paperwork. He stated that he and his fellow Sub-Committee Members would be capable of formulating their decisions on the basis of the balance of the evidence submitted.

Councillor Leal-Bennett continued with the presentation of his case. He concluded by stating that he felt he had demonstrated that he had not breached the Code of Conduct in relation to Paragraphs 3.2 (b), (c) and (d); 3.4 (a), (b) and (c); 3.5; 3.6; or 3.7. In respect of failing to co-operate with the investigation, he apologised to the Investigating Officer and Sub-Committee for this, but provided mitigating reasons why he had not co-operated. In respect of the particular alleged breach of the Code of Conduct concerning bullying and harassment, Councillor Leal-Bennett commented that he felt that the converse was true, namely that he had been the subject to bullying and harassing behaviour by certain officers and Members of the Council.

Councillor Leal-Bennett, assisted by Mr Bunker, called and questioned the following witnesses on the content of their evidence statements: Mr Stephen Pike, Councillor John Harris, Mr Brent Smith and Councillor Claire Strong.

The Investigating Officer also questioned a number of the witnesses.

Mr Bunker asked each of the witnesses the following questions:

- (1) Have you ever seen Councillor Leal-Bennett showing disrespect to others?
- (2) Have you ever seen Councillor Leal-Bennett bullying or harassing any person?
- (3) Have you ever seen Councillor Leal-Bennett compromising the impartiality of anyone working for NHDC?
- (4) Have you ever seen Councillor Leal-Bennett conducting himself in a manner which could reasonably be regarded as bringing his office or NHDC into disrepute?
- (5) Have you seen Councillor Leal-Bennett making vexatious, malicious or frivolous complaints against others?
- (6) Do you consider that Councillor Leal-Bennett had an interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice his judgement of the public interest?

All of the witnesses replied “no” to each of the above questions.

Councillor Leal-Bennett asked each of the witnesses whether, in their opinion, he would be capable of pushing a seven-month pregnant woman (ie. as alleged by Katie White, the former NHDC Monitoring Officer). All of the witnesses responded that they did not believe that Councillor Leal-Bennett would be capable of such an act.

The proceedings on Day 2 closed at 6.00pm.

#### DAY 3 – 26 FEBRUARY 2016

The day began with Mr Bunker pointing out the fact that a significant amount of the content of the witness statements complaining about Councillor Leal-Bennett appeared to be when he was acting as a Director of HTH Ltd, to which the Code of Conduct did not apply.

The Chairman commented that, whilst at times it was unclear in which capacity Councillor Leal-Bennett was operating, the Sub-Committee could only consider matters under the Code when he was acting as a councillor.

#### Advice of the Independent Person (IP)

The Chairman invited the Independent Person (IP) to advise on his views of the case, having read the bundle of paperwork and heard the evidence presented at the hearing.

The IP stated that the decision on whether or not Councillor Leal-Bennett had breached the Code of Conduct was entirely a matter for the Sub-Committee. However, he hoped he might help in two ways, namely advising on some principles and drawing attention to some salient points.

The IP advised that the Sub-Committee should reach its decision without regard to the potential implications of that decision on Members/Officers/Political Groups of NHDC. Although the Sub-Committee would need to decide on each alleged breach separately, the issues seemed to fall into two categories, namely:

- (1) Alleged behaviour in a number of contexts – respect; bullying and harassment; and
- (2) Alleged compromising impartiality; disrepute; gaining an advantage; vexatious, frivolous or malicious complaints; and not complying with officer requests.

The IP felt that Councillor Leal-Bennett was driven by requests for answers to questions and, at times, an unwillingness to take no for an answer, which often resulted in him “drilling” for answers. Councillor Leal-Bennett had given no apology for what he perceived as his directness. Because he had not received answers, this in his mind had justified some of his comments to the local press, many of which had been unflattering to NHDC.

The IP stated that, far from Councillor Leal-Bennett bullying officers and Members, Councillor Leal-Bennett had felt that he had been bullied by the Council. He had cited the Police investigation into whether or not he had a DPI as one such example, which had angered him to such a degree that he had considered and was still considering reporting the former Monitoring Officer (Katie White) to the Law Society.

The IP advised that the Sub-Committee needed to decide if the Strategic Director of Customer Services (John Robinson) was right in his allegations against Councillor Leal-Bennett, or was Councillor Leal-Bennett correct in thinking that Mr Robinson had overreacted? Was this a culture clash, rather than multiple breaches of the Code of Conduct? Councillor Harris had commented that the Council needed more councillors like Councillor Leal-Bennett and Mr Pike had considered that Councillor Leal-Bennett was very collegiate in his approach, and was not a bully.

The IP felt that, as mentioned by Mr Bunker, the Sub-Committee needed to be sure when Councillor Leal-Bennett was acting as a councillor and when he was acting as Mr Leal-Bennett.

The IP explained that Councillor Leal-Bennett was not facing an allegation that he had failed to declare a DPI. However, he needed to satisfy the Sub-Committee that he had “had regard” to advice provided to him by officers. This did not mean that he had to accept this advice, merely that it had given it due attention/consideration.

In respect of the allegations of the former Monitoring Officer (Katie White) that Councillor Leal-Bennett had pushed her, the IP considered that the Sub-Committee needed to decide the level of weight to be attached to this allegation, particularly in the light of the apparently differing statements of those who had witnessed this event.

The IP concluded by commenting that the Sub-Committee would need to decide whether or not Councillor Leal-Bennett’s mitigation for not co-operating with the Investigating Officer’s investigation was sufficient for it not to be a breach of the Code of Conduct.

The Chairman thanked the Independent Person for his views.

### Summing Up – Investigating Officer

The Investigating Officer summed up. The full summary can be heard on the audio recording of the meeting. Key points included:

- The Code of Conduct applied to Councillor Leal-Bennett when he was acting as a councillor;
- Councillor Leal-Bennett had been keen to emphasise his integrity, but this was not at issue. In respect of any potential DPI, it was how the matter would look to the public, particularly as to whether him participating in debates on Hitchin Town Hall would potentially prejudice the public interest;
- In respect of paying due regard to officer advice, comments such as “Councillor Leal-Bennett had been amazed at the advice of the Monitoring Officer, and that the Monitoring Officer had been wrong before” could be construed as not paying due regard to officer advice;
- The Monitoring Officer had a statutory duty to take reasonable steps to investigate the DPI issue as he/she had a duty to protect the interests of the Council;
- The behaviour of Councillor Leal-Bennett towards officers and particularly his threat to report the Former Monitoring Officer to the Law Society. The Investigating Officer felt that to exhibit such threatening behaviour was, in her view, a clear indication of bullying/harassment;
- The manner in which Councillor Leal-Bennett spoke to the local press clearly brought the Council into disrepute. This included outright criticism of the Leader of the Council and Chairman of the Council;
- The Investigating Officer regretted that Councillor Leal-Bennett had not co-operated with her investigation. Whether, if he had, her findings would have been different, it was impossible to know;
- Much of the evidence related to lack of respect and behaviour towards officers. The Chief Executive (David Scholes) had been concerned with the amount of time taken up dealing with Councillor Leal-Bennett and the Strategic Director of Customer Services (John Robinson) and subsequent Monitoring Officers had complained about his behaviour. Councillor Leal-Bennett had acknowledged that he perhaps should have worded things differently and was at times a little harsh;
- In respect of the pushing incident, the Sub-Committee needed to take into account the various contemporaneous witness statements contained in the bundle of paperwork. The Investigating Officer drew attention to the fact that none of Councillor Leal-Bennett’s witnesses who had commented on the matter were in attendance when it occurred. The Investigating Officer considered, from her interview with Katie White, that she was adamant that she had been pushed by Councillor Leal-Bennett; and
- The witness statements in support of the complaint directly related to the allegations against Councillor Leal-Bennett, whereas the witness statements in support of Councillor Leal-Bennett were generally more in mitigation as, for the most part, those witnesses were not present when the alleged breaches of the Code of Conduct occurred.

### Summing Up – Mr Bunker and Councillor Leal-Bennett

Mr Bunker and Councillor Leal-Bennett summed up. The full summing up can be heard on the audio recording of the meeting.

Mr Bunker’s summing up included the following key points:

- He felt that Councillor Leal-Bennett had acted proportionately in his dealings with the Council;
- He considered that the evidence had shown that at no time had Councillor Leal-Bennett had a DPI, either before or after he was a Director/Trustee of HTH Ltd;
- Tim Straker QC had not been in possession of the full facts when he provided advice on whether or not Councillor Leal-Bennett had a DPI;
- The prolonged Police investigation into Councillor Leal-Bennett had resulted in the matter being closed, with no action taken. This was even after the former Monitoring Officer (Katie White) had been successful in persuading the Police to re-open the case;
- He was concerned that the Investigating Officer had been so emphatic in her reports that Councillor Leal-Bennett had a DPI;
- The Investigating Officer’s report lacked formal terms of reference;
- Whilst Councillor Leal-Bennett had apologised to the Investigating Officer for his non-co-operation with her investigation, he had received no apology from the Investigating Officer

about the fundamental error in her report which alleged that he had breached Paragraph 3.2 (a) of the Code of Conduct;

- The Investigating Officer's report lacked a critical analysis of when Councillor Leal-Bennett was or was not acting as a councillor, and before and after he had resigned as a Director/Trustee of HTH Ltd; and
- The evidence of Councillor John Harris (who was not re-standing for election in May 2016), who considered that he had effectively been bullied off the Council.

Mr Bunker made statements supporting the fact that he did not believe that Councillor Leal-Bennett had breached Paragraphs 3.2 (b)(c)(d), 3.4 (a)(b), 3.5, 3.6 and 3.7 of the NHDC Code of Conduct. In respect of the alleged breach of Paragraph 3.4 (c) of the Code, regarding Councillor Leal-Bennett's level of compliance with the Investigating Officer's investigation, the Sub-Committee would need to come to its own conclusions on this matter.

Councillor Leal-Bennett's summing up included the following key points:

- The majority of evidence collated by the Investigating Officer appeared, in his opinion, to be relating to him acting in his role as a Director/Trustee of HTH Ltd and, as such, should be given limited weight;
- He was of the view that it had been accepted that he had never had a DPI relating to HTH Ltd. He commented that he had been incorrectly advised to have included it on his Member Interests form following his election as a councillor in May 2012;
- On each occasion the matter of his participation in meetings had arisen, he had taken due regard of the Code of Conduct;
- He had received advice and support from Peter Lilley MP and the Eric Pickles MP that NHDC Monitoring Officers had misinterpreted the Localism Act and Code of Conduct Rules, which therefore meant he should not have been prevented from participating in meetings where the Hitchin Town Hall project was being discussed;
- He had endeavoured to mediate between the Council and HTH Ltd on the Hitchin Town Hall project after he had ceased being a Director/Trustee, but that offer had been spurned by the Council;
- The evidence supplied by Brent Smith confirmed his view of the vindictive manner in which he was treated by NHDC officers in Hitchin Town Hall Project Board meetings;
- He enjoyed his role as Chairman of Hitchin Area Committee, as he had lived in Hitchin since he was a teenager and passionately cared for the town. He disagreed with comments made that he took up an exorbitant amount of officer time, as he was invariably only trying to get answers to important questions which affected the residents of Hitchin and sometimes the residents of North Hertfordshire as a whole;
- He apologised once again to the Investigating Officer and to the Sub-Committee that he had not complied with the investigation. In mitigation, he commented that he had been pre-occupied in dealing with the various Police investigations, and had tried unsuccessfully to meet with the Investigating Officer. In addition, at one stage he had seriously thought about resigning as a councillor, but in the event had been persuaded by friends and colleagues to proceed with contesting the allegations;
- He was insulted and upset at being asked to provide evidence of his holiday bookings for October 2015 and January 2016 to prove that he would be unavailable to attend pre-hearing/hearing dates in those months;
- In respect to comments made by some NHDC officers in their witness statements, he felt that it showed a "blame culture", and once again pointed to him being bullied by the Council, rather than the opposite;
- He had no doubt that the former Monitoring Officer (Katie White) was well within her rights to instigate a Police investigation. However, for her to have persisted in involving the Police after no action had arisen from the initial investigation was, he considered, going beyond her remit; and
- He did not push Katie White when she was seven months pregnant, as alleged, and there were sufficient ambiguities in the various witness statements about this matter in the hearing paperwork to prove that the incident had not occurred as described. He felt that this therefore cast doubt over the veracity of the majority of Katie White's witness statement, which was why he was still considering reporting her to the Law Society.

In conclusion, Councillor Leal-Bennett considered that he had not breached the NHDC Code of Conduct. He was not a bully – he merely asked searching questions for important information. He did not originally wish to be a councillor, but once elected he genuinely began

to enjoy the role. If at times he came over as hard and direct, then so be it, but that was his style of behaviour.

Prior to the Sub-Committee retiring, Mr Bunker commented that it had been extremely sad that, despite the Independent Person attempting to mediate a settlement between Councillor Leal-Bennett and the complainants in the run up to the hearing, the mediation request had been rejected by the complainants.

The Sub-Committee retired to deliberate and to determine its decisions.

### Decisions

Upon returning, the Chairman advised that the Sub-Committee had disregarded evidence where it was aware that Councillor Leal-Bennett was acting as a Director/Trustee of HTH Ltd and not as a councillor. Accordingly, the Sub-Committee had agreed the following resolutions, which summarised the findings and reasons for those findings.

**RESOLVED:** That, having considered the evidence, the representations and consultation with the Independent Person:

- (1) in respect of the allegation that Councillor Leal-Bennett had failed to show respect, contrary to Paragraph 3.2 (b) of the NHDC Code of Conduct "You must show respect and consideration for others", the allegation was upheld.

#### Reasons:

There were various examples of breaches that the Sub-Committee found showed a lack of respect and consideration for others including, for example:

Howard Crompton evidence. Questioning of junior staff. Pages 315-316. "He then asked one junior member of staff what one thing could be done to improve the service." "He upset a number of the IT team by his visit." "I found this very difficult [external control of website] as he would not accept the situation and seemed bent on holding me responsible for something over which I had no control."

Page 297, Katie White testimony: "He also behaves very badly when contractors are present.... The contractor was disgusted with the way in which Cllr Leal-Bennett behaved and e-mailed a Senior Officer accordingly. " [Groundworks Bancroft Gardens meeting.]

- (2) in respect of the allegation that Councillor Leal-Bennett had bullied and harassed Officers contrary to Paragraph 3.2 (c) of the NHDC Code of Conduct "You must not use bullying behaviour or harass any person", the allegation was upheld.

#### Reasons:

The Sub-Committee considered that what Councillor Leal-Bennett believed was being "direct" was bullying and harassment to others. Examples included:

Katie White Law Society threat. Page 169 "I ... will be writing to the Law Society to make a formal complaint."

Page 271: Meeting of David Scholes (DS) and David Leal-Bennett (DLB). "DLB said that he was going to get District Audit to look at this project. [Hitchin Town Hall]"

"DLB said that he was furious at the sequence of events on Thursday [exclusion from Full Council meeting]." "DLB said that he would not 'lie down' over this and if DS thought that this was DLB being angry then he hadn't seen anything yet."

Page 290 DS statement: "He behaves in what to my mind is a rude and bullying way to more junior staff, behaving in a way that shows a complete lack of respect for them and their jobs and abusing his position. .. I have had to repeatedly ask him to moderate his behaviour but disappointingly it has had little effect. Both in person and in correspondence he behaves in an unpleasant and rude manner."



- (3) in respect of the allegation that Councillor Leal-Bennett had compromised the impartiality of officers or those working on behalf of the Council contrary to Paragraph 3.2 (d) of the NHDC Code of Conduct "You must not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority", the allegation was not upheld.

Reason:

The Sub-Committee found no evidence to support that he did this whilst acting as a Councillor.

- (4) in respect of the allegation that Councillor Leal-Bennett had brought his office or the reputation of the Council into disrepute contrary to Paragraph 3.4(a) of the NHDC Code of Conduct "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute", the allegation was upheld.

Reasons:

The Sub-Committee found that there were a number of examples where Cllr Leal-Bennett had made statements to the press, or used his Twitter account to criticise Members and Officers bringing the reputation of the Council into disrepute, for example:

Page 97. [Comet article, 16 February 2015] DLB speaking as Chair of NHDC Hitchin Area Committee. "I am appalled at the action of the Chair of NHDC who decided, with questionable advice from officers, that I should not attend the Full Council meeting last week."

Page 279 "Mr Leal-Bennett added 'Unfortunately we have leadership that does not support a democratic process nor will it sit down to discuss the real issues.'"

Page 305 Point 23: Anthony Roche: "Cllr. Leal-Bennett used his Twitter account to publicly criticise me and the chairman." DLB tweeted: "The Monitoring Officer has been previously chastised by a Government Minister and Peter Lilley for poor interpretation of the rules."

- (5) in respect of the allegation that Councillor Leal-Bennett had acted contrary to Paragraph 3.4(b) of the NHDC Code of Conduct "You must not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the authority", the allegation was not upheld.

Reason:

The Sub-Committee found no evidence to support that he did this whilst acting as a Councillor.

- (6) in respect of the allegation that Councillor Leal-Bennett had failed to comply with an investigation conducted by the Monitoring Officer contrary to Paragraph 3.4(c) of the NHDC Code of Conduct "You must comply with any request of the authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers", the allegation was upheld.

Reasons:

Cllr Leal-Bennett had acknowledged at the hearing that he had not co-operated with the investigation. He had, however, publicly apologised for failing to make himself available for interview by the Investigating Officer.

- (7) in respect of the allegation that Councillor Leal-Bennett had used his position to seek to influence progression of the Hitchin Town Hall Project to the advantage of Hitchin Town Hall Limited, where he was a Director, which involved the lobbying of Officers and Members to seek to exert influence and the use of Council resources contrary to Paragraph 3.5 of the NHDC Code of Conduct, the allegation was not upheld.

Reason:

The Sub-Committee found no evidence to support that he did this whilst acting as a Councillor.

- (8) in respect of the allegation that Councillor Leal-Bennett had failed to have due regard to relevant advice provided by the Council's Monitoring Officer and Head of Paid Service contrary to Paragraph 3.6 of the NHDC Code of Conduct "You must: (a) when participating in meetings or reaching decisions regarding the business of the authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the authority's officers, in particular by— (i) the authority's head of paid service; (ii) the authority's s.151 officer/ chief finance officer; (iii) the authority's monitoring officer/chief legal officer", the allegation was not upheld.

Reason:

The Sub-Committee considered that, although Councillor Leal-Bennett had chosen not to follow the advice of the Monitoring Officer, he did in fact have "due regard" for it.

- (9) in respect of the allegation that Councillor Leal-Bennett had failed to comply with the Member/Officer Protocol, a breach of 3.7(c) of the NHDC Code of Conduct, the allegation was upheld.

Reasons:

By his actions Cllr Leal-Bennett had failed to understand and support the roles of officers, or shown respect for senior officers, subjecting them to undue public criticism. Examples included:

Page 289 (DS) "His attitude in particular towards the Monitoring Officers has been most regrettable, especially considering their role in relation to trying to ensure that the Council conducts its business properly. He has been publicly and frequently very critical of Anthony Roche in the way he has conducted his legal role."

Identifying Anthony Roche to Peter Lilley.

Criticism of Monitoring Officer identifies Mr Roche personally.

In accordance with Item 7.3 of the Hearing Procedure, the Chairman of the Sub-Committee invited the Investigating Officer, Councillor Leal-Bennett and the Independent Person to make any representations as to whether any action should be taken and what form any action should take.

The Investigating Officer referred to the list of sanctions set out in Paragraph 9 of the NHDC Complaints Procedure (Page 83 of the bundle). She felt that the Sub-Committee should give consideration to a recommendation to Council that Councillor Leal-Bennett should receive a formal censure/reprimand. It would be up to the Sub-Committee if they wished to recommend any action to the Group Leader of the NHDC Conservative Group or to recommend any training for Councillor Leal-Bennett.

Councillor Leal-Bennett was appalled at the decisions, but thanked the Sub-Committee for considering the matter. He was grateful that some of the evidence had been disregarded, but was disappointed that it had been included in the first place. He did not agree with most of the statements made in the evidence gathered by the Investigating Officer, and re-iterated that he felt he had been the subject of institutional bullying by NHDC.

Councillor Leal-Bennett was saddened that it had been decided that he should not be direct in his dealings with others. He was concerned that Katie White (former Monitoring Officer) had bullied and harassed him, and was surprised that any action had been taken on the basis of the evidence she had provided. He was still considering reporting her to the Law Society.

Councillor Leal-Bennett did not agree with the Sub-Committee's findings that he had breached Paragraphs 3.4 (a), 3.4 (c) and 3.7 of the Code of Conduct. In respect of Paragraph 3.7,, he

felt that the majority of NHDC officers were hard working, but that other sought to use a blame culture.

Councillor Leal-Bennett reluctantly accepted the Sub-Committee's findings and thanked them again for their deliberations. He left it to the Sub-Committee to agree appropriate sanctions.

The Independent Person stated that 5 allegations had been upheld and 4 had not been upheld. Of the 5 upheld, it appeared to him that 2 were less serious than the other 3. The 2 less serious were not complying with the investigation (for which Councillor Leal-Bennett had provided some mitigation) and compliance with the Member/Officer protocol (which was also covered by some of the other breaches).

In respect of the 3 more serious breaches (disrespect, bullying/harassment, disrepute), the Independent Person believed that the Sub-Committee had to be proportionate in any sanctions it imposed in relation to those breaches. If training was one of the sanctions, then the Sub-Committee had to be clear on the nature of this training, so as to aim to prevent a possible repetition of the conduct exhibited by Councillor Leal-Bennett.

The Sub-Committee retired to consider potential action/sanctions.

### Sanctions

Upon returning, the Chairman advised that the Sub-Committee had agreed the following resolutions.

#### **RESOLVED:**

- (1) That the Sub-Committee's findings in respect of Councillor Leal-Bennett's conduct be published;
- (2) That the Sub-Committee's findings be reported to Council for information; and
- (3) That Council be recommended to issue Councillor Leal-Bennett with a formal censure or reprimand.

#### Reasons:

The Sub-Committee had taken account that of the 5 breaches upheld there were a number of serious breaches in relation to failure to show respect, bullying and bringing his office and the reputation of the Council into disrepute. The Sub-Committee concluded that these were sufficiently serious to warrant a potential censure or reprimand by Council.

The Sub-Committee accepted that, whilst Cllr Leal-Bennett had failed to co-operate with the investigation, he had apologised for failing to do so at the hearing. The further breach of failing to following the Member/ Officer Protocol also covered some of the breaches already outlined.

The Sub-Committee did not consider that a referral to training would assist, but hoped that Councillor Leal-Bennett would take note of how others related to him and perceived his behaviour.

The Sub-Committee added that they considered Cllr Leal-Bennett to be a very good Councillor for Hitchin who was dedicated to the residents of Hitchin.

The Chairman advised that Councillor Leal-Bennett would receive a full Decision Notice of the Sub-Committee's findings and sanctions within 7 working days of the conclusion of the hearing.

The Legal Advisor announced that Councillor Leal-Bennett had a right to Appeal against the findings, or against any sanction imposed, or both. Such appeal would be heard by a further meeting of the Standards Sub-Committee comprising a panel of Members and an Independent Person not involved in this initial Sub-Committee hearing.

The Legal Advisor stated that if Councillor Leal-Bennett wished to exercise this right of appeal then he must write to the external Deputy Monitoring Officer (Mr Gavin Miles) within 21 days of the date of despatch of the Decision Notice of the Standards Sub-Committee confirming that he was exercising his right of appeal and the grounds for that appeal (as per Paragraph 13.4 of the Complaints Procedure).

Councillor Leal-Bennett acknowledged the difficult job undertaken by the Sub-Committee. He thanked them for their dedication, and further thanked the Committee and Member Services Team for the arrangements for the meeting. He commented that he would take time to consider the Sub-Committee's findings, but that his initial reaction was that it was a sad day for democracy when talking directly was constituted as bullying. He thanked the Chairman for his comments about him personally.

The Independent Person stated that, notwithstanding the concluding points made by the Chairman on behalf of the Sub-Committee, and from his reading of the paperwork, he would echo the observations about the Councillor Leal-Bennett's commitment to his constituents in Hitchin. He thought that this was without question.

The meeting closed at 5.22pm on Friday, 26 February 2016.

.....  
Chairman