

**Investigation into two complaints made against
Cllr David Leal-Bennett
under the Code of Conduct of North Herts District Council**

Supplementary Report

January 2016

Introduction

In September 2015 I produced my report into the complaints under the Code of Conduct of North Herts DC made against Cllr David Leal-Bennett. In that report I made findings against Cllr Leal-Bennett. This is a supplementary report following the production by Cllr Leal-Bennett of evidence he has provided, post the completion of my report to support his case that he has not breached the Code of Conduct. I received this evidence on 7th January 2016.

I have received comments on the documentation provided by Cllr Leal-Bennett from Cllr Lynda Needham; David Scholes; John Robinson and Anthony Roche. These are appended to this report and I consider that it is not necessary for me to repeat the contents of those comments in my report.

Summary

I have considered the extensive documentation provided by Cllr Leal-Bennett, and the comments of those listed above.

I consider that the findings I made in respect of his alleged breaches of the Code of Conduct remain unchanged.

1 THE EVIDENCE PROVIDED ON BEHALF OF CLLR LEAL-BENNETT

1.1 I consider that the majority of the documentation provided by Cllr Leal-Bennett is in the nature of attempts to explain and mitigate his behaviour rather than directly relating to the allegations he is facing. There are many statements of opinion from the statements he provides in support which do not relate to the charges he is facing. For example, there are many statements which give the views of the maker as to the running of the Council; which give suggestions as to why the complaints have been made, and which extol the virtues of Cllr Leal-Bennett. Others make derogatory statements about their view of the officers and members concerned, many of which disclose a lack of knowledge of local government. There are numerous references to other matters, such as the LGA report (which I stress that I have not seen) and to internal Conservative Group matters. There are also numerous references to matters between NHDC and HTHL, many of which are commercially confidential and possibly the subject of future litigation. (I am aware that NHDC is concerned about these issues, and I can understand their concern, as it would, in my view, be inappropriate for these issues to be aired in public as part of a Code of Conduct hearing.) These may well be matters about which Cllr Leal-Bennett feels strongly, but none of these are, to my mind, relevant as to whether or not he has breached the Council's Code of Conduct.

1.2 In this supplementary report I do not propose to go through the documentation provided by Cllr Leal-Bennett in page by page detail. Instead I have focused on the main themes which appear. When this matter comes before the Standards Committee I will of course, if required, expand upon these views, as I anticipate will those, if necessary, who have provided the evidence appended to my report.

2 THE DISCLOSABLE PECUNIARY INTEREST.

2.1 I have taken account of what has been said by Cllr Leal-Bennett and by others in support of him but, after consideration, remain of the view that Cllr Leal-Bennett had a Disclosable

Pecuniary Interest as a Director of Hitchin Town Hall Limited ("HTHL") and that the advice given to him by the Monitoring Officers- which they sought to check by seeking the advice of an eminent QC, was correct. I refer below to the lack of judicial guidance so far as to this matter which does make things less certain. However, given the lack of this I do not think that the advice about the likelihood of a DPI was incorrect, and regard the actions of both Katie White and Anthony Roche in advising the Council and Cllr Leal-Bennett as they did as entirely reasonable.

2.2 In the light of what has been quoted by Cllr Leal-Bennett in respect of MPs and Ministers, it is worth remembering that under the provisions of the Localism Act it is up to councils to adopt the Code of Conduct they think fit, provided that they comply with the requirements of the Act. Accordingly I am not sure what is meant by Cllr Leal-Bennett when he refers to "the authority of a Minister and an MP" as whilst they will undoubtedly have views which deserve respect they have no "authority" in this regard.

2.3 Government guidance states:

"The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests"

2.4 The question of interpretation of the Code is a local matter as each council adopts the Code its members have approved. As of this date there has been, so far as I am aware, very little, if any, judicial guidance upon the interpretation of the DPI regulations. This would be helpful as the wording of the regulations themselves are not very clear. Accordingly, it is up to officers to attempt to interpret the regulations as they feel appropriate, using, as in this case, advice from external lawyers as they feel necessary.

2.5 There has however, been considerable case law over the years upon matters such as bias and predetermination when councils are making decisions, which in my view also need to be considered in the light of the advice which Cllr Leal-Bennett received and which are relevant to this matter.

2.6 This is upheld by the Governments guidance to the Localism Act as follows:

*"Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**"*

2.7 I think that this is particularly relevant as follows: whilst I accept that it was regrettable that further steps do not appear to have been taken to investigate the exact nature of HTHL, the responsibility was not just on the council officers, but also on Cllr Leal-Bennett to be clear about the nature of his role. In the circumstances I do think that the officers were entitled to take the view that they did and that their interpretation was a reasonable one.

2.8 Cllr Leal-Bennett was a Director of HTHL at the relevant times and his Declaration of Interests indicated that he had such a DPI. As I say in my original report. As a Director of HTHL he was under a legal duty- which he could not avoid- to act in the best interests of the Company; as an elected member of NHDC he was under a duty to act in the best

interests of the Council- again, one which he could not avoid. In those circumstances if he participated in discussions and votes at Council meetings which concerned HTHL he would breach the Code of Conduct and by his actions potentially expose the Council to risk of challenge. He had a clear conflict of interest which he could not avoid.

- 2.9 Accordingly, whilst I accept that HTHL is a charitable company limited by Guarantee and Cllr Leal-Bennett did not receive payment for the office of director he held, he was a trustee of the company and, at the relevant time, it now appears, was also a director of a trading company which was wholly owned by HTHL. In the absence of judicial interpretation and in the light of the principle of integrity it seems to me more likely than not that he had a DPI and that the interpretations by Katie White, Anthony Roche and Tim Straker QC were correct.
- 2.10 Decisions made by the Council can be challenged if the decision makers (or some of them) are biased, or apparently biased- in the sense that a reasonable and informed observer could not be confident that they were putting the public interest first, rather than their other interests. Holding a directorship of a company, whether a company limited by guarantee or a company limited by shares, would, to my mind, undoubtedly amount to a significant interest which would be likely to give rise to a suggestion of apparent bias.
- 2.11 From the documentation I have read both originally provided to me enhanced by that now provided by Cllr Leal-Bennett I am firmly of the opinion that a "well informed member of the public" would be in considerable doubt that he would pass this test. In my mind, this means that they could not be certain that in participating in meetings and votes where HTHL was involved he was not putting the interests of the Council first, which is his duty as a member, despite whatever his views about the Council might be.
- 2.12 Accordingly, given Cllr Leal-Bennett's position as a Director of HTHL, I believe that he undoubtedly had an unavoidable conflict of interest throughout this time which would give rise to a strong suggestion of apparent bias. To my mind his public statements to the press about the way in which he felt the Council operated can only strengthen this view. In such a situation were he to participate he would potentially expose the Council to the risk of challenge. In such a situation the officers concerned were properly trying to protect the Council in their advice.
- 2.13 It seems to me that by refusing to leave the meetings as advised, Cllr Leal-Bennett failed to observe the Council's Code of Conduct.
- 2.14 Whilst I agree that it is up to members to ultimately decide whether or not they have an interest, it is also incumbent upon officers, especially the Monitoring Officer, to advise the Council – as part of their role is always to protect the interests of the Council-if they believe that there is a risk to the Council and how this risk can then be avoided. One of the key risks is that of a council decision being challenged in the courts through judicial review. To have such a challenge is costly to the council in both terms of direct expense and officer time, and can be reputationally damaging. The Monitoring Officer and legal team are responsible for ensuring that all necessary steps are taken to avoid such a challenge and the Monitoring Officer is under a legal duty with regard to avoiding the council taking unlawful decisions.
- 2.5 There is also the question of participation after Cllr Leal-Bennett resigned as a Director of HTHL. It seems clear from the evidence that Cllr Leal-Bennett retained close ties with HTHL, and following the Bias test as set out above it seems to me appropriate that he was advised that he should not participate. The apparent bias did not disappear the moment that Cllr Leal-Bennett resigned as a director, especially given his ongoing contact with the

company; and I take the view that the advice from Anthony Roche about his participation at the meeting in December 2014 was likely to be a correct and reasonable approach given his role in protecting the council.

2.6 I have also considered the comments made about the action of the police. The police, and the criminal legal system operate on a different standard of proof from a civil matter, and I have seen reference in correspondence from the police about their reluctance to proceed on the basis of a lack of decided cases on the Localism Act. Accordingly, the fact that the police did not proceed to charge Cllr Leal-Bennett does not mean at all that the actions of the Council were wrong and I believe that it is completely wrong to draw such a conclusion and to infer that the officers and QC advice was incorrect because the Police decided not to proceed.

2.6 I have not changed my view as to the DPI issue and my findings remain unchanged.

3 BEHAVIOUR TOWARDS OFFICERS

3.1 From the interviews I carried out and the documentation I have seen I am in no doubt that the behaviour of Cllr Leal-Bennett towards officers did not comply with the Member/Officer Protocol of NHDC. It was clear to me that officers felt very strongly that his behaviour was unacceptable and that it had a deleterious effect upon them.

3.2 It is very well-established that the behaviour of members can be seen as bullying. Again, there is no judicial guidance as to the position post the Localism Act, but I believe that rather than use generic terms, given the circumstances it is far more appropriate to consider the pre 2012 position as the test, where the guidance issued by the Standards Board was as follows:

"You must not bully any person including other councillors, council officers or members of the public.

Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour."

3.3 The evidence submitted on behalf of Cllr Leal-Bennett has not changed my view as to the unacceptability of his behaviour towards officers. I find his explanation of the email exchange of 13 February 2013 unconvincing; I am still of the view that it was entirely unacceptable and shows views towards officers of the Council which I find reprehensible.

3.4 I also note that he takes great exception to the claim by Katie White that he pushed her. Following my interview with Katie White I had no doubt that she was telling the truth about

this incident and that she felt very strongly about the behaviour of Cllr Leal-Bennett. I note that the statement of Norma Atley provided by Cllr Leal-Bennett states that "*Cllr Leal-Bennett pushed through the gap between us and I believe he bumped into Mrs White who has her back to him*". To my mind this seems to verify the account of Katie White rather than otherwise.

- 3.5 I have considered the comments made by and on behalf of Cllr Leal-Bennett about the officers of NHDC. To my mind a member has a responsibility to behave properly and with respect towards officers and to raise any concerns in an appropriate way. I do not consider that Cllr Leal-Bennett did this.

Accordingly, I remain of the view that he has breached the member/officer protocol.

4. Other matters

- 4.1 I regret that Cllr Leal-Bennett did not cooperate with me. I believe that he had every opportunity to do so. He made repeated suggestions that he would do so but every opportunity failed to happen. His reference in para 193 of his statement in relation to telephone interviews omits to mention that I spoke to him and reassured him that this suggestion was not at all to disadvantage him but was aimed at moving the matter on as speedily and cost effectively as possible, given the numbers of witnesses he had identified to me but without ever informing me, despite my requests, what they would add to the investigation. In the absence of his cooperation I had to make my report as fair and even handed as possible.

I remain of the view that he did not cooperate and so is in breach of the Code of Conduct.

- 4.2 From his statement, Cllr Leal-Bennett obviously feels strongly about the issues involved in these complaints and my investigation. However it should be recognised that there are appropriate ways of dealing with the serious allegations Cllr Leal-Bennett makes in his statement about the behaviour of Council officers and members, including the Leader, Cllr Needham. He does not appear to have followed these. To my mind the fact that he might feel so strongly, whilst it may go to mitigation, certainly does not excuse his behaviour.
- 4.3 Furthermore, the comments I have received from those referred to the introductory paragraph disclose significant differences in recollection and facts between Cllr Leal-Bennett's statement and their own. I will not deal with these now but doubtless this may come out at the hearing and the members of the Standards Committee will be able to make their own view as to whose version they believe. Due to his failure to cooperate I am unable to come to any view at present except to restate that all of the witnesses I interviewed seemed to me to be honest and reliable. I certainly did not get any impression from anyone I interviewed that, as he states, this was an attempt to "*fetter the democratic process by supressing freedom to ask searching questions*". Nor did I get any impression whatsoever that the investigation was as a result of a "*vindictive and an ongoing vendetta*" against Cllr Leal-Bennett.
- 4.4 I have taken account of the differences referred to in the statements between HTHL and NHDC. However, as I have referred to above, as an elected member Cllr Leal-Bennett is unable to avoid his duty to act in the best interests of the Council. It is clear that he feels very strongly about the interests of Hitchin as he sees it but it is, in my mind, unfortunate that he appears unable to square these interests with his duties to NHDC as a whole which has to an extent resulted in the complaints against him and the investigation.

Conclusion

I have considered carefully the statement of Cllr Leal-Bennett and the evidence he has provided in support. It should be noted however that none of this has been tested out in interview, as it has all been provided subsequent to my report. The bulk of the commentary relates to matters which are outside the issues in dispute, much of it shows a lack of familiarity with the operation of local government and much of it is disputed by the persons referred to, who have been interviewed as part of the investigation. I have kept an open minded approach to this matter, as I am an independent investigator and it is incumbent upon me to have an open mind throughout. I have kept to this principle.

Olwen Dutton
Bevan Brittan LLP
January 2016

Dear Olwen

Further to Jeanette Thompson's email of the 11th January, I wish to make some observations regarding the statements made in the paperwork submitted by Cllr Leal –Bennett. Unfortunately due to diary commitments I have not had the time to read the main document and therefore will be concentrating my comments on the attached witness statements.

1. Statment by Cllr James McNally. I am puzzled at his comment under para 9, as he states earlier in his statement that he was not present at the meetings in question. However, I have assumed that his statement is related to the Standard Board enquiry and not a general statement and I therefore cannot agree with his statement in 11. "I am not aware of any efforts made by either the Leader of the Council, Lynda Needham, or the CEO, David Scholes, to achieve any resolution to this situation"..... I was unaware of either submission by Cllr Cowley and the Mr Scholes, until sometime after they had been made. I feel it would have been highly inappropriate for the Leader of any Council to try at this stage to interfere with this process, even with the best of intentions of seeking any form of mediation. I cannot support the inference that the Leader would have had the appropriate authority to intervene in the process.

2. Statement by Cllr John Harris. I cannot see any relevance of this statement to the Standard Board enquiry. Additionally I would refute most of the contents, but as I cannot see its relevance will not take up time with every point. I will however, give one example to support my refuting most of the contents, namely item 2. I was approached by a Cabinet member and told of Cllr Harris's concern over an email and conversation with a senior officer. Cllr Harris never approached me. He then wrote to the Monitoring Officer on the 22nd May expressing his concerns over the telephone conversation and email and stating that he felt the need to advise the Monitoring Officer of what had transpired and his reservations. Cllr Harris emailed me on the 25th May to which he attached the email of the 22nd May referred to above. At that point no further contact was made with me. I do not know what the Monitoring Officer advised/said in his response to Cllr Harris. Equally if Cllr Harris then lodged an Official Complaint certainly I was not made aware of this, although he contends I was made aware at the outset. I feel there is a difference between an email to the Monitoring Officer expressing his reservations concerning a senior Officer and informing the Monitoring Officer of his reservations and then going on to make an official complaint to the Chief Executive, which I assume from his statement he did. To which he now contends I made no effort to support his official complaint.

3. Statement by Cllr Leal Bennett. 92.3 "Even Cllr Needham stood up to say I had a 'Close Relationship' but provided no evidence if indeed evidence was needed. Had I been aware of the way events would unfold at that Council Meeting then I would have had with me email from Cllr Leal Bennett to myself dated 15th January in which he advised me "Last week I was asked to attend, as an observer, an HTH Board meeting and it was agreed that it would be incumbent on them to make one final attempt at discussion since they have responsibility as trustees and are representatives of the Community Groups. They also agreed to see if SIB would consent to attend any meeting, HTGH Ltd has now confirm SIB would be prepared to attend if a meeting could be set up.

I am therefore requesting that you, Cllr Hone, Cllr Hunter, the CEO, the Directors of HTH Ltd plus representatives from SIB and , if required, the trustees of the Workman's Hall, agree to

meet as soon as it practically possible. I am endeavouring to find an acceptable independent chairman."

In my understanding a previous Director who is invited to still sit around the table and take on the job of setting up a possible mediation meeting on their behalf, has a close relationship.. Further to the sentence "They also agreed to see if SIB would consent to attend any meeting,. Cllr Leal-Bennett then send a further email dated 23rd January "Stephen has kept me fully in the picture..... Also "As you know I have a close relationship with SIB at the highest level....." Both of which confirm to me that he had a close relationship with both HTH Ltd and SIB.

Looking at statements 72 through to 75,2 if you were to see the full email trail then it would be clear that the delay was not through NHDC but HTH Ltd responses.

ROLE AS CHAIR OF HITCHIN AREA COMMITTEE

12.5 I refute this and ask for evidence.

126.1 I have never in my entire Leadership brought any Conservative Cllr before the Group for disciplinary. Cllr Leal-Bennett was brought before the group by fellow Councillors and strictly following our rules it falls to me to investigate and proceed with the process, which is vastly different to myself bringing the disciplinary complaint. I did not make the issue public, I was contacted following conservative councillors approaching the press and myself being approached to respond. I did not make the issue public and the questions followed Cllr Leal-Bennetts actions at Annual Council that year.

Also the Councillor who was voted for by a majority of Hitchin Conservative Cllrs had nothing to do with me whatsoever. I did not have a preferred Councillor. I was totally unaware of the Conservative Councillors choice until it was brought to my attention that as Cllr Leal-Bennett had not won the support of his peers, he had offered the opposition party the Vice Chairman's position if they supported him at Annual Council. This had two effects, one a disciplinary hearing brought by his peers, and also a press article which was then added to by unknown cllr/s.

126.1.1. It is clear from this that Cllr Leal-Bennett has not made himself fully conversant with the rules. The Leader of the Council has a duty to ensure that every committee is properly chaired and also a vice chair is in place. My predecessor decided during his term of office to allow the 5 Area Committees to elect their own Chairman and vice Chairman, although he had carried this duty out himself in his early years as Leader. I saw no reason to alter this formula and it has continued. However, it should be clearly understood that should a Chairman not be elected or a Vice Chairman put in place then it would fall upon the Leader of the Council to make the appointments. The previous Leader also fully understood, as do I, that this would mean that in a Conservative controlled authority, we would have the possibility of committees chaired by opposition members. Therefore the Chairmen of committees is very much within the Leader's gift.

126.2 Again, I did not bring the complaint against Cllr Leal Bennett, this was brought by his fellow Conservative Councillors. The rules clearly state that if the evidence shows that the complaint is correct then as Leader I have the responsibility to carry the process through to the end. I also did not ask the members to vote on having the Whip removed, nor did I ask the members to remove him from the Group. This is totally inaccurate and no evidence has been supplied in support of any of his assertions.

127 I refute this, I have never instructed officers not to supply a report to a Area Committee Chairman, neither have I ever suggested a sparse report would be adequate for an officer to present. Evidence please.

128. Cllr Leal-Bennett did attempt to speak to me prior to a Churchgate Project Board and I did not give him the opportunity, as it had been discussed at the Group Meeting previously about his attendance, but more importantly he approached me within about 15 minutes prior to the commencement of the Board.

132.1 I have no knowledge of an email from the Communications Officer Nikki, inferring what is contained in 132.1 and I will be investigating this.

134 I have no knowledge of this, and Cllr Leal-Bennett is fully aware of the Part II report (confidential) protocol . Again he offers no evidence only conjecture.

135 I will also be asking the CEO for knowledge of this conversation.

140 This is a suggestion from officers and councillors that we look at the 5 area committees to see if there are budget savings to be achieved and Cllr Leal Bennett is fully aware that this is not a personal initiative of mine, but is an option for all members to have a view on.

142. I am thrilled to think that I can change the Constitution without it going through officers, members, and eventually full debate by all 49 councillors at Full Council. This needs the support of most Conservative Councillors, being the majority group, to support any amendments.

143 A red herring.

Lastly, I would like to bring your attention to 145. This is the most blatant piece of miss-information I have read regarding the removal of Cllr Claire Strong from the NHDC Cabinet. I have never removed anybody from the Cabinet for voicing views in a Council debate. I am aware that this reason for removing Cllr Strong from the Cabinet has been promulgated around Hitchin and although I have been informed by rumour the author of these stories, this is not the place for rumour. Cllr Claire Strong was removed from the Cabinet over an issue that arose in a local Public House, where Cllr Strong was very disrespectful about me and my style of Leadership. I was informed about the issue by several Conservative Councillors who were present, I find that to have this totally false story being re-iterated here in this document totally reprehensible.

Yours sincerely

Lynda Needham

Cllr Lynda Needham - Letchworth South West Ward

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Comments on statement by Councillor Harwood

1. The MO may comment on para 6 however my understanding is that all advice provided by the (various) MO's has been consistent and correctly conveyed the constitutional position.
2. Evidence from newspaper articles and statements made in public meetings make direct reference/criticise officers. Where there is only one officer with a particular title it is sophistry in the extreme to suggest that an individual is not referenced just because a title is used.
3. I would fundamentally question whether Cllr Harwood is more qualified than the MO to interpret the Council's Constitution.

Comments on Statement by Peter Lilley MP.

1. This statement fails to recognise that NHDC has its own Code of Conduct which the Localism Act allows. Mr Lilley is commenting upon the provisions of the Localism Act only.
2. Mr Lilley did not recognise in January 2013 when the predetermination matter was raised that initial and updated advice was issued. Cllr Leal-Bennett has raised this matter on a number of occasions in public in an attempt, in my view, to seek to undermine Mr Roche's professional integrity. Mr Roche has responded to such comments from Cllr Leal-Bennett in a wholly professional manner.

Comments on Statement by Charles Bunker

1. The 'hearing' is a meeting of the Council's Standards Sub-Committee not a disciplinary hearing.
2. The meeting of the Standards Sub-Committee is being convened in accordance with the Council's Constitution and the statement in 4.1 therefore is factually incorrect.
3. Paragraphs 5.1 to 5.5 express views about projects in Hitchin and are not relevant to the complaint. Paragraph 5.6 refers to the matter of planning permission/listed building consent and this, again, is not directly relevant to the complaint. It is important to note however that the Council has acted in accordance with all planning regulations contrary to the assertions in the statement.
4. Paragraph 5.8 is conjecture based on material provided by HTH Ltd.
5. Mr Roche will, I am sure, comment upon the matters in Timothy Straker QC's advice.
6. In relation to paras 6.2.5 to 6.2.7 Mr Pickles' letter relates to his commentary on the 2012 Regulations. The Council has its own Code of Conduct and the MO is responsible for ensuring compliance with the Code. Mr Pickles' letter is not a legal interpretation of the law and does not even reference the Council's Constitution.
7. It is important to note that there has now been judicial interpretation of the law in relation to DPI. The complaint before the sub-committee is in relation to compliance with the Council's Code of Conduct where there is a Disclosable Interest that meets the 'so significant' test. This is partly recognised in Mr Bunker's statement at 6.3.2 but crucially he fails to recognise that the Council has its own code. The content of paragraph 6.3 is therefore irrelevant as it is based on an incomplete factual position.
8. This section does not recognise that NHDC and HTHL are in a contractual relationship (by virtue of the DA) and that the progression of the project build and implementation are based on that contractual relationship. NHDC has the construction contract for the redevelopment of the town hall and it is factually correct that any points made by HTHL about the build or operations may have an impact on NHDC's operational or financial position. To that end using the position of an elected Member to have privileged access to the building, officers and other elected Members to the benefit of another organisation (HTHL) and to the disbenefit of the Council is an abuse of position. That abuse could be in terms of financial or operational gain or both.

9. In relation to paragraph 6.6.5.1 these are Mr Bunker's views about remarks made in the press by a friend of nearly 50 years.
10. The Council is required to deal with all matters in public unless expressly excluded by virtue of other legislative provision. The matters for the sub-committee meeting of the 4th December were not excluded.
11. It is interesting to note that Mr Bunker confirms that Cllr Leal-Bennett can be both intolerant and outspoken. This element of the complaint is in relation to the Member/Officer Protocol which requires high standards of behaviour/conduct between Officers and Members.
12. Mr Bunker's statement in relation to Bullying and Harassment is based on a third hand interpretation of events. Bevan Brittain as legal experts have assessed the matter in relation to the law and first hand interviews. They have concluded that the case is made. Neither Mr Barker's statement or any evidence from any other party counter that.
13. In relation to Section 7 the advice by Timothy Straker QC was acted upon correctly. In raising a complaint to the Chief Constable about the handling of the investigation that complaint was upheld. (NB – Check AR whether we include this).
14. Mr Bunker's statement in 7.12 is factually incorrect and in light of the final comments in 7.12 these should be withdrawn.
15. Section 8 is pure speculation and opinion of Mr Bunker in what appears to be an attempt to discredit complaints raised in relation to repeated failures by Cllr Leal-Bennett to accord with the Council's own Code of Conduct and in relation to bullying and harassment of officers.
16. The publication of this statement which directly alleges:-
 - Misjudged reporting to the Police.
 - Biased and less than thorough investigation.
 - Orchestrated campaign by Cllr Cowley and myself.
 - Apparent case of institutional bullying

would in itself be wholly inappropriate and undermine the contractual relationship between a number of employees and their employer (i.e. NHDC).

Comment on Statement by Councillor Levett

1. In paragraph 4 Cllr Levett says that Cllr Leal-Bennett "attempted to take his seat" at the Churchgate Project Team/Board. The matter had been raised in advance of the meeting and it had been confirmed to Cllr Leal-Bennett that:
 - a) It was a private meeting.
 - b) He was not a member of the Project Board.
 - c) He would not be able to attend the meeting.

Despite this Cllr Leal-Bennett sought to attend the meeting.

2. I would question whether the contents of paragraph 7 of the statement have been presented to Mrs Atlay.

Comments on statement by Councillor James McNally

1. I note the reference in paragraph 3 that Cllr Leal-Bennett "can let his frustration show".
2. The Overview & Scrutiny meeting on 18th December 2014 was open to all Members to attend.
3. In paragraph 7 it is clear that the MO advice relating to Cllr Leal-Bennett's position had been updated following Cllr Leal-Bennett's resignation as Director.
4. In relation to paragraph 10 Legal have not been instructed to prepare a case as alleged. I am unaware who has advised Cllr McNally about the time spent or the basis on which such comments were made.
5. Paragraph 11 is wholly inaccurate – on numerous occasions informal resolution and more formal mediation has been proposed by myself. I have made it clear that making a complaint was a 'last resort' having regard to the employer's 'duty of care'. The comments strike at the heart of the employer/employee relationship. Such comments should not therefore be released into the public domain.

Comments on statement by Councillor Harris

1. I note that Cllr Harris states that the contents of his statement are "comments and opinion".
2. In relation to paragraph 2 of Cllr Harris' statement it is inappropriate to raise such matters in relation to this case. The points referred to were investigated and there was a response provided. This is a separate matter, not relevant to the case and should not be included in any published document.
3. I am not aware of any matter in relation to paragraphs 4 or 6 however this does not appear to be relevant to the complaint being investigated.
4. I would make no comments in relation to matters of the Conservative Group.
5. The statement after paragraph 7 does not contain any factual material relevant to the consideration of the complaint.

Comment on statement by Conservative Councillors Association

1. Alan Mabbut e-mail 3rd March 2015
This expresses a view about Disclosable Pecuniary Interests at a point in time when Cllr Leal-Bennett had resigned as HTH Director.
Reference to Senior Councillor with planning experience is erroneous.
2. E-Mail trail makes no comment in terms about the Council's Code of Conduct and its application of Declarable Interests. The MO provided detailed advice on this point to Cllr Leal-Bennett. The Chairman of the Council has the role of conducting the business of Full Council and acted within the powers set out in the Constitution.

Comment on statement by Norma Atlay

1. This statement confirms that Mrs Atlay "believes he (Cllr Leal-Bennett) bumped into Mrs White" on entering the room.
2. The statement confirms that Cllr Leal-Bennett entered a private meeting which he was not invited to. His attendance at the meeting was not through a mistake about the nature of the meeting. He had been advised in advance that it was not a meeting which he was invited to or permitted to attend.
3. The approach taken to this by Cllr Leal-Bennett caused concern and distress to officers and led to a very difficult situation contrary to the spirit and letter of the Code of Conduct and Member Officer Protocol.

Comment on Statement by Cllr Leal-Bennett

1. Paragraph 9 – Cllr Leal-Bennett has remained in Council meetings (e.g. February and March 2015).
2. In paragraph 11 it is, in my view, misleading to suggest that the Police said that there was “no case to answer”. The Police sought not to pursue the matter in the absence of legal precedent at that time. The chronology in relation to the referral and complaint is also misleading.
3. I would fundamentally refute the very serious allegation made by Cllr Leal-Bennett that there has been “a high level vendetta against me” (Cllr Leal-Bennett). Given Cllr Leal-Bennett’s position such allegations are, in themselves, a breach of the Member/Officer Code of Conduct. In view of the seriousness of these matters I will not deal at this point in time with any of these counter allegations. However, such is the construction of this statement it may not be possible to deal with these matters by use of redaction.
4. Cllr Leal-Bennett sets out at great length his view of the history of the Town Hall Project. I will not comment in detail on these matters at this point with the exception of:
 - Paragraph 40 references the threat to Mr Robinson being a joke. Neither I nor Mr Robinson read it as a joke. Rather, it was threatening. This is the first time that there has been this explanation for the e mail and it is very different from the response received at the time and a meeting that took place a following the e mail. In an attempt to preserve the partnership working we took a pragmatic approach at the time however other recipients may have treated such threats far more formally.
 - Para 47. We were not advised of this.
 - Para 48. All requests were dealt with in accordance with contract between NHDC and HTHL. The matter of the stage was expressly dealt with in the contract. No suitable alternative storage was found and therefore the “option” in the DA to retain the full stage could not proceed.
 - Mr Robinson will, I am sure, comment in detail about the project management and provide evidence about Project Meetings, notes, provision of plans and information.
5. Reference to the complaint about Mr Robinson’s handling of the project should be omitted from any published documents. They are not directly relevant to the consideration of the complaint against the breach of the Council’s adopted Code of Conduct by Cllr Leal-Bennett. The complaint was dealt with by the LGA as an independent party and I wrote to the HTHL Directors setting out the conclusions of that investigation. The Director(s) of HTHL tried to elicit a full copy of the investigation report from the LGA. As is normal practice the report is a matter for the employer only – in this case the Head of Paid Service.

6. It is interesting to note that whilst Cllr Leal-Bennett denies having a 'close association' with HTHL he attended a Board meeting in December 2014 and sought to be involved in mediation. Paragraph 76 is simply factually incorrect.
7. I will not make comment on the detail of paragraph 78 onwards at this point however there are many matters with which I disagree and evidence has and can be provided to support all of the matters in the complaint.
8. As an exception to this I will make the following specific points:
 - Para 106 confirms that Cllr Leal-Bennett accepts that a DPI would have been present had he had a beneficial interest in it.
 - The referral back to the Police was wholly appropriate given that on review they considered that the case should be investigated further. The letter to Cllr Leal-Bennett from the Police needs to be read in its entirety. The complaint about the handling of the matter was upheld and an improved process was put in place by the Police.
 - The timing of the complaint followed the conclusion of the Police investigation. It would have been inappropriate to have an investigation into a complaint whilst there was an outstanding Police investigation.
9. In relation to paragraph 191 I would totally refute the comments attributed to me. Cllr Leal-Bennett asked for my opinion (having aired his opinion) about my view of the Leader's approach and my response was that it would be wholly inappropriate for me to make such personal comments. The only comment I did make was about the Leader's dedication and commitment to the role.
10. I am extremely concerned about the on-going impact that this matter is having on the business of the Council and individual employees.

Response by David Scholes to Statements Presented by Cllr Leal Bennett

Comment on Statement by Cllr Strong

1. In paragraph 10 Cllr Strong states that officers appear to be bullying Cllr Leal Bennett. Given that the reference would apply to the advice of the Monitoring Officer and perhaps myself I would fundamentally refute this allegation and question whether such a statement should be put into the public domain.
2. The statement provides no factual evidence in relation to the complaints made.



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Contact Officer: John Robinson
Direct Line: 01462 474655
Email: John.robinson@north-herts.gov.uk
Date: 15 January 2016

Dear Olwen

Standards Sub Committee Hearing: Evidence of Subject Members

I refer to Jeanette Thompson's email of 11 January 2016 and accompanying hard copy of the bundle submitted by Councillor David Leal-Bennett received on 12 January 2016 on which I have been asked to comment.

This letter responds to a request to provide comments on Councillor Leal-Bennett's statement, associated testimonies and exhibits in my capacity as a witness in respect of the complaints against him and to identify any which contain confidential information. My comments do not represent a full response to the commentary provided on the Town Hall project which is still the subject of an unresolved dispute and a separate process seeking to find a resolution.

My detailed comments on the witness statements are set out in the document attached and a separate schedule details items considered confidential.

In providing this information I need to state that the time provided for me to review, research and comment on a document containing approximately 600 pages has not been sufficient. Further, it seems clear that many of those providing statements have had access to your report which has not been made available to me. This places me at a considerable disadvantage. However, I am conscious of the Committee's desire to deal with this matter in a timely way and I have therefore provided as full a response as I am able to in the circumstances. As a result my detailed comments are made only on the statements provided and not the 31 Exhibits. It should be noted that this is not a comprehensive or fully evidenced response but this could be provided on request at a later stage provided sufficient notice were given.

I have commented on the relevant witness statements where appropriate. It is particularly striking that those which make assertions about my conduct in the management of the Town Hall project are wholly based on the accounts of unidentified third parties or the Directors of Hitchin Town Hall Ltd. With the exception of the current and former Hitchin Town Hall Ltd Directors non were directly involved in the management of the Town Hall project and in considering the evidence I would respectfully suggest that the Standards Sub Committee be invited to weight such evidence accordingly.

The nature of Councillor's Leal-Bennett's comments in respect of my conduct and performance are of concern in that they appear to primarily be assertions which are not fully evidenced or corroborated and which I would absolutely refute. Nevertheless, for the reasons set out above, I have attempted to provide a response but have forgone the opportunity to take personal legal advice to assist the Committee in meeting its timescales.

You should note however that I consider the many of the assertions in respect of my performance and conduct to be potential breaches of the Councillors Code of Conduct and I reserve my right to submit a formal complaint on that basis.

A narrative contained throughout the bundle provided suggests I have been difficult and controlling. However, in the limited partial examples provided and throughout, my approach has been solely focussed on delivering the project as agreed by and on behalf of the Council and as part of that delivering the project in accordance with requirements of the Development Agreement. Conflict between the parties within the project has been largely concerned with delivering it on time, to specification and cost as Hitchin Town Hall Ltd sought to seek improvements or changes or because of its failure to comply with its own obligations. As an employee of the Council my primary responsibility has been to safeguard the Council's interests. It is notable that although the Development Agreement included full provision for dispute resolution the Directors of Hitchin Town Hall Ltd have chosen not to exhaust this process through binding arbitration.

Yours sincerely

John Robinson
Strategic Director Customer Services

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

		Comment
STATEMENTS		
1	<p>Cllr David Leal-Bennett</p> <p>Para 35</p>	<p><i>At the meeting, I attended, with community groups and prior to 2009, Mr Robinson was present. I took a very low profile and just listened. I was rather concerned to hear Mr Robinson state that it was he who made decision on the Town Hall and not the elected Members. His whole tone was derogatory towards elected Members, which I found unprofessional and demeaning.</i></p> <p>I categorically deny that my tone towards elected Members was 'derogatory' as claimed by Councillor Leal-Bennett. I did not state '.....that it was he (me) who made decisions about the Town Hall and not the elected Members'. This is clearly not the case. Elected Members at Council authorised the scheme and delegated its implementation to me in consultation with the appropriate Portfolio Holder.</p> <p><i>The original Development Agreement was signed on 15th October 2012 with a clause stating that the parties would used (sic) their best endeavours to incorporate 15 Brand Street, from that date it became obvious that Mr Robinson was not prepared to put in effort to incorporate No. 15.</i></p> <p>Councillor Leal-Bennett asserts that I '...was not prepared to put effort in to incorporate no 15 [Brand Street]'. This is not correct – significant efforts were expended in considering and ultimately incorporating 15 Brand Street in to the development whilst simultaneously managing the extant Development Agreement which required the Council to pursue the originally agreed scheme and to pay substantial sums to Hitchin Town Hall Ltd in the event it did not meet the prescribed timescales.</p> <p><i>In June 2013 Mr Robinson refused on many occasions to let Hitchin Town Hall Ltd have a copy of the tender document so that Hitchin Town Hall Ltd could check the specification regarding the Town Hall and in particular the 'Hitchin Town Hall Essential Requirements'. In an email of 28 June 2013 Mr Robinson stated:</i></p> <p>38.1 <i>The as we have discussed many times the responsibility and risk for managing the contract is wholly with NHDC</i></p>
	<p>Para 37</p>	
	<p>Para 38</p>	

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
	<p>38.2 The Council is obliged to deliver the facility specified. This is set out fully in the Development Agreement and Hitchin Town Hall Ltd interest are fully protected by this.</p> <p>38.3 The Council has a contract with BFAW to manage the procurement and I do not want to unnecessarily disclose information which could jeopardise this or be used to lodge a procurement challenge</p> <p>38.4 You indicated FBE wanted this information to provide reassurance that their investment is secure, why then is Tom Young wanting to discuss with Hitchin Town Hall? Their interests, like yours, are protected by the Development Agreement</p> <p>Whilst it is true that I refused Hitchin Town Hall Ltd access to the tender documentation (as this was the total responsibility of NHDC) it is also the case that the specifications from which the tender was produced were discussed in detail as the scheme was developed at the Design Team Meetings at which Hitchin Town Hall Ltd were involved. These Design Team meetings are detailed in EXHIBIT 10 and were held on: 3 October 2012, 12 December 2012, 23 January 2013, 7 May 2013, 6 June 2013, 27 June 2013, 30 October 2013 and 8 January 2014. David Leal-Bennett was present at all but one of these meetings. Minutes of the meetings are available on the Council's website http://www.north-herts.gov.uk/home/museums/north-hertfordshire-museum-and-hitchin-town-hall/project-board and clearly demonstrate that detailed drawings were available on request.</p> <p>Para 40</p> <p><i>It was clear that Mr Robinson did not want Hitchin Town Hall anyway near Construction Contract process. Had Hitchin Town Hall been permitted to clarify matters at the time it is highly likely that there would not now be a dispute.</i></p> <p>The Design Team, part of the agreed liaison arrangements set out in the Development Agreement, provided ample opportunity for Hitchin Town Hall Ltd to clarify matters where necessary. Minutes of those meetings are available on the Council's website http://www.north-herts.gov.uk/home/museums/north-hertfordshire-museum-and-hitchin-town-hall/project-board. The procurement and management of the construction contract was a matter entirely for NHDC to manage.</p>

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
Para 44	<p><i>It should be noted that this was clearly a private email and some of the wording was unfortunate, especially the statement 'Brent do you have that guys name who can fix Robinson for good!! :)' However, it should be noted that in Mr Robinson's evidence he omitted the Emoji smile :), it was clearly a joke.</i></p> <p>I cannot agree that the email message was 'clearly a joke'. David Leal-Bennett's subsequent attempt to justify this by way of a email to his fellow Directors at EXHIBIT 5 tries to argue that his description of me as 'an idiot' was a reference to my position rather than me personally. I find this an completely and utterly unconvincing explanation.</p>
Para 47	<p><i>Matters progressed albeit tortuously and it was clear to me that Mr Robinson did not wish to incorporate 15 Brand Street. I therefore, on 21-Mar-13 resigned as a trustee/director, my resignation letter is shown as Exhibit 7. My fellow trustees/directors persuaded me to continue in office.</i></p> <p>It is simply not the case that I '...did not wish to incorporate 15 Brand Street' nor can I see why this prompted David Leal-Bennett's resignation. The Development Agreement required the Council to actively consider the inclusion of 15 Brand Street which it duly did and my role was simply to advise on and implement policy on behalf of the Council once a decision of this sort has been made.</p>
Para 48	<p><i>Matters deteriorated further and, in spite of Hitchin Town Hall contributing 15 Brand Street to the Project, NHDC refused to make changes concerning the stage, changing rooms and many other minor requests.</i></p> <p>It is not true that NHDC refused to make any changes – the Council incorporated a base for the installation of a cold store at its own expense at the request of Hitchin Town Hall Ltd, and many other amendments following requests from Hitchin Town Hall Ltd. The proposal received from Hitchin Town Hall Ltd to remove the need for storage from behind the stage was ill considered and impractical. No method of financing such a change was proposed and the proposal was therefore rejected. The Council and its contractors also spent considerable time specifying, designing and costing a <u>range of additional works for Hitchin Town Hall Ltd beyond the agreed scheme which it did not proceed with.</u></p>

14/01/2016

Key: *ITALIC* Witness Statement Wording **BOLD** - John Robinson Response

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
Para 50	<p><i>In my opinion, Mr Robinson did his utmost to delay matters since the bankers had imposed a deadline and in the end Hitchin Town Hall had to rely on promises, which were never fulfilled.</i></p> <p>This is absolutely not the case that I attempted to delay matters. It is not clear what 'promises' were never fulfilled. No evidence concerning this is provided.</p>
Para 52	<p><i>It was clear that Mr Robinson had no intention of adhering the Development Agreement and continued to ignore its requirements, there were numerous issues.</i></p> <p><i>No structured meetings, which were ad hoc and often called at short notice.</i></p> <p>This is not true – I attempted to adhere to the DA in all aspects and structured meetings of the Design & Construction Team and Project Board were held. On occasion these were at short notice to deal with urgent matters which could not wait until the next scheduled meeting. This approach was wholly in accordance with our adopted Project Management methodology and minutes of meetings are published on the Council's website http://www.north-herts.gov.uk/home/museums/north-hertfordshire-museum-and-hitchin-town-hall/north-hertfordshire-museum-hitchin (Annex 5 of that Document)</p> <p><i>Visits to the site were delayed for weeks with spurious excuses, during which time the concrete wall was built across the stage.</i></p> <p>Visits, including regular visits, to the site were arranged but needed to be carried with regard to the construction contractor's responsibilities to manage the health, safety and well being of those on site and in order not to interrupt the work programme. Following a number of unannounced visits by Hitchin Town Hall Ltd Directors and their advisors regular visits were arranged on at least 13 occasions.</p>

Document Reference	Comment
	<p><i>Prince II was stated to apply but in practice this was a sham since there was little cooperation.</i></p> <p>Again, this is denied – the project documentation which represents evidence of the application of NHDC's Prince 2 approach can be found on the Council's website http://www.north-herts.gov.uk/home/museums/north-hertfordshire-museum-and-hitchin-town-hall/project-board</p> <p>A "Pattern of behavior" had developed with Mr Robinson and there were many issues but I list a few below where Mr Robinson had refused:</p> <p><i>To provide detailed drawings of the work being undertaken;</i></p> <p>Detailed drawings and specifications were discussed and offered to Hitchin Town Hall Ltd on request at Design meetings throughout the development period (my comments under paragraph 38 above refer.)</p> <p><i>Setup regular programmed meetings of the Project Board and Design Review meetings;</i></p> <p>Programmed meeting of Project Board and Design & Construction meetings were held (see my response to paragraph 52 above)</p> <p><i>Programme regular site visits.</i></p> <p>Regular site visits were arranged subject only to conditions or activities on site. Such meetings were visits facilitated by the Council during the course of the construction contract on at least 13 occasions.</p> <p><i>There was a major meeting on 28th February 2014 of all parties, see draft minutes at Exhibit 10. These minutes were draft and never agreed by HTH since they contained many errors and omissions. To demonstrate the paucity of information recorded a set of corrected minutes were provided to Mr Robinson shown as Exhibit 11.</i></p>
Para 56.1	
Para 58	

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
	<p>Exhibit 11 has minutes described as 'corrected'. It is not accepted that these represent balanced description of the meeting. The email trial at EXHIBIT 11 points to revisions to the draft minutes by Hitchin Town Hall Ltd which were not declared. My unedited email attachment (which is not included) clearly identifies these and other areas where I did not consider the proposed amendments accurately reflected the meeting.</p>
Para 70	<p><i>Matters deteriorated further and it was clear that Mr Robinson was paying little if any regard to HTH.</i></p> <p>This is not true and in fact very considerable time and effort was dedicated to managing the Council's relationship with Hitchin Town Hall Ltd. In very large part this was due to the combative and hostile approach taken by David Leal Bennett whilst serving as a Director. It is notable that many of the statements presented in support of Councillor Leal-Bennett readily acknowledge his behaviour could be: intolerant, outspoken, blunt, confrontational, abrasive, impatient or brusque.</p>
Para 132	<p><i>As Chair, I am not even permitted to be quoted in NHDC's official press releases on matters affecting Hitchin. Recently, with regard to some work being undertaken in Bancroft Gardens, and having provided a quote, and also suggesting that the ward Councillor provide one, I was advised as follows:</i></p> <p><i>"I note that you asked Nikki to include a suitable quote from yourself, however as this is not an initiative funded by Hitchin Area Committee, we have included a quote from Cllr Burt as the relevant Portfolio Holder"</i></p> <p>It is not the case that the Chairman of Area Committees cannot be quoted in official press releases. The Council's Communications Protocols clearly allow this to happen where an Area Committee has for example provided a grant or where the Area Committee has made a financial contribution to a corporate project. David Leal-Bennett has been quoted in such press releases in the past.</p> <p><i>I find this comment disrespectful to Hitchin residents, but epitomises the issues that there are with Cllr Needham.</i></p> <p>This should not be interpreted as being disrespectful to Hitchin residents – the Council's Communications Manager subsequently wrote to Councillor Leal-Bennett to explain the Communications Protocol in greater detail. The</p>

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
	<p>Protocol is designed to reflect the fact that NHDC as a democratic organisation has a political leadership which is accountable for the collective actions of the party controlling the Council.</p>
Para 137	<p>Recently I requested details of the Construction costs on the Museum & Town Hall Project but Mr Robinson refused to provide the information requested, see email trail at Exhibit 27.</p> <p>It is absolutely refute that I refused to provide information indeed my email at Exhibit 27 indicates that such information was already in the public domain. Exhibit 27 shows I declined only to provide a detailed report to the Hitchin Area Committee as it was not the relevant decision making body. I am aware that Councillor Leal-Bennett has sought and has been provided with a detailed explanation of the costs of this project from the Strategic Director Finance, Policy & Governance.</p> <p>There appears to be a culture of smoke and mirrors proffered by senior officers at NHDC when difficult questions are raised. This is particularly is apparent when questions are asked about finance, budgets and project cost variance.</p> <p>I do not accept this to be correct in the context of the Town Hall Project or more generally (see comments in 137).</p> <p>With this project there has been a coordinated attack from certain elected Members and senior officers in an attempt to justify the mismanagement of the project. Such unwarranted attacks are, in my opinion, corporate bullying of a charity with limited resources, and unacceptable.</p> <p>It is not accepted that the Town Hall project has been mismanaged or that I am part of a 'coordinated attack' concerned with corporate bullying.</p> <p>In the private sector it would not be unreasonable to receive answers to some of these questions:</p> <p>Hitchin Town Hall & Museum: What is the overspend on the construction contract compared with the original budget and the signed contract?</p>
Paragraph 154	
Para 173	
Paragraph 180	

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
	<p><i>Why in delivering the contract has their not been a new roof on the Town Hall as per the Development Agreement?</i></p> <p>Answers to the questions posed 180.1 – 180.4 are readily available and all elected Members (and members of the public where these are not confidential) I are perfectly entitled to receive answers to them if posed.</p> <p>Attached to this statement are over 30 Exhibits which not only give a history and, background to many of the issues but also demonstrate a "pattern of behavior" by NHDC, its officers and certain elected members, all of which is extremely significant to this hearing.</p> <p>Documents contained within the 'Exhibits' section have sometimes been edited or present a partial representation of a fuller exchange of correspondence. In almost all circumstances evidence which provides a contrary view and contextual information is available.</p>
<p>2</p> <p>Charles Bunker</p>	<p>Para 200</p> <p>Para 5.6</p> <p><i>Sadly, the Officers of NHDC have no appreciation of the upset they cause locally, particularly with the several members of the Hitchin Historical Society or Hitchin Society I have spoken to, as a result of the disdain they have shown, and continue to show, for the Hitchin Town Hall building. This disdain not only manifested itself in the very unpopular proposal they first brought forward for its commercial use, but also in their total disregard for the proper legal processes when dealing with this important and much loved listed building. It is completely and utterly unacceptable for NHDC to retrospectively grant themselves listed building consent and planning permission when everyone else with a listed building has to spend an enormous amount of time and cost wrestling with the vagaries of the opinions of planning officers. I mention this as another example of the high-handed approach with which the Officers of NHDC attend to their tasks. Further, it highlights the hypocrisy of NHDC to the extent that it chooses to ignore hugely important issues regarding the fabric of Hitchin Town Hall, which are protected by its listing, and yet it can spend an inordinate amount of time and cost investigating an elected member for alleged complaints.</i></p> <p>It is not accepted that NHDC showed a '...total disregard for the proper legal processes..' as claimed.</p>

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
Para 5.7	<p>It is now clear that there has been a catastrophic failure in the project management of the Hitchin Town Hall and Museum Redevelopment Scheme. The reports that I have received from members of the HTH Community project (other than Cllr. Leal-Bennett) who were in the meetings with NHDC Officers, put the blame firmly on those Officers, telling me that these people did not see the project as one of a joint venture, or partnership, between the Community and the Council but one where the Officers were the masters, and in charge, with those from the Hitchin Community being merely the servants who would provide some of the money and then run the Town Hall afterwards.</p>
Para 5.8	<p>Although Mr Bunker apportioned '....blame firmly on (those) Officers....' This is not evidenced and is not true. If what I am told, in paragraph 5.7 is true (and I have no reason to believe it is not) then this comprises appalling behaviour on the part of NHDC Officers, given the experience, professionalism and generosity of those who were part of HTH community project and fund-raising team. I am sure that other people will be writing to the members of the Disciplinary Hearing Panel to make it very clear that the responsibility for the failure of the Hitchin Town Hall Community Project falls fairly and squarely with the Officers of NHDC. Accordingly, it is the Officers who have brought NHDC into disrepute in respect of this project and not Councillor Leal Bennett.</p>
Para 5.9	<p>Again, Mr Bunker, reliant on information on provided by others (unidentified) cites '....appalling behaviour...' on part of NHDC Officers and asserts that the failure of the Hitchin Town Hall community project is the fault of Officers. This is not evidenced and is not true. (See also 5.7)</p> <p>I can assure the Disciplinary Hearing that the overwhelming feeling in the Court of Hitchin Public Opinion is that Hitchin Councillors work incredibly hard to represent the interests of Hitchin, and they have, for the most part, followed the conventions of our (unwritten) constitution and been prepared to support their Officers and shoulder the blame; even when the blame lies with the Officers who have a track record of making horrendous errors and mistakes. The question, which has still to be answered, is when are the elected Members of NHDC going to hold its Officers accountable for their series of very costly blunders?</p> <p>This is not accepted that officers have a '...track record of making horrendous errors and mistakes..' (see also 5.7 and 5.8)</p>

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
<p>Para 6.5.3</p> <p>Para 6.5.8</p>	<p>I have studied David Scholes' Witness Statement for the evidence which appears to be missing from his original com plaint. The substance of this complaint is made at Clause 28. John Robinson makes similar complaints in Clauses 11 to 14 of his Witness Statement.</p> <p>Examples of this are provided within my statement (see 6.58 also)</p> <p>Given that no corroborative evidence has been provided which supports Messrs. Scholes and Robinson's contention that Cllr. Leal-Bennett has sought to advance the position of HTH Limited in an untoward or inappropriate manner, and certainly not in any meaningful way, this complaint must fail</p> <p>My statement in clause 11 – 14 provides evidence and corroboration can be provided if required.</p>
<p>8</p> <p>Stephen Pike</p> <p>Para 2</p>	<p><i>I have known Cllr Leal-Bennett for many years and have worked closely with him since 2010 when the current community project to save the Town Hall started. This project consisted of a group of committed and altruistic Hitchin residents joining forces, with no expectation whatsoever of pecuniary profit. I have also been involved with the protracted negotiations and ongoing issues with the officers of NHDC as the project progressed. I would respect fully draw to the attention of the Panel that relations with NHDC officers in general, and John Robinson (Strategic Director, Customer Services) in particular, have often been far from collegiate and, in many cases, downright confrontational. May I point out that the Town Hall Charity and NHDC should have, in the best interests of the community, worked positively together at all times. However, in my opinion, I believe Mr Robinson has been allowed, unchecked, to become overly powerful within NHDC with a fixation of control over all aspects of this project and a discernible "empire building" attitude has been allowed to develop unhindered.</i></p> <p>It is not the case that my approach has been inappropriate for the context in which the project has been managed with Hitchin Town Hall Ltd. Neither is it the case that I have '.....a fixation of control..' over the project. My actions have been subject to continual scrutiny and oversight as part of the democratic process and these have been well documented in the public and Part 2 reports to Council, Cabinet and the Overview & Scrutiny Committee.</p> <p><u>http://www.north-herts.gov.uk/home/museums/north-hertfordshire-museum-and-hitchin-town-hall/hitchin-town-hall-museum-proposals</u></p>

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 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
<p>9</p> <p>Rosemary Read</p>	<p>Para 4</p> <p><i>To this day, we have not had sight of this report but only an unsubstantiated representation to us by Mr Scholes that our complaints were not accepted. I believe that relations between the Town Hall Charity and NHDC subsequently deteriorated rapidly. It has become clear to me that, in my opinion, certain officers referred to previously within NHDC dislike any form of scrutiny of their decisions and subsequent actions. I say all of this to put into context the issues arising with reference to Cl/r Leal-Bennett. From my years of working with him and jointly attending numerous meetings with NHDC, he has tried, to the best of his ability and for the benefit of the community, to hold the officers to account. He has asked direct and searching questions of the officers in an attempt to move this important community project forward and, understandably, expects such officers to be in a position to give appropriate and fulsome answers.</i></p> <p>It is simply not true to say or imply that I dislike any form of scrutiny (see also paragraph 2) or that 'appropriate and fulsome answers' have not been provided. No examples of this are given.</p> <p>Having read the witness statements of David Scholes and John Robinson, I can see that it is their opinion that he sought to influence matters but there is no substantive evidence to support their allegations.</p> <p>This is not accepted – my witness statement in paragraphs 11-14 provide examples of this and this can be fully evidenced.</p> <p>[Redact – contains confidential information.]</p>
<p>Para 9</p> <p>Letter & Annex</p>	<p><i>Project board meetings were a travesty. In my professional experience, such meetings should be planned well in advance, the topics for discussion well publicised, and participants listened to and problems solved by discussion and 'give-and-take'. In contrast, NHDC's project board meetings were nothing like that. HTH had to fight to get reasonable notice of meetings, and were never offered any input into agendas.</i></p> <p>It is not true that Hitchin Town Hall Ltd were never allowed any input in to agendas. Whilst it may be the case that '....topics which were important to (Hitchin Town Hall Ltd)....' were not on a particular agenda, any topics that were relevant to the business in hand were included either through the Project Board, Design Team or a myriad of other ad-hoc meetings often arranged at Hitchin Town Hall Ltd's behest.</p>

PRIVATE & CONFIDENTIAL
RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
	[Redact – contains confidential information.]
12	<p data-bbox="445 479 523 636">Annex</p> <p data-bbox="445 748 523 860">Brent Smith</p> <p data-bbox="445 860 523 972">Para No 12</p> <p data-bbox="445 972 523 1904"><i>Hitchin Town Hall Ltd had the full support of the community groups and of the NHDC Councillors (there were three votes of the full council confirming their support for the community scheme, as I recall, all without a single vote against) but found working with the council's lead officer extraordinarily difficult. However the project went forward and Hitchin Town Hall Ltd built up an amazing team of volunteer professionals to take the project through to completion. Unfortunately there were a number of things which were not being done in accordance with the Development Agreement. We felt that these matters could be resolved but the thing that caused the rift with NHDC was the construction of the concrete wall across the stage. This was in breach of our agreement with NHDC and a breach of faith with our supporting community groups. It prevented us from further fundraising. NHDC were well aware of our need for this fundraising and the dates that we had to carry it out by, having required us to prepare the detailed Business Plan. Their lead officer knew exactly what it would do to our finances.</i></p>
	<p data-bbox="523 479 602 748">Para No 16</p> <p data-bbox="523 748 602 1904"><i>In an email of 3 March 2014 Mr Smith refers to his hope that the inclusion of 15 Brand Street in to the scheme would remove the need to build a wall on the stage. In that email, he '...accept(s) that you(NHDC) have no contractual obligation to do so....'. NHDC does not accept his claim that the construction of a wall or other actions represent a breach of the Development Agreement or have prevented Hitchin Town Hall Ltd from fundraising.</i></p> <p data-bbox="523 1420 602 1904"><i>I attended Project Board meetings with David Leal Bennett and can confirm that he was never rude or aggressive. It appeared to me that Mr Robinson did try to goad him into reaction but he was always able to keep himself under control. Discussion was robust, particularly when the meetings seemed to be all about process and not about the actual project, and I shared with him a profound level of frustration. There was never a correct time to discuss the issues which we, as NHDC's partners, were concerned about. When the project ran into difficulty we felt that the minutes of the meetings did not reflect what had actually taken place so David Leal-Bennett requested that they be recorded. This request was refused.</i></p> <p data-bbox="523 1756 602 1904">It is absolutely denied that I attempted to goad David Leal-Bennett and similarly deny that minutes of meetings did not reflect the actual dialogue.</p>

PRIVATE & CONFIDENTIAL
 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
15	<p><i>It does seem to me that NHDC have behaved in a strangely vindictive way with regard to David Leal-Bennett and to a degree against me. There was an occasion where I was asked to stay after a Project Board meeting and was told, with NHDC lawyer in attendance, that I was not allowed to give a report to the community groups on what was said at the Planning Meeting when the scheme incorporating 14 Brand Street was approved (this being a public meeting); I was accused of leaking information to the press (which I hadn't) and asked to sign a gagging order (which I didn't); just before Christmas NHDC invited local groups to see the building and receive an update on the project, Hitchin Society (of which I have been a committee member of for over 30 years) nominated me to represent them but I was refused access and, most bizarrely of all, my name was given to the Police as the prime suspect for the theft of the contractor's site board on the building and I suffered the indignity of being interviewed under caution (made all the more bizarre with me thinking that it was a practical joke until the police officer made it clear that they were investigating the serious crime of theft and criminal damage!).</i></p> <p>Mr Smith makes a number of allegations which are not evidenced but are too vague to refute except in general terms. Mr Smith was not reported to the Police as the 'prime suspect' as he claims:</p>
15	<p><i>The involvement by David Leal Bennett was one of financial input and a financial model that he had prepared voluntarily, at no charge, enabling the community groups to raise funds to support the project. I spent some time with him looking at his financial projections and found them to be realistic but very dependent on project timing and a good working relationship with the Council. It was at these meetings that some information was not available because of contractual confidentiality, but, frustration was apparent because the Trustees/Directors of Hitchin Town Hall Ltd were not allowed on site to see the progress of work being completed, so much so, that the facilities to make the hiring of the Mountford Hall, Lucas Room, Kitchens, changing rooms and stage areas etc. viable were not as originally explained and set out in the Development Agreement (redacted), this affected David Leal Bennett's projections particularly our ability to help with fundraising.</i></p>

PRIVATE & CONFIDENTIAL
 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
<p>Para No 13</p>	<p>It is not the case that the Trustees/Directors of Hitchin Town Hall Ltd were not allowed on site to see progress of the work being completed. The relevant clause in the Development Agreement allowing this is not redacted despite the impression given by Mr Parker's statement and evidence of such visits has been published by way of unauthorised photograph taken by an Hitchin Town Hall Ltd representative in the Comet newspaper. Records of numerous site visits undertaken by Directors of Hitchin Town Hall Ltd as required by the Development Agreement are available.</p> <p><i>The construction of a concrete wall instead of a removable stud partition across the stage also impacted on the inability of Hitchin Town Hall Ltd to use the stage for commercial purposes and help towards fundraising. This we considered might have been a direct violation by the Project Executive, Mr Robinson and Architect to scupper the community proposals. We even obtained advice from the Theatres Trust on the proposed lack of adequate facilities.</i></p>
<p>Para No 15</p>	<p>Mr Parker's assertion that there was '...a direct violation to scupper the community proposals....' is un-evidenced and absolutely denied.</p> <p><i>The contents of the letter and the concern of the Theatres Trust appears to have been ignored. This indicated that at that time the ability for the Council to work in partnership with Hitchin Town Hall Ltd representing the Community had broken down. All the work that David Leal Bennett has done as a Trustee/Director of Hitchin Town Hall must have appeared abortive to him.</i></p>
<p>Para No 16</p>	<p>This is not the case. A letter dated 25 March 2014 from the Theatre Trust, but not received until 4 June 2014 by email, was duly responded to. A copy of this letter is available if required.</p> <p>We understand that during this period the Trustees/Directors of Hitchin Town Hall, including David Leal-Bennett were not allowed on site. This became apparent at the meetings we, as representatives of the community groups, had with Hitchin Town Hall Ltd.</p> <p>This is absolutely denied (see paragraph 12)</p>

PRIVATE & CONFIDENTIAL
 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
Para No 18	[Redact – personal information]
Para No 20	<p>There were several occasions when no report was available and a verbal report was given by the Project Executive, Mr Robinson, but generally this appeared to be unprepared and given off the cuff and therefore there was nothing either the public or Councillors could ask because a written report was not available, information was scant. Members of the public that were present were grateful to Cllr David Leal Bennett for insisting that the public be kept aware and fully informed of the progress of this.</p> <p>It is not true to say that no report was available as some reports were scheduled as 'verbal reports'. Such reports were not unprepared or off the cuff but some information was not provided as it was confidential. The vast majority of reports to Hitchin Area Committee to date(21 out of 29) were written.</p> <p>It was only on our arrival that we were aware that Mr Robinson would be present. The problem here was that Brian was mainly there because he was complaining about the way in which the Project Executive, Mr Robinson, had managed the Town Hall part of the project. This resulted in a confrontation and Mr Robinson defended himself by saying that some of the issues raised were the fault of Hitchin Town Hall Ltd and we had been given misleading information.</p> <p>It is not the case that I claimed Hitchin Town Hall Ltd had given misleading information to community organisations although Mr Brain Foreman did intimate that Community Groups had been unable to input in to the design process as meetings with Hitchin Town Hall Ltd were usually briefings with no opportunity for groups to put their view forward.</p>
Para No 23	

PRIVATE & CONFIDENTIAL
 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference		Comment
	Para 30	<p>It subsequently turned out that the meeting was being held on 21st December at 6.30 pm but not all of the community groups were invited. Those that did send nominations in were apparently vetted by the Project Executive, Mr Robinson, and some were refused. Keep Hitchin Special did not get an invitation.</p> <p>As a matter of fact, invitations to the meeting were sent to those who were identified by Hitchin Initiative in their proposal for the Town Hall. Keep Hitchin Special were not listed and were therefore not invited. If we had been aware that this was an omission an invitation would have been extended to Keep Hitchin Special in the same way as it was to the Arts Council for North Hertfordshire. There was no vetting of attendees although groups were asked to nominate only two representatives to limit attendance to reasonable numbers and those groups who were directly involved with the original 'community proposal'. Hitchin Town Hall Ltd had been asked on a number of occasions to provide details of community organisations who were members of Hitchin Town Hall Ltd and although this information was promised it has never been received.</p>
17	Councillor Clare Strong	<p>NHDC officer John Robinson proposed a plan for reducing the costs of the museum service by closing the Letchworth and Hitchin museums and converting Hitchin Town Hall into a new district museum. His plan involved building a mezzanine floor in the main hall and totally changing the usage and appearance of the building. This plan was fully supported by the then portfolio holder Cllr Tricia Cowley.</p> <p>The approach was proposed by the Museums Fundamental Service Review conducted by a number of officers and elected Councillors. This review was led by the former Head of Service not myself. The Fundamental Service Review was established by the Performance, Audit & Review Committee of which Councillor Strong was Chair at the time.</p> <p>The community in Hitchin opposed the plan and a number of prominent people from Hitchin came forward to "save" the Town Hall by proposing an alternative plan which was reluctantly accepted by NHDC officers and the portfolio holder. One member of the community even had the Town Hall building listed which further frustrated the officers but this just demonstrates the feelings that the community has to the building and wishing it to remain a public hall</p>

PRIVATE & CONFIDENTIAL
 RESPONSE TO WITNESS STATEMENT PRODUCED BY DAVID LEAL-BENNETT & OTHERS

Document Reference	Comment
	<p>It is not true to say that the alternative plan '...was reluctantly accepted by NHDC Officers...' nor to state that Officers were ...'frustrated..' by the Town Hall listing. My report to Council provided a comprehensive and balanced review of the alternative options and Councillors <u>not</u> Officers approved it.</p> <p><i>It was apparent that John Robinson was unhappy when the community set up the Hitchin Town Hall organisation and he had to work with them rather than just get on with the project he had proposed without interference. I frequently heard negative comments from the community about John Robinson. However I have had to remind them that he is acting as an officer of the Council to get the project done. Personalities are not a consideration and in business you have to work with people whether you like them or not. It always helps if you do get on but inevitably if you don't there could be a clash but you have to rise above that.</i></p> <p>Para 5</p> <p>It is denied that I was unhappy in the circumstances described and note that no evidence is offered to this effect. The inference in paragraphs 3, 4 and 5 seems to be that because the original proposal was conceived by me, I became frustrated and did not want to work in collaborative way with Hitchin Town Hall Ltd – this is absolutely not the case.</p>

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SCHEDULE OF STATEMENTS AND EXHIBITS CONSIDERED CONFIDENTIAL

No	Detail	
Statements		
8	Mr Stephen Pike	Letter attached to Mr Pike's statement along with the Annex - Contains confidential information in respect of contract dispute still subject to possible legal proceedings
9	Mrs Rosemary Read	Annex appended to Mrs Read's statement - Contains confidential information in respect of contract dispute still subject to possible legal proceedings
15	Mr Christopher Parker	Para 18 – alleges a former employee was not provided with counselling following notice of redundancy. Not relevant to the complaint
Exhibits		
4	Hitchin Town Hall Background & History	Contains confidential information in respect of contract dispute still subject to possible legal proceedings
5	Email Trial concerning Mr Robinson 27 February 2013	Contains confidential information in respect of contract dispute still subject to possible legal proceedings
6	Letters Exchanged – Following email trial concerning Mr Robinson 27 February 2013	Contains confidential information in respect of contract dispute still subject to possible legal proceedings
9	Letter to NHDC 25 February 2014 – re building concrete wall across the stage	Contains confidential information in respect of contract dispute still subject to possible legal proceedings
10	Draft Minutes 28 February 2014 Meeting about concrete wall	Contains confidential information in respect of contract dispute still subject to possible legal proceedings
11	Corrected Minute s- 28 February 2014 Meeting about concrete wall	Contains confidential information in respect of contract dispute still subject to possible legal proceedings
11A	File note of David Parsley BSc, FRICS Re Minutes of 28 February 2014	Contains confidential information in respect of contract dispute still subject to possible legal proceedings
12	Letter of complaint against Mr Robinson	Contains confidential information in respect of an employee and information in respect of contract dispute still subject to possible legal proceedings
13	Supporting Evidence Evidence relating to 14 specific complaints	Contains confidential information in respect of an employee and information in respect of contract dispute still subject to possible legal proceedings
18	Attempt at Mediation Email exchange with Councillor Needham	Contains confidential information in respect of contract dispute still subject to possible legal proceedings

John Robinson
Strategic Director Customer Services
14 January 2016

14/01/2016

Page 1 of 1

FURTHER STATEMENT OF ANTHONY ROCHE, ACTING MONITORING OFFICER

1. Due to the time constraints of when Cllr Leal-Bennett's bundle was made available to me I have not had the opportunity to review the bundle in full, in particular I have not had opportunity to consider the lengthy exhibits appended to the statements.
2. I note that many of the witnesses appear to have had sight of the investigator's report and/or statements provided by complainants/witnesses. I have not been provided with sight of any of these documents and am only aware of the content of my own statement. Therefore I am concentrating this further statement on matters that relate to my involvement only, in particular I am not commenting on the lengthy matters raised in respect of the Hitchin Town Hall project and will leave that to others to respond to.
3. As explained in my original statement I took a sabbatical from 3 August 2013 to 3 August 2014 inclusive. I am therefore unable to comment first hand on events during that period.
4. I object, in the strongest terms, to suggestions within the statements in Cllr Leal-Bennett's bundle that my approach has been motivated by anything other than my professional and statutory duty towards the Council. In particular I pride myself on my personal integrity and acting with integrity is one of the key ethical requirements on Solicitors in our professional Code of Conduct. Examples of such suggestions are in Cllr Leal-Bennett's statement at paras 14, 15, 71, 79, 87, 89, 90, 93, 95, 148, 153, 154, 173, 186, 196.2, 197; Charles Bunker at paras 6.3.7, 6.4.6, 6.7.4, 6.7.14, 7.9, 8.3.1, 8.3.3, 8.4, 9.4, 9.5; John Simmonds para 7; Cllr Strong para 10, 14; Cllr Harris second para. I refute such allegations in the strongest terms and am considering what steps to take in respect of these accusations if they are not withdrawn.
5. With regard to the arguments put forward in respect of Disclosable Pecuniary Interests (DPI) by various individuals I would make the following points:-
 - I note that there is no commentary on whether or not the circumstances could amount to a DPI under the "Contracts" heading in the Regulations.
 - I note that there is no commentary on whether, even if Cllr Leal-Bennett's position on DPI were correct, his directorship would have amounted to another form of interest under the Council's Code of Conduct at the relevant times and what affect that would have had on participation in meetings.
 - I note that there is no commentary on the legal duties of Cllr Leal-Bennett as a Director of Hitchin Town Hall Limited under the Companies Act 2006, including those which continue after a person ceases to be a director, and the extent to which those conflict with his duties as a Councillor.
 - I note that there is no commentary on the fact that Cllr Leal-Bennett, whilst a Director of HTHL and before he sought to remove HTHL from his register of interests (and therefore was still choosing to declare that it was a DPI), remained in the meeting of the Hitchin Area Committee on 4 June 2013 and 16 July 2013.
 - I note that there is no commentary on the fact that whilst still a Director of HTHL, at Hitchin Committee meetings on 10 September 2013 and 12 November 2013 declared an interest (although not a DPI) and stayed in the meeting for the debate.

- I note that there is no commentary on the fact that whilst still a Director of HTHL, after becoming Chair of Hitchin Committee, on 10 June 2014, 22 July 2014, 2 September 2014 declared an interest (although not a DPI) and left the meeting for the debate.
- I note that there is no commentary on this inconsistent approach to declaring interests.
- I note that there is no commentary on the issues of predetermination and/or bias, or the perception of predetermination/bias as regards Cllr Leal-Bennett's involvement with HTHL and the extent to which those conflict with his duties as a Councillor.
- I note that there is no commentary on the Monitoring Officer's duty to protect the Council, including the statutory duties in respect of maladministration.
- Specifically I note that the views of the CCA, Charles Bunker, Eric Pickles MP and Peter Lilley MP do not cover the above points.

6. I note that Cllr Leal-Bennett (and others) make reference to the predetermination advice in relation to the Churchgate project in January 2013. The full, and correct, sequence of events is set out in paragraph 10 of my original statement. I wish to make the following points:-

- Cllr Leal-Bennett again seeks to discredit me (and solely me) in relation to these events. As stated in my original statement the advice was drafted by the then Deputy Monitoring Officer and checked and approved by the three statutory officers (of which I was one). Prior to my original statement, in order to protect colleagues, I had never publicly commented on who was involved in the production of the initial advice.
- Cllr Leal-Bennett seeks to gloss over that the initial advice of 11 January 2013 was superseded by further advice issued by me on 14 January 2013, prior to the Parliamentary debate on 16 January 2013. This further advice confirmed that Councillors could attend the meeting.
- I note that there is no commentary on the fact that the Standards Committee subsequently debated the advice at its meeting on 26 February 2013 and passed a resolution stating "That, having discussed the issue of pre-determination, with particular reference to the recent situation regarding Churchgate, the advice given by the Acting Monitoring Officer to Members at that time in respect of the Churchgate matter be fully supported".
- I note there is no acknowledgement that advice has to be considered against the factual circumstances at the time it was issued.
- I note that there is no commentary on the fact that the reason the initial advice was necessarily cautious was due to the (then) contractual partner being very annoyed by having seen Cllr Leal-Bennett meeting with the owner of the existing shopping centre and the contractual partner potentially looking for reasons to challenge any Council decision to exit the contractual relationship.
- I note that there is no commentary on the fact that on 1 March 2013 the Leader of the Council, the Chief Executive, the s.151 officer and me met with Peter Lilley MP to brief him on events in Hitchin, including the reasons for the Churchgate predetermination advice. Having received the full explanation for the initial and subsequent advice Peter Lilley did not challenge that advice in any way.
- This is at least the fourth occasion that Cllr Leal-Bennett has used an incomplete version of events to seek to discredit me on this issue – other occasions being the Local Plan Workshop on 15 October 2014, on Twitter on 13 February 2015 and Full Council on 3 September 2015 during a debate on the Planning Code of Good Practice. Each time (except the Twitter example) I have responded to correct the record, yet Cllr Leal-Bennett continues to present an incomplete version of events despite this.

7. The referral to the police relating to DPI was made whilst I was on sabbatical. After my return to work the police asked me not to correspond with Cllr Leal-Bennett regarding interests whilst the investigation was ongoing.
8. The complaint that was made to the police by David Scholes and myself, following the conclusion of the police investigation, related to the process they had followed. That complaint was upheld, an apology was received and processes put in place by the police to better manage any future referrals against Councillors.
9. Other points I wish to make in relation to specific issues raised:-
 - Cllr Leal-Bennett para 99 – the Member Code of Conduct is adopted by Full Council after initial consideration by the Standards Committee. The content of both the July 2012 and July 2013 Codes of Conduct were debated, amended and agreed by Members.
 - Cllr Leal-Bennett para 102.1 – the interests to be registered were set out in the Codes of Conduct adopted by Full Council. Other Councils have the same approach to the Register of Interests form as NHDC, including East Herts District Council and Herts County Council. This was explained in full to Cllr Leal-Bennett, at his request, by email dated 5 June 2015.
 - Cllr Leal-Bennett para 142 – amendments to the Constitution are approved by Full Council and are typically considered beforehand by a Member Workshop. Cllr Leal-Bennett attended the last such workshop on 23 June 2015 prior to Full Council adopting the proposed changes on 16 July 2015.
 - Cllr Leal-Bennett para 144 – there was no attempt to stop a resolution being made that I am aware of. Given various Councillors' concerns regarding pre-determination and that Simons were supplying additional information right up to the time of the Full Council meeting, I was asked to advise on a potential resolution of Hitchin Committee. It was due to my advice that the words "on the basis of the information before it" appear in the resolution. Additionally prior to the subsequent Full Council meeting on 31 January 2013 I was asked by Cllr Strong to advise on the proposed wording of the Amendment that was tabled that night. The Amendment, and subsequent resolution, incorporated my suggestions in order to make the most robust decision possible. This is an example of me acting to protect the Council's position whilst assisting councillors, which in this case was clearly supported by Cllr Leal-Bennett as he seconded the Amendment when it was tabled.
 - Cllr Leal-Bennett para 189 – authority to incur the expenditure on the standards investigation was given by Norma Atlay, who has not (to the best of my knowledge) provided a statement to the investigator. The decision to incur the expenditure was therefore independently made. I would also point out that the Council has a statutory duty to provide resources to support the Monitoring Officer.
 - Charles Bunker para 4.1 – this shows a complete misunderstanding of the Standards regime in Local Government and the role of the Sub-Committee.
 - Charles Bunker para 6.6.6 – I note there is no explanation as to which ground under the relevant legislation is considered to apply.
 - Charles Bunker para 7.12 – there is a factual inaccuracy. The Council were notified on 31 October 2014 that the first police investigation was concluded. The complaint as to the way the matter

was investigated was made at the beginning of December 2014, which clearly does not amount to 11 months as stated by Mr Bunker.

- Steven Pike para 8 – there is a factual inaccuracy. The meaning of Declarable Interest is set out in the Member Code of Conduct in the Council's Constitution, "disclosable interest" and the Localism Act 2011 was not the relevant point at this time.
- Brent Smith penultimate para, page 2 of statement – Mr Smith refers to a resignation due to a possible conflict of interest after being elected. To be clear, Cllr Leal-Bennett was elected in May 2012 and resigned from HTHL in November 2014 (as set out in Cllr Leal-Bennett's own statement).
- Chris Parker para 26 – I am not clear what is being referred to here as I did not raise any such issue in my original statement.
- Mrs Clarke para 2 – for clarity the Parliamentary debate (as it related to NHDC) concerned the issue of predetermination and not the question of interests.
- Cllr Strong para 11 – this interpretation of when the Code of Conduct applies seems to miss, at the very least, para 2.2(d) of the 2013 Code of Conduct and probably (b) and (c) as well.
- Cllr Strong para 13 – whilst some of what is referred to appears to be events whilst I was on sabbatical (and therefore may not refer to me) I wish to categorically state that I do not apply the Code differently to different Councillors, rather applying the Code of Conduct to the facts presented.
- Cllr McNally para 7 – there is a factual inaccuracy. At the meeting in question the advice related to a Declarable Interest under the Member Code of Conduct, not a DPI as stated by Cllr McNally. I note in para 8 that Cllr McNally appears to agree with my advice (as he states he thought it may have been a Declarable Interest).
- Cllr Harris various paras – internal Conservative Party issues are a matter for the Party's rules, not the Code of Conduct.
- Conservative Councillor's Association email trail – there are factual errors within Cllr Leal-Bennett's emails to the CCA.

15/1/15