
R e p o r t o f I n v e s t i g a t i o n

F i n a l

**Report of an investigation by Tim Darsley,
appointed by the Monitoring Officer of
Teignbridge District Council,
into the conduct of Councillor Richard Daws
of Teignbridge District Council**

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1. Introduction

- 1.1 Teignbridge is a District in south Devon, situated between Exeter and Torbay. Serving a population of around 132,000, the District Council comprises 47 councillors. Its offices are located in Newton Abbott.
- 1.2 The Teignbridge Local Plan was adopted in May 2014. It allocated a site for mixed development at Wolborough, to the south of Newton Abbot. In late 2018, a campaign group called Newton Says No (NSN) formed to oppose the development of the Wolborough site.
- 1.3 On 2 May 2019, three members of Newton Says No were elected as District councillors. They serve as a political group called Newton Says No. They have continued to oppose the development of the Wolborough site, through the NSN campaign group and as councillors.
- 1.4 Councillor Liam Mullone and Councillor Richard Daws are respectively the Leader and Deputy Leader of the NSN political group. Some of their activities in opposing development at Wolborough have led to a number of officers and members raising concerns about their conduct with the Council's Monitoring Officer.
- 1.5 The Monitoring Officer wrote to both Councillors on 1 November 2019, as follows:

The concerns of the Monitoring Officer

Dear Liam and Richard,

Unfortunately significant concerns have been raised with me by officers and / or members about your conduct towards them particularly in recent weeks. The conduct appears on the face of it to establish a case for investigation into whether the standards of conduct required of councillors, as set out in the Members' Code of Conduct, have been breached. I list the relevant provisions of the Code below:

- Para 4.1 – requirement to behave in such a way that a reasonable person would regard as respectful
- Para 4.2 – requirement not to act in a way which a reasonable person would regard as bullying or intimidatory
- Para 4.7 – requirement not to bring the office of councillor or the Council into disrepute

The incidents which have been raised with me include:

1. Cllr Daws' behaviour in connection with his desire for members of the public to attend a Members' briefing on Climate Change on 24 September 2019
2. Comments directed to officers at / in response to the above, a subsequent, Wolborough DPD workshop meeting held on 3 October 2019 and more generally their advice on NA3 development / appeal issues, including comments which were made on social media by Cllr Mullone
3. Comments directed to Cllr Mr and Mrs Cllr Hook in response to their support of officers and / or more generally

- 1.6 The Monitoring Officer suggested a meeting with the councillors to discuss the concerns and how it might be possible to resolve them. Both Councillors declined participate in such a meeting.
- 1.7 Having consulted with the Chair of the Standards Committee, the Monitoring Officer decided to proceed with an investigation into the conduct of Councillor Daws and Councillor Mallone in relation to the Council's Code of Conduct.
- 1.8 I was appointed to conduct the investigation on 8 November 2019.

2. The official details of Councillor Daws

- 2.1 Councillor Daws was elected to Teignbridge District Council on 2 May 2017.
- 2.2 He attended induction training for new councillors and the Code of Conduct and the Member/Officer Protocol were covered in this.
- 2.3 Councillor Daws is the Deputy Leader of the Newton Says No Group. He is a member of the Overview and Scrutiny Committee and a reserve member for the Planning Committee.

3. The relevant legislation and protocols

The Localism Act 2011

- 3.1 Section 27(1) of the Localism Act 2011 places a relevant authority under a statutory duty to 'promote and maintain high standards of conduct by members and co-opted members of the authority'.
- 3.2 Under section 27(2) of the Act, a relevant authority 'must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity'.
- 3.3 Teignbridge District Council is a relevant authority. Its Code of Conduct is included in the Council's Constitution, last updated in May 2018.
- 3.4 This investigation is carried out in relation to the District Council's Code of Conduct and under its arrangements for dealing with complaints against councillors.

The Code of Conduct

- 3.5 The following paragraphs of the District Council's Code of Conduct are relevant:

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| <ul style="list-style-type: none">4.1 To behave in such a way that a reasonable person would regard as respectful.4.2 Not act in a way which a reasonable person would regard as bullying or intimidatory4.7 Not to bring the office of councillor or the Council into disrepute |
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The Protocol on Member Officer Relations

- 3.6 The Council's Constitution includes a Protocol to guide members and officers in their relations with one another.
- 3.7 Compliance with the Protocol is not a specific requirement under the Code of Conduct. Nevertheless, it is a requirement of the Council, set out in its Constitution, that officers and members should treat each other with courtesy at all times.
- 3.8 The relevant sections of the Protocol are:

2. THE ROLES OF MEMBERS AND OFFICERS

2.1 Officers should respect the code of conduct of the authority's members and treat them with courtesy at all times. The principle also applies to members in their relationships with officers.

2.2 A relevant extract from the "National Code of Local Government Conduct" for members is reproduced below:

23. Both Councillors and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees and sub-committees.

24. Mutual respect between Councillors and Officers is essential to good local government. Close personal relationships between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

4. The evidence gathered

Documentary and on-line evidence

4.1 I have taken account of the following information:

- The Newton Says No website.
- Emails written by Councillor Daws dated 18 June and 21 October 2019.
- A post made by Councillor Daws on his Facebook page, dated 24 September 2019.

Oral evidence

4.2 I have taken account of oral evidence through interviews with;

- Phil Shears, Managing Director,
- Michelle Luscombe, Principal Planning Officer,
- Rosalyn Eastman, Business Manager (Development Control),
- Councillor Gordon Hook, Leader of the Council,
- Councillor Jackie Hook, Portfolio Holder,
- Councillor Liam Mullone, and
- Councillor Richard Daws.

4.3 My interviews were recorded. The written records of the interviews were sent to the interviewees for the confirmation of their accuracy. The dates of sending the record and of the confirmation of its accuracy are shown at the end of the records.

4.4 The accounts of witnesses are shown at documents 8 to 13.

5. Findings of fact

- 5.1 The District Council has a duty to promote and maintain high standards of conduct from all its members. It sets out the standards that are expected in its Code of Conduct and members agree to abide by the Code at the start of their term of office. The Council's Constitution provides a specific Protocol to guide members and officers in their relations with one another.
- 5.2 This investigation has been initiated by the Monitoring Officer in response to concerns expressed by a number of members and officers about the conduct of Councillor Daws and Councillor Mullone from the time they were elected to the Council.
- 5.3 The Monitoring Officer categorised the concerns raised with her into three general areas. These were;
- Councillor Daws' behaviour in connection with a members' briefing on climate change on 24 September 2019,
 - Comments directed at officers relating to the climate change briefing, a Wolborough Workshop held on 3 October and the development of the Wolborough site, including comments on social media by Councillor Mullone, and
 - Comments directed at Councillor G Hook and Councillor J Hook.
- 5.4 Within this framework, I have sought to identify the specific instances of conduct which were of concern to the relevant officers and members, which councillor was responsible for that conduct and what exactly it entailed.
- 5.5 I have also considered whether the councillor concerned was acting in their role as a councillor or in their private life. If they were not acting in their role as a councillor, the Code of Conduct is not applicable.
- 5.6 There is some overlap of the conduct of Councillor Daws and Councillor Mullone in certain of the instances. I have noted this below as context but have considered the conduct of the two councillors individually. I have reported separately on the conduct of Councillor Mullone.
- 5.7 Whilst many of the instances are a matter of record, there are some issues for factual determination. Firstly, I summarise the undisputed facts below.

Undisputed facts

- 5.8 The Teignbridge Local Plan was adopted in 2014. It allocates a number of strategic development sites, including one of 120 acres at Wolborough, on the southern outskirts of Newton Abbot. The Local Plan has been subject to Public Examination and forms part of the statutory Development Plan for the District.
- 5.9 The Local Plan is currently being reviewed in order to take its provisions forward to 2040. In parallel with the review, a Development Plan Document (DPD) is being prepared for the Wolborough site to provide further guidance for the development there.
- 5.10 The Council's work on the Wolborough DPD has been accompanied by public opposition to the principle of development at the site. In particular, a campaign group called Newton Says No (NSN) has formed to oppose development at Wolborough. Richard Daws and Liam Mullone were founder members of Newton Says No.
- 5.11 In November 2018, NSN established a website to publicise and promote its activities. Its content included a 'Rogues Gallery' which featured the Council's Managing Director, Phil Shears, Business Manager, [REDACTED], [REDACTED], a number of Council members, and others connected to the Wolborough site.
- 5.12 In May 2019, four members of NSN stood for election to the District Council. Richard Daws, Liam Mullone and Janet Bradford were elected. The three councillors serve as a political group called Newton Says No. Councillor Mullone is the Leader of the group and Councillor Daws is the Deputy Leader.
- 5.13 Shortly after the election, NSN amended its website. It placed a notice on its home page stating; *Newton Says No now exists as a political entity as well as a pressure group. It said that; as an act of good faith in the new executive, we've suspended functionality on this website for the time being.* It also restated the objective of the group (document 1).
- 5.14 The NSN website and all of its content has remained live since the election. The tabs relating to the various categories of content have been blacked out so they are not visible. They are still functional, however, and can be found and accessed from the website's home page. Moreover, a Google search for *Newton Says No* lists categories of content, including the Rogues Gallery, and provides direct links to them.
- 5.15 The Rogues Gallery entry for Phil Shears includes reference to and a picture of his daughter and makes a joke about the two of them. It also refers to his role as Returning Officer for the May election, saying he was; *ultimately responsible for the boundary fiasco* (document 2).

- 5.16 The entry for [REDACTED] comments on his role at the Council and criticises him personally (document 3).
- 5.17 On 18 June 2019, Councillor Daws emailed the Managing Director on the subject of the housing numbers used in the preparation of the Local plan. He had been questioning how these had been prepared and had received an explanation from the Managing Director. In the email, he rejected the explanation and stated that; *The actions taken to defend (the housing numbers) and implement them without addressing reasoned concerns are (in) our view tantamount to "Misfeasance in Public office"* (document 4).
- 5.18 The Council had arranged a briefing for members on climate change on 24 September 2019. The briefing was not a formal Council meeting and would take place in the hour before a meeting of Council at 10am. The date and arrangements for the briefing had been notified to members about six weeks in advance.
- 5.19 In the days before the briefing, Councillor Daws wrote to ask why the briefing wasn't open to the public. He was advised that the briefing hadn't been arranged or advertised as such. He was also advised that, as an informal meeting, it was not subject to the public access provisions of the Local Government Act 1972.
- 5.20 At some time before 9am on the day of the briefing, Councillor Daws came into the secure area of the Council Offices. He brought in with him his [REDACTED] and [REDACTED], a member of the public and a participant in the NSN campaign group.
- 5.21 At about 8.55am, Councillor Daws came to the Managing Director's office. The Managing Director was at the time meeting with Councillor Connett but let Councillor Daws in to his office. Councillor Daws pressed his view that the briefing should be open to the public. There was argument on this point and Councillor Daws told the Managing Director he was; *on thin ice trying to run the Council and limit democratic processes.*
- 5.22 There was no agreement on the matter and Councillor Daws left to attend the briefing.
- 5.23 Later on 24 September, Councillor Daws posted about the Climate Change Briefing on his Facebook page. In criticising the Local Plan, he said that the new Lib Dem regime was not the problem. It was that; *the Management of TDC was out of control.* He said that the Managing Director had refused to allow public attendance three times, with no good reason and in clear contravention of the Local Government Act (document 5).

- 5.24 Councillor Mullone also posted about the Briefing on his Facebook page on 24 September. He commented that Councillor Daws; *had marched in on the Managing Director to call him a disgrace* (document 6).
- 5.25 As part of its work on the Wolborough DPD, the Council held a Wolborough Options Workshop on 3 October. The event was for the benefit of interested parties, namely the Wolborough Residents' Association, Abbotskerswell Parish Council and local members. Both Councillor Daws and Councillor Mullone attended. There were fundamental differences over the basis for the Workshop and it was agreed to reconvene the meeting at a future date.
- 5.26 The next day, Councillor Mullone posted a review of the Workshop on his Facebook page. He likened the process of preparing the Wolborough DPD as 'beating up your gran'. He named 'Michelle' as leading the process and associated the metaphor with her throughout the post.
- 5.27 The Council established a Local Plan Working Group to take forward the Review of the Local Plan and its first meeting was held in late October. Councillor Daws was unable to attend the meeting and wrote to Michelle Luscombe on 21 October, with copies to the members of the Working Group, setting out the points he wished to make.
- 5.28 Councillor Daws raised issues about the timetable and progress being made on the Local Plan Review and the Greater Exeter Strategic Plan. He said that both were running behind schedule. He commented that this was because; *the job (Local Plan) was not done properly in the first place* (document 7).

Disputed facts

The NSN website

- 5.29 The NSN website was set up in late 2018, around the time that the campaign group was formed. Councillor Mullone told me he had set up the website. He said that he and a number of other members of the group had written the content.
- 5.30 Any contributions that Councillor Daws may have made to establishing the website would have been before he was elected. They were not carried out in his role as a councillor and were therefore not subject to the Code of Conduct.
- 5.31 Following the election of the three NSN members to the Council, some changes were made to the website. A notice was placed on the home page saying that NSN now existed as a political entity as well as a pressure group. The notice restated the objective of the group.

- 5.32 Councillor Mullone told me that he had attempted to suspend the functionality of the website by masking the menu bar. This was only superficially effective however, and the contents of the website remained accessible. Councillor Mullone had also written and posted the notice.
- 5.33 A further change seems to have been made to the Rogues Gallery section on Phil Shears, after the election. Wording was added to say that he was; *ultimately responsible for the boundary fiasco of the May 2 election.*
- 5.34 Councillor Daws told me he didn't know who made that change; he thought it was made on the day of the election. Councillor Mullone agreed that the reference was probably written after the election. He said he didn't know who had made the change and he couldn't remember if he had done it. He thought it would have been done on the day of the election or just after.
- 5.35 It is possible that Councillor Mullone added the boundary reference but I am not able to conclude on this point. In any event, I accept the accounts of Councillor Mullone and Councillor Daws that this was done on the election day or immediately afterwards. This would have been before the newly elected councillors took up their office, on 7 May.
- 5.36 Regarding the NSN website, I find that:
- Any actions of Councillor Daws in establishing the NSN website took place before he was elected. They are therefore not subject to the Code of Conduct.
 - Councillor Daws was not responsible for the changes to the website made after the 2 May election.

Email to Phil Shears of 18 June

- 5.37 Following his election, Councillor Daws formally questioned the work to define housing need which was used in the preparation of the 2014 Local Plan. Population forecasts and housing numbers had previously been contested by the Abbotskerswell Parish Council and the Wolborough Residents Association. He was referred to the published documentation of the Local Plan, including the Strategic Housing Market Assessment, published in 2007 and updated in 2010 and 2012.
- 5.38 On 7 June, Councillor Daws wrote to provide further detail on his query and focussed on the relationship between Office of National Statistics population predictions and the housing numbers used in the local Plan.

- 5.39 Phil Shears replied to Councillor Daws on 11 June, responding in detail on methodology, ONS projections and housing numbers. He provided links to the relevant technical documents behind these matters.
- 5.40 Councillor Daws' email of 18 June continued to question and challenge these matters. He stated that the explanation of the dates relating to the population projections was incorrect. He claimed that the explanation of housing numbers did not hold water and would be ridiculed by independent statisticians. He claimed that defending the housing numbers and implementing them without addressing reasoned concerns was *tantamount to misfeasance in public office*.
- 5.41 Regarding the context of Councillor Daws' email of 18 June, I find that:
- Councillor Daws was contesting the results of technical assessments carried out as part of the preparation of the 2014 Local Plan.
 - Such matters were scrutinised and challenged through public participation in the process of preparing the Local Plan.
 - The Local Plan was subject to an Examination in Public by an independent planning inspector. This considered the housing numbers contained in the plan and found them to be reasonable.
 - The Local Plan was found to be sound and now provides the statutory basis for development within Teignbridge District.
 - Councillor Daws had been directed to the relevant technical documents and provided with a full explanation of the use of the housing numbers.

Members' Briefing on Climate Change, 24 September 2019

- 5.42 Phil Shears told me that he and the Leader had attended a presentation on climate change by the South West Energy Efficiency Group. They had thought that it would be valuable for all councillors to hear it. A briefing for members had been arranged, with a lead-in time of about six weeks. It would be held in the hour before the Council meeting to be held at 10am on 24 September. All members had been notified of the arrangements for the event.

- 5.43 About a week before the briefing, Councillor Daws wrote in to request that the briefing should be open to the public. The long standing arrangement as a members' briefing was explained and the Deputy Monitoring Officer confirmed to him that the briefing was an informal meeting and therefore not subject to the public access provisions of the Local Government Act 1972.
- 5.44 Councillor Daws contacted the Leader over the weekend who expressed his support for the meeting being public. With it being only one working day away, however, the arrangements for the briefing were not changed.
- 5.45 Regarding the arrangements for the climate change briefing, I find that;
- The briefing had been arranged as a private meeting for members, timed for their convenience in the hour before a Council meeting. The arrangements had been notified to all members some six weeks in advance.
 - About a week before the briefing, Councillor Daws requested that the meeting be open to the public. He was given legal advice that, as an informal meeting, the briefing was not subject to the public access provisions of the Local Government Act 1972.
 - Whilst the briefing could have been arranged at the outset as a public meeting, the arrangements for it would have been very different. With the issue being raised only days before the meeting, it was felt impractical to change the arrangements at short notice.
 - The briefing as held was not legally required to be open to the public.
- 5.46 Councillor Daws told me that, when he arrived for the briefing, he was not clear whether it was going to be open to the public. He had met [REDACTED] [REDACTED] at the front door of the Council Offices. The door to the reception area was locked so they went in through the Riverside entrance. Councillor Daws confirmed that he had brought the other two people through the secure door there with his pass.
- 5.47 He reached the public gallery to the Council Chamber and found it was locked. He asked the other two to wait there while he went to find out if they could attend the briefing.
- 5.48 When he returned, he informed them that the meeting was not open to the public. [REDACTED] wanted to go and speak to the Managing Director about this. Councillor Daws told her where his office was and she left in that direction.

- 5.49 Phil Shears told me that he had seen a woman he didn't recognise marching down to his office. She had been intercepted by his PA and the Communications Manager. She had argued with the staff.
- 5.50 In the period prior to the briefing, I find that;
- Councillor Daws allowed two members of the public to enter the Council offices through a security door by using his pass.
 - He later directed [REDACTED] to the Managing Director's office. She passed through a further security door, where she argued with staff who intercepted her.
- 5.51 Councillor Daws told me that, when he arrived at the Managing Director's office, he saw that he was with Councillor Alan Connett. He had knocked and was waved in. Phil Shears told me that he had seen Councillor Daws march in and stand by his door. He felt he had to see him and invited him in.
- 5.52 Councillor Connett told me he had been meeting with the Managing Director about a number of issues related to his ward and his portfolio. The office door had been closed. When he walked into the room, Councillor Daws hadn't acknowledged him or apologised for interrupting his meeting. He had immediately launched into his argument.
- 5.53 Councillor Daws asked if the briefing was open to the public and Phil Shears told him that it wasn't. Councillor Daws argued that it should be and claimed that preventing this was in breach of the 1972 Local Government Act. Phil Shears suggested that he spoke to the Deputy Monitoring Officer about this.
- 5.54 Phil Shears told me that, towards the end of the exchange, Councillor Daws had said he had no right to stop public access. He had said he was; *on thin ice trying to run the Council and limit democratic processes*. Councillor Daws told me that he had said; *be careful Phil, because I think you are skating on thin ice*. Councillor Connett told me he recalled Councillor Daws using the words; *thin ice*.
- 5.55 Phil Shears had made a note of the exchange at the time and I accept his report of the words used by Councillor Daws.
- 5.56 Phil Shears felt that this reference was not just about the briefing meeting but also about his job and his involvement in running the Council. Councillor Daws told me that he was referring to breaking the 1972 Act. He meant Phil Shears should be running a transparent Council and all things that weren't specifically excluded should be open to the public. The comment was about the Climate Change Briefing – they hadn't been talking about anything else.

- 5.57 Councillor Connett told me it wasn't clear what Councillor Daws had meant. He thought the comment related to the issue of the legality of the arrangements for the briefing. However, it could be seen as a threat against Phil Shears in his job and he may have taken it that way.
- 5.58 Councillor Daws had said that Phil Shears *was on thin ice trying to run the Council and limit democratic processes*. The words he used indicated that he was referring to more than just the Briefing. It was about how the Managing Director was *trying to run the Council*.
- 5.59 I consider that Councillor Daws was suggesting to Phil Shears that if he carried on running the Council as he did, his job would be under threat. This sentiment would be consistent with his post later in the day that *the Management of TDC was out of control*.
- 5.60 Phil Shears spoke of Councillor Daws as arguing. Councillor Connett described Councillor Daws' manner as rude and aggressive. He said it was more than assertive; it was disrespectful.
- 5.61 Councillor Daws said he had no recollection of his manner in the conversation. He didn't think it had been rude and aggressive.
- 5.62 Regarding his visit to the Managing Director, I find that;
- Councillor Daws arrived at the Managing Director's Office without notice, effectively requiring that he be seen.
 - He interrupted a meeting with Councillor Connett without acknowledgement or apology.
 - He argued that the Climate Change briefing was subject to the public access provisions of the Local Government Act 1972, despite having received legal advice that it was not.
 - He warned the Managing Director that he was *on thin ice trying to run the Council and limit democratic processes*.
 - By using these words, he was suggesting to the Managing Director that his job was under threat.
 - His manner was rude and aggressive.

Facebook post of 24 September

- 5.63 Councillor Daws confirmed to me that he had posted about the Climate Change Briefing on his Facebook page on 24 September.

5.64 The heading of the Facebook page is *Richard Daws Teignbridge District Council Ambrook Ward*. It is clearly referring to his position as a councillor. Councillor Daws told me that he had set up this page to deal with his Council activities. What he said there was in his role as a councillor.

5.65 I find therefore that:

- Councillor Daws made his Facebook post of 24 September in his official capacity.

Chronology of relevant events – Councillor Daws

Date	Event
2019	
May	District Council elections. Cllrs Daws, Mullone and Bradford elected representing Newton Says No.
Early May	NSN website updated. Notice placed on home page. Tabs screened but content remains accessible. Rogues Gallery sections on Phil Shears and [REDACTED].
18 June	Cllr Daws email to Phil Shears and [REDACTED] re: housing numbers. Suggests misfeasance in public office.
24 September	Members' briefing on Climate Change. Member only event. Prior to briefing, Cllr Daws comes to MD's office. Says MD is on thin ice. Allows members of public into secure offices.
24 September	Cllr Daws post on briefing. Says the Management of TDC is out of control.
3 October	Wolborough Options Workshop. For interested parties, including NSN. Fundamental disagreement on basis. Workshop to be reconvened.
4 October	Cllr Mullone post reviewing workshop. Likens process to beating up your gran. Mentions Michelle (Luscombe). Post attracts comments from others.
21 October	Cllr Daws email to Michelle Luscombe, copied to Local Plan Working Group. Says Local Plan was not done properly in the first place.

6. Reasoning as to whether there has been a failure to comply with the Code of Conduct

- 6.1 On the basis of the findings of fact above, it is now possible to assess Councillor Daws' conduct in relation to the requirements of the Council's Code of Conduct.
- 6.2 The relevant sections of the Code are those concerning respect for others, bullying and intimidation, and disrepute. The test for all three sections is how a reasonable person in possession of the facts would regard the conduct in question.
- 6.3 The Council's Protocol on Member/Officer Relations provides additional guidance on the particular issue of how members and officers should interact. It emphasises the importance of very high standards of conduct to the integrity of local government. It requires that both groups should treat each other with courtesy at all times.
- 6.4 The Protocol makes it clear that officers are responsible to the Council. Their job is to give advice to councillors and the Council, and to carry out the Council's work under the direction and control of the Council.

The Newton Says No website

- 6.5 I found that any actions of Councillor Daws in establishing the NSN website or writing its content took place before he was elected. He was therefore acting in his private capacity and the Code of Conduct was not applicable to him then.
- 6.6 I also found that Councillor Daws was not responsible for the changes to the website made after the 2 May election.
- 6.7 Regarding the NSN website, therefore, I do not consider that Councillor Daws failed to follow the Code of Conduct.

Email to Phil Shears of 18 June

- 6.8 Councillor Daws had been challenging the housing numbers used in preparing the 2014 Local Plan. He had received a detailed response from Phil Shears on the methodology used, ONS projections and housing numbers.

- 6.9 In his email of 18 June, Councillor Daws continued to question and challenge these matters. He claimed that defending the housing numbers and implementing them without addressing reasoned concerns was *tantamount to misfeasance in public office*.
- 6.10 Phil Shears told me that there had been a series of allegations that he had cooked up the housing numbers with the planners. He felt the email exchange with Councillor Daws showed that he failed to understand the model used to produce the figures.
- 6.11 Councillor Daws told me that, as an elected councillor, he had tried to get an answer to this long standing question. He acknowledged that Phil Shears had given him an explanation and said he was currently digesting this.
- 6.12 Misfeasance in public office is a potential course of action in the civil court against the holder of a public office. To be successful, an action would normally need to demonstrate that the office holder had acted illegally or misused their power, had known they were doing so and had known that others would suffer as a result.
- 6.13 To suggest publicly that a holder of public office is responsible for misfeasance is a serious accusation. It not only implies that the office holder acted illegally but that they did so knowingly and wilfully. It would be expected that such an accusation that would not be made lightly.
- 6.14 There appears to be very little justification for the accusation of misfeasance. Phil Shears was not personally responsible for preparing the housing figures. Planning officers from Teignbridge, other Devon Councils and ORS consultants undertook this task.
- 6.15 The methodology and proposed figures were scrutinised and challenged at the time through the Local Plan process. They were examined again in the public inquiry and found to be reasonable. Overall, the Local Plan was found to be sound.
- 6.16 I consider that Councillor Daws' accusation of misfeasance against Phil Shears was misplaced and unjustified. It criticised his integrity and was damaging to his standing. I find therefore that:
- By making his public accusation of misfeasance in public office, Councillor Daws was disrespectful to Phil Shears. He therefore failed to follow paragraph 4.1 of the Code of Conduct.

Members' Briefing on Climate Change, 24 September 2019

- 6.17 The Climate Change Briefing had been arranged as a private event for members. About a week before the briefing, Councillor Daws had requested that the meeting be open to the public. It had been judged impractical to change the arrangements just a week before the event and the request had been declined. A legal officer had confirmed that, as an informal meeting, the briefing was not subject to the public access provisions of the Local Government Act 1972.
- 6.18 Councillor Daws told me that he did not have clarity on the question of public access. I find this difficult to accept. He had been consistently told that it would be impractical to change the arrangements for the briefing at short notice. Although he had received support for his request from the Leader over the weekend, there had been no announcement or notification of any change.
- 6.19 On the morning the briefing, Councillor Daws arrived at the Managing Director's Office without notice, effectively demanding to be seen. He interrupted the meeting with Councillor Connett without acknowledging him or apologising for doing so. Councillor Connett regarded Councillor Daws' intervention as disrespectful to him as well as to the Managing Director.
- 6.20 Councillor Daws argued with the Managing Director that the briefing was required to be open to the public, despite having received legal advice that it was not.
- 6.21 Councillor Daws warned the Managing Director that he was on thin ice trying to run the Council and limit democratic processes. I found that by using these words, he was suggesting to the Managing Director that his job was under threat. His manner in the exchange was rude and aggressive.
- 6.22 I consider that by arriving without notice and requiring to be seen, by interrupting the meeting, and by arguing rudely and aggressively, Councillor Daws was disrespectful to the Managing Director and Councillor Connett.
- 6.23 I consider that his warning to the Managing Director that he was on thin ice in trying to run the Council was threatening and intimidatory.
- 6.24 These two specific elements are built on Councillor Daws' refusal to accept a reasonable explanation and legal advice about public access to the Members' Briefing. They are combined with him bringing two members of the public into the Council offices, in breach of security arrangements, and directing one of them to the Managing Director's Office.

- 6.25 Phil Shears believed that the episode had been stage managed, with Councillor Daws knowing what would happen. I do consider there was an overall direction to the various elements of Councillor Daws' behaviour.
- 6.26 I believe that an objective observer would recognise Councillor Daws' conduct at the Managing Director's office as disrespectful and intimidating. They would see it as part of an episode intended to result in a confrontation which would later be exploited on social media. I believe they would find such an approach inappropriate for a councillor and one which would diminish public confidence in the way they fulfilled their role.
- 6.27 I find therefore that, in connection with his meeting with the Managing Director on 24 September;
- Councillor Daws was disrespectful to the Managing Director and Councillor Connett. He therefore failed to follow paragraph 4.1 of the Code of Conduct.
 - Councillor Daws was threatening and intimidating to the Managing Director. He therefore failed to follow paragraph 4.2 of the Code of Conduct.
 - Councillor Daws brought his office as a councillor into disrepute. He therefore failed to follow paragraph 4.7 of the Code of Conduct.

Facebook post of 24 September on Climate Change Briefing

- 6.28 Following the Climate Change Briefing, Councillor Daws posted on his Facebook page. In criticising the Local plan, he said;
- The new Lib Dem regime were never the problem. We have always felt the Management of TDC was out of control.*
- 6.29 Since he makes the distinction from the political leadership of the District Council, it is clear that Councillor Daws is referring to the Managing Director and his management team.
- 6.30 In describing them as out of control, Councillor Daws is saying they are acting contrary to political direction and against the plans and policies of the Council. He provides no details or examples in support of this claim.

6.31 Referring to the Climate Change Briefing, he said;

We saw this in action today as the TDC MD flatly refused to allow the public to attend a briefing session;

A request that was thrice flatly refused with no good reason given. Something that is a clear contravention of the Local Government Act.

6.32 In the light of my findings above, this statement is simply not correct. There were legitimate reasons for not changing the arrangements for the briefing and these had been given to Councillor Daws. A legal officer had confirmed to him that the Briefing was not required to be open to the public under the Local Government Act 1972.

6.33 I consider that Councillor Daws' claims in his post were inaccurate and unjustified. They were disrespectful and damaging to the Managing Director and his management team.

6.34 I find therefore that;

- In his Facebook post of 24 September, Councillor Daws was disrespectful to Managing Director and the management team. He therefore failed to follow paragraph 4.1 of the Code of Conduct.

Email to Michelle Luscombe of 21 October

6.35 Councillor Daws was unable to attend the first meeting of the Local Plan Working Group. He wrote to Michelle Luscombe on 21 October, with copies to the members of the Working Group, setting out the points he wished to make.

6.36 He was mainly concerned about the progress being made on the Local Plan Review and the Greater Exeter Strategic Plan. He said that both were running behind schedule. He commented that this was because; *the job (Local Plan) was not done properly in the first place.*

6.37 Michelle Luscombe told me that the email had been raised at the Working Group, with some councillors feeling that the language used was unacceptable. She didn't regard Councillor Daws' comments as personal to her but they did aim at officers rather than the Council as a whole. It was another part of a sustained attack about the same issues.

6.38 Councillor Daws said that his comments were because the Local Plan was unpopular and that the housing figures had not been substantiated to the satisfaction of a number of consultees. He believed the Plan was fundamentally flawed.

- 6.39 Throughout his email, Councillor Daws refers to TDC as adopting the timetable, carrying out the review and being responsible for the delays. He does not mention any particular officers or officers in general.
- 6.40 Although his comment that the Local Plan had *not been done properly in the first place* would include the work of officers, his criticisms refer to the Council.
- 6.41 Councillor Daws' concerns about the progress of the Local Plan Review were legitimate. His comment giving his view of the cause of the delays referred to the Council as a whole. He was not disrespectful to any individual or group.
- 6.42 Regarding his email of 21 October, therefore, I do not consider that Councillor Daws failed to follow the Code of Conduct.

The Protocol on Member/Officer relations

- 6.43 The Protocol on Member/Officer Relations provides indicative guidance on the nature of the relationship between members and officers that the Council seeks to promote. Compliance with the Protocol is not a specific requirement under the Code of Conduct. Nevertheless, it is a standard of the Council, set out in its Constitution, that officers and members are expected to meet at all times.
- 6.44 The guiding principle of the Protocol is that members and officers should treat each other with courtesy at all times. The Protocol also includes guidance on the distinct responsibilities of the two functional parts of the Council. It recognises the importance of that partnership to the effective working of the Council.
- 6.45 Members and officers have interrelated but different roles within a council.
- 6.46 Members are accountable to the electorate and are community leaders for their ward and the district as a whole. Collectively, members are the council's policy makers. They determine the core values of the council and set and approve the council's policy framework, strategic plans and budgets.
- 6.47 Officers serve the whole council. They have a contractual and legal duty to be impartial. They provide professional judgement and advice to enable councillors to fulfil their role. Officers have a duty to implement the lawful decisions of the council and its properly constituted member bodies.

- 6.48 Opposition members will want hold the administration to account and will often advocate alternative policies. This will inevitably involve challenging decisions that have been made. Those challenges should be addressed to the council or the relevant cabinet member and not aimed at the officers who are charged with their implementation.
- 6.49 Councillor Daws was elected on the basis of pursuing the objectives of Newton Says No. To achieve this will require some form of change to the Teignbridge Local Plan. That plan was developed over a number of years and was the culmination of many decisions, all which were made by councillors, sitting in committees and corporately as the Council. The Plan was approved by the Council and the process of its preparation was found to be sound by independent examination.
- 6.50 That is not to say that the Plan cannot be changed or that the objectives of NSN cannot be achieved. But the proper and fair route to that is through the planning process and further decisions of councillors, committees and the Council.
- 6.51 Under the Code of Conduct, I found that Councillor Daws failed to treat officers with respect in three instances. I found he was intimidating to the Managing Director on one occasion. The Member/Officer Protocol requires that Members and officers should treat each other with courtesy at all times. It follows therefore that Councillor Daws also failed to follow the Protocol in these instances.
- 6.52 Although this failing does not in itself breach the Code of Conduct, it does indicate that Councillor Daws' behaviour would not be considered acceptable by the Council.
- 6.53 Member/Officer Protocols are commonly used by councils to establish the principles by which members and officers should work together. As well as dealing with issues of courtesy, they underline the importance of mutual trust and respect to the governance and successful operation of the council.
- 6.54 Such protocols often provide more detailed guidance, on the roles of members and officers and on appropriate attitudes and behaviours, than is found in the Teignbridge Protocol.
- 6.55 Many councils include in their Codes of Conduct a requirement for members to adhere to their other codes and protocols.
- 6.56 I would recommend that, in the light of this investigation, Teignbridge District Council considers these matters further.

7. Summary of Findings

- 7.1 I established findings of fact for the conduct of Councillor Daws that has caused concern. I have assessed these against the Council's Code of Conduct. I have found that:
- 7.2 In making his public accusation of misfeasance in public office in his email of 18 June;
- **Councillor Daws was disrespectful to the Managing Director. He therefore failed to follow paragraph 4.1 of the Code of Conduct.**
- 7.3 In connection with his meeting with the Managing Director on 24 September;
- **Councillor Daws was disrespectful to the Managing Director and Councillor Connett. He therefore failed to follow paragraph 4.1 of the Code of Conduct.**
 - **Councillor Daws was threatening and intimidating to the Managing Director. He therefore failed to follow paragraph 4.2 of the Code of Conduct.**
 - **Councillor Daws brought his office as a councillor into disrepute. He therefore failed to follow paragraph 4.7 of the Code of Conduct.**
- 7.4 In his post of 24 September, on the Climate Change Briefing;
- **Councillor Daws was disrespectful to the Managing Director and the management team. He therefore failed to follow paragraph 4.1 of the Code of Conduct.**
- 7.5 The reasons for my findings are set out in section 6 above.
- 7.6 Councillor Daws was sent a draft copy of this report on 25 January. He did not comment on the draft report.
- 7.7 This is my final report. It will be forwarded to the Monitoring Officer for her action as necessary.

8. Schedule of evidence appended

Document no.	Description
1	Notice on home page of Newton Says No website
2	NSN website: Text from Rogues Gallery section on Phil Shears, December 2019
3	NSN website: Text from Rogues Gallery section on [REDACTED], December 2019
4	Email from Councillor Daws to Phil Shears, 18 June 2019 re housing numbers
5	Facebook post of Councillor Daws, 24 September re Climate Change Briefing
6	Extract from Facebook post of Councillor Mullone, 24 September 2019
7	Text of email from Councillor Daws to Michelle Luscombe, copied to Local Plan Working Group, 21 October 2019
8	Record of interview with Phil Shears
9	Record of interview with Michelle Luscombe
10	Record of interview with Ros Eastman
11	Record of interview with Councillor Gordon Hook and Councillor Jackie Hook
12	Record of interview with Councillor Liam Mullone
13	Record of interview with Councillor Richard Daws

Document 1: Notice on home page of Newton Says No website

NOTICE

As you probably know, Newton Says No now exists as a political entity as well as a pressure group, since three NSN councillors gained office following the election of May 2 2019. As an act of good faith in the new executive, and the various other people we'll need to wrangle with, we've suspended functionality on this website for the time being.

We are not, however, putting our satirical weapons beyond use.

Our objective remains the same: the Local Plan must be revised. And by revised we mean hung, drawn, quartered, torn apart by horses; its head put on a spike outside Asda and the remains thrown into a plague pit with the careers of the people who devised it. If that doesn't happen then this site will be back with some updates.

In the meantime please sign the petition (link above on a PC / below on a mobile) if you haven't yet. And you can still write to our campaign manager at batty@newtonsaysno.co.uk

**Document 2: NSN website: Text from Rogues Gallery section on
Phil Shears, December 2019**

Managing Director Phil Shears

Here's a joke for you: What's the difference between Phil Shears and [REDACTED]
[REDACTED]? One is a shameless tart who'll do anything for money; the other is a
[REDACTED]. Well, we'd laugh it wasn't all so tragic.

Phil is [REDACTED]. Can't see much family resemblance, but then DNA is a strange thing. Phil was given the job of Managing Director in January this year by [REDACTED], who then publicly congratulated him on getting the job as if there had been some sort of contest. So what does the managing director actually do, for his £105,000 a year? Well, his first job was to hide how much [REDACTED] had been paid off to the tabloids; telling a Sun reporter that showing transparency in public office would cause 'undue distress' to the woman whose boots he was now wearing, and that he therefore had no intention of telling the taxpayers how much of their money his office had spent. Classy!

Other than that, we have no idea what Phil's job entails. He's the Returning Officer, so we suppose ultimately responsible for the boundary fiasco of the May 2 election. Apart from that we have no idea. And don't bother trying to find out via the Teignbridge.gov.uk website because, although it is supposed to give full disclosure of all the bureaucrats who work for us, and despite the fact that Phil 'waited through 25 years of loyal service to get this top dog position', neither he nor his position are even listed on the website. It's very odd. It's almost as if, but for the 105k hole in our pockets, Phil doesn't exist.

Sadly, though, he does.

Document 3: NSN website: Text from Rogues Gallery section on
[REDACTED], December 2019

Business Manager Strategic Place [REDACTED]

[REDACTED] title makes as much sense as the shambles he's cobbling together, but he doesn't care. He is the driving force behind the local plan and the ludicrous housing numbers. He is now putting together the Greater Exeter Strategic Plan, which has almost nothing to do with Exeter and is all about building as many houses as possible in Teignbridge.

[REDACTED] is a career bureaucrat; an unelected apparatchik and the drone our City Fathers send to planning 'consultations' at which the public are invited to come and stare in horror at the ruination and insanity of which [REDACTED] is the gurning grand master.

[REDACTED] stands around at these events as if actually awaiting congratulation (he recently won a prize for matchmaking rapacious developers with swivel-eyed town planners so he's even more pleased with himself than usual at the moment). But trying to reason with [REDACTED], as the public have discovered, is a bit like trying to squeeze a fat pimple with a fairground claw

**Document 4: Email from Councillor Daws to Phil Shears, 18 June 2019
re housing numbers**

From: Cllr Richard Daws
Sent: 18 June 2019 11:03
To: Phil Shears <Phil.Shears@Teignbridge.gov.uk>
Cc: Cllr Gordon Hook <gordon.hook@Teignbridge.gov.uk>; Cllr Gary Taylor <Gary.Taylor@Teignbridge.gov.uk>; Cllr Janet Bradford <Janet.Bradford@Teignbridge.gov.uk>; Cllr Liam Mullone <Liam.Mullone@Teignbridge.gov.uk>

Subject: Re: Housing Numbers

Dear Phil,

I have looked in detail at your justification and taken advice from the parties who originally challenged the overstated 2012 numbers. It is disappointing if unsurprising to find that after years of requesting, you have confirmed that there was no specific methodology employed to create the 2012 targets. As was thought at the time when all the evidence at the time was reviewed by WRA/APC/ [REDACTED], there was a clear case of overprovisioning of housing numbers. In the objections put forward, APC'S OBJECTIONS TO TDC'S LOCAL PLAN v1 1, section 3.2, you can clearly see detail their justified concerns. I will forward the document in the following email for everyone's perusal.

In response to my specific question 'Why was it publicly stated in 2012 that the population forecasts in 2033 were 151,000 when the 2012 ONS population forecast to 2033 was 138,600? you stated that "The population projections are released biannually, 2 years after the base year, i.e. the 2008 projections were published in 2010, the 2010 projections published in 2012 etc. As such, the figures quoted in 2012 will not have referred to the 2012 projections which would not have been published until 2014". I am afraid this is incorrect. In APC'S OBJECTIONS TO TDC'S LOCAL PLAN v1 1, section 3.2.2. ONS (Population Projections) reports on latest ONS data at that time as 138,600 (we have the full ONS file). The date at the bottom of each page of our APC'S OBJECTIONS TO TDC'S LOCAL PLAN v1 1 report is: **Tuesday 18th December 2012**. The data was clearly available in 2012 when APC submitted their response to the Local Plan Preferred Options, which was the statutory consultation document for the Local Plan. The response you sent does not correlate with the facts of what information was available and how it was dealt with.

When asking why did TDC's housing numbers differ markedly from the ONS predictions the explanations offered do not hold water and would be ridiculed by independent statisticians. It could be concluded that ORS were commission to produce a fairy story to justify the overprovisioning of housing numbers. Your justification does not tie in with previous communication from TDC officers from 2012 which is on record. Whatever the reasons, there is no meaningful defence of the 2012 housing numbers. The actions taken to defend them and implement them without addressing reasoned concerns are our view tantamount to "Misfeasance in public office". Given their importance and impact on Teignbridge as a whole, it is essential now that to avoid any legal challenges or external action against these overstated number, that reasonable redress is given to the current targets. This should be done as part of the review of the Local Plan, which we have previously stated requires the terms of reference to be altered to take on board housing numbers and specific site allocation.

I have included Gordon Hook and Gary Taylor in this email given the level of importance as well as the College Ward Councillors. I'd suggest that the next steps on this matter should be a meeting with all the concerned parties to conclude a way forward on housing numbers given the clear case that the 2012 numbers were overstated without justification.

Best regards,

Richard.

**Document 5: Facebook post of Councillor Daws, 24 September
re Climate Change Briefing**

Richard Daws Teignbridge District Council Ambrook Ward

24 September ·

So that was the look on my face today as I was once again asked in the Teignbridge District Council to 'Please Stand Up' when I was asking my question. My light hearted reply of 'are you trying to rap or asking me a question?' went right over the Chair's head. It was disappointing on a few fronts to be asked this. In this case, I had actually forgotten that I was expected to stand, not sit or hop on one foot when speaking in the council chamber. But what was most important today was to recognise that, in terms of the global and local challenges we face, climate EMERGENCY means exactly that. How I posed the question was for me an irrelevance.

We need to galvanise action to review the flawed Local Plan in full and thorough detail. Not the flag waving exercise that is currently in play, which will doubtlessly say the district has done well creating an oversupply of houses, and lets build some more executive homes on open farmland. Thankfully, the Leader and Executive of the Council appear to be agreeing with Newton Says No. However, they (the new Lib Dem regime) were never the problem. We have always felt the Management of TDC was out of control and not representing the interests of the residents. We saw this in action today as the TDC MD flatly refused to allow the public to attend a briefing session by Exeter University on Climate Change at 9am. Something we raised last week and the Leader backed. A request that was thrice flatly refused with no good reason given. Something that is a clear contravention of the Local Government Act.

Thankfully, the Full Council meeting at 10am was open to the public. Democracy was in full flow. The WRA, other residents and Councillors put a raft of questions forward. As NSN Councillors, we put impassioned pleas for sense in the Climate Change Update agenda item. The council Executive and Leader appeared to agree with our points which include that a full and proper review of the Local Plan should be undertaken forthwith. The problem we see is that this path of sense and true political representation is almost certainly going to be frustrated by the TDC Management. They appear to be acting as if nothing changed at the May elections this year. We will keep up the pressure from the inside. Thanks to everyone for their support in the gallery today. It felt for one moment, when the public were finally let in, like it was a chamber running to represent and implement the view of the electorate. That was until they were told to shut up for spontaneous occasional applause after some speakers.. Anyway, stood up, sat down, locked out or gagged, today we had a faint glimmer of hope that local democracy might have some blood running through its veins.

**Document 6: Extract from Facebook post of Councillor Mullone,
24 September 2019**

Liam Mullone: NSN Independent

24 September ·

My report of today's FULL COUNCIL MEETING CLIMATE CHANGE SPECIAL!

As before it is overlong. Feel free to skip. Or ignore. Or just read the swears bits. They're the best bits. Or just watch Netflix.

So today started oddly, and at 9am which is too early for me (I have a smaller carbon footprint when in bed, no?) But councillor Daws was already at Old Fraud House, where he had marched in on the Managing Director to call him a disgrace.

The point of principle: according to the Local Government Act (1972), the public are allowed in to ALL briefings unless there are very good reasons otherwise, such as a reserved or legal matter. This was no such thing – it was an academic from Exeter Uni banging through all the usual tropes and saws on Climate Change. I had wondered, with all this resistance, whether he was going to tell us something jaw-dropping, like how to power a car with discarded yellow briefing papers - but no.

There was no reason for excluding the public except that Shears wanted it. I can but conclude that he just decided to be a dick about it. Of course he eventually came up with 'safety', which is always the last refuge of the fat cat on ice. Nobody wants to argue against 'safety', do they? I'm sure he'd have had 'child protection', 'hedgehog hospitals' and 'preventing racism' if he thought any of these would fly.

But Richard stuck to the principal, trying to get two people into the public gallery. No dice. So that will be cropping up, like a bad smell, at O&S. I hope Mr Shears is available to explain the appalling dangers he managed to forestall by forbidding two people from the public gallery.

**Document 7: Text of email from Councillor Daws to Michelle Luscombe,
copied to Local Plan Working Group, 21 October 2019**

Re: Local Plan Working Group first meeting

Cllr Richard Daws
To: Michelle Luscombe

Dear Michelle, group members and interested parties,

I am not able to attend the Local Plan review first meeting as unfortunately my Father died in the early hours of Saturday. I am with my Mother today dealing with arrangements.

However, given the Local Plan is the defining reason I have committed four years of my life to represent the interests of the electorate and residents in Forde House, I would very much like for the points I had prepared for the meeting below to be aired, discussed and responded to. These are below:

It has been our reading of the NPPF and various Regulations that a local authority is obliged to conduct a five-year review of a local plan. At the foot of the email is an extract from the Government's guidance. What is really concerning is that TDC's five-year review will only just be completed twelve months before the SECOND five-year review is due! How on earth has TDC managed to get into this position?

As you may (or may not know) TDC also, having adopted a twenty-year plan, then proceed to give the go-ahead or accept applications on the three biggest developments (around Newton Abbot) within the first quartile. The half hearted start to the five-year review last year did nothing more than play with semantics and even the outcome of that element of the consultation has not been published. Can this consultation be published as a matter of urgency?

Another issue, perhaps I am sure you will cry 'not for this meeting' but of relevance to the overall picture, is GESP which should have been at the final version stage by now but is, like the TDC five-year review, running 2/3 years behind schedule. This is disgraceful and makes a complete mockery of the planning system severely disadvantaging residents, the environment and is costing considerable additional expenditure because the job (Local Plan) was not done properly in the first place.

A final point is the need to press the unfairness of the Government's housing need model given that 41% of our District is taken out of the equation by the National Park (which should bring our annual need down to 425).

Final

For the record the Local Plan was adopted on the 6th May 2014 to run from March 2013 until February 2033. The Local Plan Review Issues Consultation increased the duration of the Plan to cover 2020 to 2040 (in line with GESP) and ran from 21 May 2018 to 16 July 2018.

Best regards,

Richard

Document 8: Record of interview with Phil Shears, 28 November 2019

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. I outlined the various incidents that had been drawn to my attention and we agreed which ones were directly relevant to you.
3. You said the period of concern about the conduct of Councillors Daws and Mullone started when they were elected. Before the election, the Newton Says No campaign had been directed against officers – it was trying to discredit you and [REDACTED].
4. The NSN website was still present. Its home page states that, since the election of three NSN councillors, the functionality of the site has been suspended. It goes on to say: *Our objective remains the same: the Local Plan must be revised. And by revised we mean hung, drawn, quartered, torn apart by horses; its head put on a spike outside Asda and the remains thrown into a plague pit with the careers of the people who devised it.*
5. So the campaign had said and continued to say that it was there to bring you and your team down. The current first page had been written since the election. You believed the website was run and written by Councillors Mullone and Daws.
6. You pointed out that, although the website was said to be non-functional, all that had happened was that the tabs had been blacked out. Its content was all still present and could be accessed.
7. The section that was particularly offensive to you and [REDACTED] was the 'Rogues Gallery'. You demonstrated how this could easily be accessed.
8. The section on [REDACTED] was critical, insulting and offensive. It was damaging to his professional reputation.
9. The section on you was similarly insulting and offensive and included a picture of [REDACTED] [REDACTED] who was named and included in a demeaning joke. There was also criticism of you as the Returning Officer which was obviously written after the election.
10. You told me there had been a series of allegations that you had 'cooked up' the housing numbers with the planners. This had arisen from a statement in the press that you made in 2012 about predicted population levels. You had an email exchange with Councillor Daws which showed he failed to understand the model.

11. The latest was the email of 18 June 2019 which made the allegation of misfeasance in public office.
12. You said you had never said anything offensive or discourteous against any of the three NSN members.
13. The attacks had resulted in a stressful time for the officers concerned. They were not being trusted to carry out their jobs. Councillor Daws had suggested that officers were in the pockets of developers, or in some way benefiting from them.
14. You told me about the Climate Change Briefing. You and the Leader had attended a presentation by [REDACTED] the South West Energy Efficiency Group. You had suggested that this would be valuable for the councillors to hear.
15. A briefing for members had been arranged, with a lead in of about six weeks. It was to be held before a Council meeting. But it was separate from this and was not a formal Council meeting. Everybody had known about the arrangements
16. After the agenda had come out, Councillor Daws sent in an email asking why the briefing was behind closed doors. You hadn't been involved in that; it was within the Monitoring Officer's remit. They didn't accept the legal advice on the status of the briefing. The matter escalated over the weekend to a discussion between Councillor Daws and the Leader. The Leader then said that he thought it should be a public meeting.
17. You pointed out that the meeting hadn't been advertised as public meeting and so there wouldn't be fair access to all members of the public. Moreover, it wasn't the Leader's meeting; it was the Chair's. The Chair agreed that it should be a non-public members' briefing. So you had said no having been advised by the Monitoring Officer and Solicitor.
18. At 8.55am on the day of the briefing, you were having a meeting with Councillor Connett. Through your door, you saw Councillor Daws march in and stand by your door. You said to Councillor Connett that you had to speak to him. You invited Councillor Daws in. He argued that there should be public access to the Briefing Meeting.
19. You referred to the notes that you had made at the time. You had pointed to the email Councillor Daws had received from the Deputy Monitoring Officer. He claimed you had no right to stop public access. He said you were *on thin ice trying to run the Council and limit democratic processes*.
20. You believed the reference to thin ice was not about the Briefing Meeting but about your job and your involvement in running the Council.

21. You had suggested that he saw the Deputy Monitoring Officer for her to explain the reasons for the decision. He reiterated that you were on thin ice and said you were running the Council in an undemocratic fashion. He said you had no remit to restrict public access.
22. You explained the requirements of the Local Government Act 1972 but he wouldn't accept that. He continued to argue and you then asked him to leave your office.
23. You then saw a woman who you didn't recognise marching down the office. She was intercepted by your PA and the Comms Manager. She argued with the staff. It transpired that Councillor Daws had brought [REDACTED] and [REDACTED] in through the side entrance. The woman was [REDACTED], a member of the public active in the NSN campaign.
24. Councillor Daws had no right to bring these people into the building. He had brought them in through a side door and up through the building, avoiding reception staff. He had directed [REDACTED] to your office, indicating that it was you she should protest to. You pointed out to me the implications and risks of such a security breach.
25. You understood that, after the meeting, she again demanded a meeting with you as she had been directed by Councillor Daws.
26. You believed that the episode had been planned, with Councillor Daws knowing what would happen.
27. Subsequent Facebook posts from Councillor Mullone and Councillor Daws referred to the mismanagement of the Council and to management being out of control. Councillor Mullone's post of 24 September included; *Phil Shears and the heads of the planning department are out of control. They are vandals who are unfit for office and nobody wants them to occupy the office. They need to go.*
28. You confirmed that you hadn't attended the Wolborough Workshop. You had been on hand if required.
29. Councillor Mullone's posts following the Workshop were of concern. He had defended a comment saying that; *Whoever came up with this effing plan should be shot.*
30. You confirmed that members had received training on the Code of Conduct following the May election. This had been detailed and provided by an external expert. The Member/Officer Protocol had also been covered. You believed Councillors Daws and Mullone were aware of the requirements for their conduct.

31. You said that the officers concerned had been personally affected by the conduct of the two councillors. Two of the officers live in the area of the Wolborough site and worry about the potential consequences of being named whilst being criticised and insulted.
32. You felt that the continuation of the harassment and stress on officers who were properly doing their job was not acceptable. You had a duty to staff, both morally and legally, to protect their conditions of work.

Sent to witness for confirmation	11 December 2019
Agreed by witness as an accurate record	11 December 2019

**Document 9: Record of interview with Michelle Luscombe,
28 November 2019**

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. You told me that the Wolborough site was included in the Teignbridge Local Plan, adopted in May 2014. It provided for mixed development, including 1500 houses. The Plan had gone through Public Examination and had been found sound. It had also been subject to a legal challenge which had been quashed.
3. Since the Plan's adoption, work was proceeding to prepare framework plans for the strategic development sites, including Wolborough.
4. The land was allocated for housing. The site itself could not be revoked, only the entire Local Plan. This would leave the District completely open to unplanned development and the site could then come forward in any case. There was an appeal against the non determination of a planning application underway.
5. The purpose of the Wolborough Options meeting was to engage with the interested parties to consider the different approaches to the layout of the development. The Newton Says No group wanted the whole site taken away.
6. We considered the various incidents of conduct that had been raised.

Email, 18 June 2019

7. You said this concerned the housing numbers and methodology used for the 2014 Local Plan. You felt therefore that the criticism in it was principally directed at Phil Shears and [REDACTED].

Security Breach

8. You hadn't been involved in this but you understood it was in connection with the Climate Change Briefing. It was because of this that you had asked for security for the Wolborough Options Workshop.

Wolborough Options Workshop

9. You confirmed that the event was open to the Residents Association, the Parish Council and local members (ie the NSN Group). Councillor Daws and the three people with him were therefore all entitled to attend. Signs had been put up to direct people in but Councillor Daws and his party had not followed them.

10. The meeting itself had been difficult. There was an atmosphere of anger and an unwillingness to engage in the process. There was a fundamental difference over the basis for the meeting, despite the Parish Council and the Residents' Association wanting a DPD to be prepared.

11. Councillor Daws had raised a few questions in the meeting; Councillor Mullone hadn't spoken. They hadn't been rude or disrespectful.

Councillor Mullone post, 4 October - 'Satirical Review'

12. You said it was the questioning of your morals that concerned you most (eg *it's a heinous moral crime that any normal human being would feel ashamed of perpetrating and aren't these people just beyond contempt?*). Your job concerned regulating the use of land in the public interest. You were not carrying out a crime and should not be ashamed of what you did.

13. The language in the post was aggressive, violent and inflammatory. The metaphor was of beating up a gran, with slapping, punching and death.

14. You were mentioned by name in the post. You took those criticisms personally and deeply. It was upsetting. You had not felt able to share the issue with some of your family because they would worry about the work you were doing.

15. You found it odd that Councillor Mullone had never engaged with you individually. He didn't say a thing in the meeting. It was more disconcerting that someone was sitting watching you and then went away to write that about you.

16. The post attracted follow up comments, including; *Don't you have a soul, Michelle?* and; *Hope the cake chokes them.* You were concerned with what the posts were inciting. You doubted if such comments would have been made without the lead given by the post. You pointed out that the comments were made on Councillor Mullone's Facebook page. If he didn't agree with them he could correct or delete them.

17. Shortly afterwards, there had been offensive graffiti made at the land in question. You lived in Teignbridge and such behaviour scared you.

Councillor Mullone post, 16 October

18. This seemed to be defending or trying to justify the previous post. There were no particular comments of concern.

- Councillor Daws email to you and the Local Plan Working Group*
19. You told me this had been raised at the Working Group by other councillors, saying that the language used was unacceptable. You didn't see it as personal to you but it did aim at officers rather than the Council as a whole. It was another part of a sustained attack about the same issues. The questions had been answered time and time again. You didn't expect to receive that sort of communication from a member.
20. You said that your team had been affected by the continuing attack on what they were doing. You were used to dealing with objections and challenges – that was part of the job. But the way in which this was being done was unpleasant and unnecessary. If they wanted things to change, they should engage with the process in the right way.

Sent to witness for confirmation	16 December 2019
Agreed by witness as an accurate record	16 December 2019

Document 10: Record of interview with Ros Eastman, 28 November 2019

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. You told me that neither Councillor Daws nor Councillor Mullone was on the Planning Committee.
3. They seemed to hold the view that everything you did was done in a corrupt manner and that planning was done entirely behind closed doors. This theme ran through everything they posted on social media.
4. You agreed that the councillors were targeting officers rather than the decisions of the Council. There were two specific occasions when you had been mentioned by name.
5. The first was unprompted by anything that you had said or done. Councillor Mullone shared on Facebook a link to a newspaper story from the South Hams where a planning officer had given advice in relation to an outline proposal. The advice had been not to include the detail of house types. Such detail could change at later stages and therefore submitting it at outline stage could be misleading.
6. Councillor Mullone had added the comment that this sort of behaviour *sounds scarily like something our own Ros Eastman would say* (28 September).
7. The second was after the Planning Committee on 29 October. You had asked for delegated authority concerning defending the second Wolborough appeal. Councillor Mullone posted a report of the meeting. He referred to you as the fantastic Ms Fox, commenting; *thank all that is holy that the fantastic Ms Fox did not get the keys to the henhouse*. The implication was that you could not be trusted in the matter. This undermined your position corporately and with the public.
8. You found it frustrating that this level of discourse spread out and other groups were now behaving in the same way. It set an example that others followed. You referred to a group in Chudleigh. It impacted on the morale of your team.
9. You said you fully expected challenge and robust debate but you were concerned at the personal references to you by name.
10. You understood that members were aware of the Member/Officer Protocol. It had been included in the induction programme for new members.

11. Both of these incidents had come from Councillor Mullone. There had been nothing from Councillor Daws directed particularly at you.

Sent to witness for confirmation	11 December 2019
Agreed by witness as an accurate record	11 December 2019

Document 11: Record of interview with Councillor Gordon Hook and Councillor Jackie Hook, 28 November 2019

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. GH said that, as both the Leader and a member of the Council, he had two concerns with the conduct of Councillor Daws and Councillor Mullone. The first was the image and reputation of the Council. He was concerned over inaccuracies in their statements and with the language they used in public. The second was the clear negative impact that their comments in the Council and on Facebook were having on officers.
3. He referred to a Council meeting which had been reported on by NSN councillors. He came in the next day and observed in the Planning Department that an intense officer meeting was going on about what had happened in the Council meeting. Despite their denials, they were clearly very upset about what had been said. One officer had subsequently met with him about their concerns.
4. JH said that all members had received training on the Code of Conduct and the Member/Officer Protocol. Councillor Mullone had mentioned the Protocol in his statements so was clearly aware of it.
5. JH gave an example of personalised comments about the MD on social media. She pointed to Councillor Mullone's post on 24 September commenting on the Climate Change Briefing. She identified a number of phrases of concern.
6. GH referred to the Rogues Galley on the NSN website which he pointed out was still freely available.
7. JH provided the text of Councillor Mullone's Facebook post of 4 October on the Wolborough Options Workshop.
8. JH provided a quotation of Councillor Mullone in the PRSD of 21 October. This described Liberal Democrats from his experience.
9. JH provided the text of a post of Councillor Mullone of 22 October, referring to 'lovely fluffy planning officers' and 'Voldemort's'. She thought this must have been after he been told he shouldn't criticise officers personally. But although ironic, it was still criticising officers.

10. GH confirmed that the Climate Change Briefing was organised well in advance, programmed at 9am, before the Council meeting at 10am. In the week before, he had been supportive of it being a public event. The MD had rejected that. The matter was then taken up in emails over the weekend but the ruling continued to be no.
11. GH said that Councillor Daws had put his head round his door sometime before 9am on the Tuesday. But neither GH nor JH had any direct knowledge of Councillor Daws' visit to the MD's office that morning.
12. JH had attended the Wolborough Options Workshop. She didn't have any particular concerns about what went on in the Workshop itself.
13. Referring to Councillor Mullone's 'satirical review' of the Workshop, JH commented that it would be very offensive to the person it was aimed at. She said a lot of people would know who Michelle was. GH said that he knew Michelle had been very upset and indeed frightened.
14. GH commented that the NSN councillors were not great engagers. Their Group was not represented at the latest Leaders' meeting and they didn't turn up and speak to their recent call in request.
15. JH said they had asked her questions about planning and she had pointed out that they were District Councillors now and could make enquiries for themselves. She thought they were very poor at engaging in a proper constructive way with officers.
16. GH emphasised that the issues for Standards were their portrayal of the Council in the public domain and their behaviour in some meetings. He thought the comments made on social media had undermined the Council's reputation. He had observed Councillor Mullone swearing while speaking as a councillor at the AGM of the Wolborough Residents Association. Two couples had approached him after the meeting to complain about Councillor Mullone's language.
17. JH thought there was a link between the posts being made and the comments they attracted from others. The posts fed and multiplied dissatisfaction with the Council. Some of the comments added were clearly incorrect but Councillor Mullone in particular didn't take the opportunity to correct them.

Sent to witness for confirmation	11 December 2019
Agreed by witness as an accurate record	11 December 2019

**Document 12: Record of interview with Councillor Liam Mullone,
17 December 2019**

Councillor Mullone was accompanied by Councillor Richard Daws throughout.

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. You made a statement covering five points. You had asked for this interview to be public; this had been denied. You had asked who had made the complaints about you; this had also been denied. Under the Freedom of Information Act, you had asked for information to be available for this interview, or for the interview to be delayed; this had been denied. You had asked to film the interview; this had been denied. You had asked whether Karen Trickey had done due diligence on me; she had said she felt none was required.
3. You confirmed you were elected in May 2019. You had not been a councillor before. You had attended the induction training for new councillors and this had covered the Code of Conduct. You didn't recall the Member/Officer Protocol being covered. You were the Leader of the NSN Group at the Council.
4. I asked you about the NSN campaign group before the May election. You said that NSN was formed about a year before the election. You were a founder member of the group. The NSN website had been going for some time before the election.
5. I asked you how NSN was run before the election. You said there were no membership cards and no formal organisation; it was a loose grouping of people. There was a core group of people who came together to form the group.
6. You said you didn't really do anything within the campaign group anymore because your whole time was taken up with being a councillor. You were still a member of the campaign group.
7. You said you had set up the website. A number of members of the group had contributed content to it.
8. I asked you if there had been any changes to the organisation of NSN following the election. You said no, because it didn't have an organisation. If anyone said they were in NSN, they were in NSN. There was no managing group. Things happened through the Facebook page; you didn't manage that. There hadn't been any change of the strategy of NSN.

9. I asked you about changes to the website since the election. You said you had suspended the functionality of the website. You had asked the person who set up the website to take it down but he hadn't answered your email. So you did the best fix solution you could find which was to put something across the menu bar. And you were able to put the message on the front. You confirmed you had written the notice.
10. You said that the objective stated in the notice, which included the careers of the people who devised the Local Plan being thrown into a plague pit, did not refer to officers. You believed you had been talking about the outgoing conservative executive. I asked you if you felt that phrase was disrespectful to those people; you said you were happy with that statement.
11. I asked you about your role in NSN now. You said you were doing everything as a councillor – your Facebook page was NSN Councillor Liam Mullone. When something happened, you tried to tell people what has happened. So what you did for NSN now was as a councillor.
12. I asked you about the Rogues Gallery section of the website, which was still accessible. You said that it couldn't be accessed. Any casual visitor to the website wouldn't find it. I pointed out that a Google search for NSN presented the website and its structure, which included the Rogues Gallery. Clicking on that link took the searcher straight to the Rogues Gallery content. You said that, as far as you knew, that wasn't accessible.
13. You told me you hadn't made any changes to the Rogues Gallery since the election. Regarding the references to Phil Shears' role in the May 2 election, you said that if that was done after the election, it was very soon after. You said you didn't know who had made that change. You couldn't remember what you had done at the beginning of May.
14. You said that a number of people had written the sections on Phil Shears and [REDACTED], including you. You said that had been done by the campaign group, as private citizens who were fed up with this Council. You said you didn't know why the sections had been changed or who changed them. You wouldn't say whether it was you who had changed the Phil Shears section.
15. You agreed that the comment on Phil Shears being responsible for the boundary fiasco of the May 2 Election was probably written after the election. You thought it would have been on the day of the election or just after. It would have been before you had been 'sworn in'. You couldn't remember whether you were responsible for making any of the changes.

16. You wouldn't comment on whether you felt the sections were disrespectful or not. You thought they were well written and hilarious.
17. You confirmed that, on 24 September, you had posted on Facebook; *My report of today's full Council meeting climate change special*. Your aim had been to report back to your constituents. You were doing what you had been elected to do.
18. I asked you if you thought some of the phrases in the post were disrespectful to those they referred to. You said the language was fit for what happened that day. You considered it was treating them with the same respect that you had been treated with.
19. You confirmed you had posted on Facebook on 28 September, mentioning Ros Eastman. You outlined the case in South Hams that it referred to. There had been a clear equivalence with what Ros Eastman had done with writing up the minutes on a decision concerning the Devon County FA. What you had posted was the truth, so it wasn't disrespectful.
20. You confirmed you had attended the Wolborough Options Workshop on 3 October and that you had posted about it on Facebook on 4 October. You had used a metaphor of 'beating up your gran' throughout that. Regarding the aggressive and violent language used in the post, you said you were using absurdity to satirise something. It was making it gentler, if anything. You were talking about environmental destruction, breaking the law and destroying very rare species.
21. You confirmed that 'Michelle' in the post was Michelle Luscombe. You didn't accept that you associated the aggressive and violent actions with her. It was clearly absurd and nobody thought that you were saying that Michelle was going to beat up someone's gran. Michelle was laying out a plan by which Wolborough Hill would be destroyed.
22. You said you weren't aware that you couldn't refer to officers by name. You weren't aware that Michelle had a problem with it and if she had written to you with it you would have taken her name out. Her name wasn't important to the story.
23. I referred to some of the comments that had been made on the post. You said people writing comments that reflected their anger and frustration was not your responsibility. You couldn't remember whether you had liked one of them. You didn't believe that calling for *whoever came up with the effing plan should be shot* was meant literally.

24. You told me you hadn't written an article for the PRSD. It had been copied and pasted from your Facebook page. You had been told it had been done but you hadn't been asked if they could do it. Regarding your description of the Lib Dems, you asked if you could be proved wrong on that. You accepted that it was your view. You didn't care if it was disrespectful to have that view.
25. In your post of 22 October, you had said you weren't allowed to name officers so you had referred to Voldemorts 1 to 4. You explained there had been some argument on Facebook with Jackie Hook, who said you shouldn't name the officers. You believed that officers had been *lending a friendly helping hand to a developer*.
26. In your post of 29 October, you had named Ros Eastman as the *Fantastic Ms Fox*. You said you thought Ros Eastman had broken the law. The post was about the appeal and the four reasons for refusal. Ros Eastman had been trying to get delegated powers to deal with matter.
27. You told me that, when you said the officers were out of control, it was a criticism aimed directly at Gordon Hook and his Executive. It was their job to control them.
28. You confirmed that you were making your posts on the Facebook page headed *Liam Mullone : NSN Independent* as a councillor. Regarding the different roles of councillors and officers, you said you were clearer about that now. You agreed that it was supposed to be that officers advised and councillors made decisions. But that wasn't how it worked here.
29. You accepted that decisions about the Local Plan and the sites in it were decisions of the Council. You said the officers kept calling meetings so they could bang things through with a hammer. The officers ran rings around people and the Executive was too weak to do anything about it. In the middle, a valuable resource was being destroyed.
30. I put it to you that your campaign seemed to be directed principally at officers rather than councillors. You said you had been elected for one reason only. That was to stop the development of NA3. There were council officers whose job it was to advocate building on NA3. Your job was diametrically opposed to that. That was just a fact of the matter; there was nothing you could do about that. You weren't attacking them as people; you didn't have any ill-will against them. You just wanted them to stop this act of vandalism.

- 31. In summary, you wished to reiterate the concerns that you had expressed at the beginning. You didn't think it was a crime to name the planning officers. They had names and they were doing a job. You had to refer to somebody when you were telling people what was happening. People had a right to know who was working for them. The Council's website was deliberately unclear about who did what. You wondered if that was because they were ashamed of what they were doing.
- 32. You didn't think it was wrong to say something that was true. The statements you had made were evidentially and provably true. The Leader of the Council believed them to be true. You thought I should investigate their truth.
- 33. You had been elected to stop the planning officers carrying out their tasks. You were trying to stop them via the elected leadership. The leadership had confessed that they were helpless to do anything. They said the officers really wanted to do it.
- 34. You said it was your right to dislike a political party. You didn't believe that telling the truth brought the Council into disrepute.
- 35. You and Councillor Daws had no clear view on the format of my report.

Sent to witness for confirmation	1 January 2020
Agreed by witness as an accurate record	

**Document 13: Record of interview with Councillor Richard Daws
17 December 2019**

Councillor Liam Mullone accompanied Councillor Daws throughout.

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. You confirmed you were elected on 2 May 2019. You had not been a councillor before. You had attended the Council's induction training and the Code of Conduct had been covered. You had no recollection of the Member/Officer Protocol being covered.
3. You were the Deputy Leader of the NSN Group on the Council. You were a member of the Overview and Scrutiny Committee and a reserve member for the Planning Committee.
4. I asked you when the NSN campaign group was formed. You said you had been a member of the Wolborough Residents' Association since you moved to the area. As such, you had been involved in the issue of NA3. You felt their campaigning was not being effective so you took a different approach. A small number of people came up with a name, and a Facebook page and the website were launched. You told me the YouTube videos would show when this was (November 2018).
5. You described yourself as one of the catalysts of a loose group of people. There were some 2,600 supporters on the Facebook page – more than for any political party in the District. You said NSN had taken up the campaign that had been fought by Abbotskerswell Parish Council and the Wolborough Residents' Association. There was no legal structure to the group; it didn't manage people and there was no co-ordination. There were a number of people who put their time and effort into perpetuating the arguments of WRA and APC.
6. You said there were no titles for those involved in the group. You put your time and effort into supporting the arguments of WRA and APC.
7. You said the content of the website was written by a number of people. You didn't believe any changes were made after the day of the election. When you were councillors, you had been invited to a meeting with the Leader and Deputy Leader of the Council. They had said they were worried about the website. You had agreed for the website to have its functionality removed.

8. Prior to your election, your voice was at public meetings and affecting planning decisions. After the election, your voice was as a councillor. You continued to do things like putting your views forward on Facebook and to the media. You had set up a councillor Facebook page so there was delineation from your private life. This was headed; Richard Daws Teignbridge District Council Ambrook Ward.
9. You said you didn't know who wrote the Notice put on the website. You acknowledged that Councillor Mullone had said he wrote it. I asked you whose careers were being referred to in the Notice. You said you didn't know because you hadn't written it. You had no view on whether the notice was respectful to those it referred to. You thought it was talking about the Conservative Executive.
10. You acknowledged that the Rogues gallery was still accessible. You said that, in good faith, you had hoped that the navigation had been disabled. You hadn't had a complaint about the site since the meeting with the Leader.
11. You didn't know whether the Rogues Gallery had been changed since the election; you didn't think so. You pointed out that the boundary changes had caused a furore on election day. As candidates, you hadn't been given the correct information about Wards.
12. You thought that the reference; *He's the Returning Officer, so we suppose ultimately responsible for the boundary fiasco of the May 2 election* was probably changed on the day of the election, but you didn't know. You said you didn't know who wrote the Rogues Gallery section on Phil Shears.
13. You told me that APC and WRA had been contesting the housing numbers used in the Local Plan since 2010. They had put forward a methodology and reasoning to support a lower housing number. They had consistently asked for the basis of the numbers used but it had never been explained. As an elected councillor, you had tried to get an answer to this long standing question.
14. You acknowledged that Phil Shears had given you an explanation; you were currently digesting this. You thought the figures had been inflated on a political basis.
15. I asked you why, in your email to Phil Shears of 18 June, you had said that the actions to defend the figures without addressing reasoned concerns were tantamount to misfeasance in public office. You said that was because it had taken seven years to even get into a conversation about it. You thought that an independent statistician would not have come up with the inflated figures that Teignbridge had chosen to go with.

16. You told me that a week before the Climate Change Briefing, you had put in a request for the meeting to be open to the public. You said you didn't know about the arrangements that had been made for the meeting about six weeks before.
17. You hadn't got any sensible answer from Phil Shears. You had approached the Leader of the Council and he had agreed that it should be a public meeting. He said you had the full backing of the Executive.
18. You acknowledged that you had been advised by a legal officer that the provisions of the Local Government Act 1972 didn't apply to the Briefing but you didn't accept that. You also thought the meeting should be subject to the local transparency guidance.
19. You said that on the Monday, you did not have clarity on the issue. The Leader had told you he was doing everything he could to get the meeting open to the public.
20. You told me that on the morning of the briefing, you came in to the building. You met two people at the front door - [REDACTED]. She had asked you if the Briefing was open to the public. You had suggested going in to see what the situation was. The door to the reception area was locked so the three of you went in through the Riverside entrance. You acknowledged that you had brought the other two through the secure door with your pass.
21. You had reached the public gallery and found it was locked. You had asked the other two to wait there. You said you would go and find out if it had been concluded that the Briefing would be open to the public. You came down to the entrance to the Chief Executive's corridor. Your pass didn't open that door so you waited for someone to let you through. You had walked in after someone.
22. You weren't sure whether members were permitted access to that corridor. You said you saw members in there all the time. You felt that, as an elected member, you had the ability to go and knock on the door of the Managing Director.
23. You said that Phil Shears was standing in his office with Alan Connett. You knocked on the door and he waved you in. You said you were there to check if the Climate change Briefing was open to the public. He said no. He suggested you talked to Sarah Selway about that. You had agreed that you had had an email saying it wasn't open to the public.

24. Your contention was that the position was in breach of the 1972 Act. He said no we're not. At that point you said; *be careful Phil, because I think you are skating on thin ice*. You had meant that he shouldn't be breaking the 1972 Act. He should be running a transparent Council and all things that weren't specifically excluded should be open to the public. The comment was about the Climate Change Briefing. You hadn't been talking about anything else.
25. You told me you had no recollection of your manner in the conversation. You didn't think it had been rude and aggressive. You didn't consider you were at all disrespectful to Phil Shears. You didn't think you were disrespectful to Councillor Connett. He didn't engage in the conversation. You had been invited in and you spoke for about 30 seconds.
26. You left and went back to the public gallery. You told the other two that the briefing wasn't going to be open to the public – you were sorry about that. [REDACTED] had asked whose decision that was. You told her it was the decision of the Managing Director. She said she would like to go and talk to him. You said you couldn't let her through to where he was because your pass didn't work. She said she would try to go and talk to him. She left you, going in that direction.
27. I asked you if you accepted any responsibility for a security breach in which two members of the public came in to the secure part of the building. You said you accepted full responsibility for trying to get the public in to a climate change meeting. You said that two women in their 40s or 50s did not represent any threat.
28. I asked you about your Facebook post of 24 September, which included comment on the arrangements for the Climate Change Briefing. You had stated that the request to allow the public to attend was flatly refused, with no good reasons given, and that this was a clear contravention of the Local Government Act. You said that Phil Shears had made a decision that was not in the public interest and you still believed that he would be unable to defend that decision. You had made a complaint and it had not yet been answered.
29. You confirmed that you had attended the Wolborough Options Workshop. You said you had used the Riverside entrance because that was the most convenient in the circumstances. You had met some other attendees in the car park. You hadn't brought them with you. It would not have been practical or polite to have sent them to another entrance.
30. You told me that Councillor Mullone hadn't consulted with you on his post about the meeting or shown it to you before posting it. You pointed out that the meeting hadn't been suspended – it had been completed, with a list of actions.

31. You confirmed that you hadn't been able to attend the first meeting of the Local Plan Working Group, so you had put forward your views in an email reply to Michelle Luscombe. You had commented that the TDC five year review was running 2/3 years behind schedule and this was because the Local Plan had not been done properly in the first place.
32. You told me this comment related to the fact that the Local Plan put in place was wholesaley unpopular and that the housing figures had not been substantiated to the satisfaction of the WRA, the APC, CPRE Devon and NSN. The Plan was fundamentally flawed. It was an opinion but one that was not without basis.
33. You confirmed that you had set up the Facebook page headed; Richard Daws Teignbridge District Council Ambrook Ward, to deal with your Council activities. What you said there was in your role as a councillor.
34. You said you did have a clear view of the different roles of councillors and officers now. In the past you had, like many people, viewed the Council as an amorphous blob that made decisions.
35. I asked you if the NSN campaign had been principally directed at the officers. You said your campaign was principally directed at the crime that is NA3. By being polite, the APC and the WRA had got nowhere. You believed you had been effective using the tool of satire. You had been elected to stop an environmental crime. If NA3 got concreted over, which the Council officers feel it's their job to do, then if you upset people by trying to stop that happening, you were very sorry. The greater good was better served by you carrying out those actions.
36. I put to you that officers felt that they were simply doing their job, working within decisions made by the Council. They felt they were being attacked personally and very publicly. You said that officers were recommending that the Council makes decisions that you knew were unlawful. They were public servants recommending that the Council breaks the law.
37. You thought that this process was best described as a political witch hunt.

Sent to witness for confirmation	1 January 2020
Agreed by witness as an accurate record	