

To all Members of the

AUDIT HEARINGS SUB-COMMITTEE

AGENDA

Notice is given that a Meeting of the above Committee is to be held as follows:

VENUE Council Chamber - Civic Office, Waterdale, Doncaster
DATE: Tuesday, 14th June, 2016
TIME: 9.30 am

Items for Discussion:

- | | Page No. |
|---|-----------------|
| 1. Appointment of Chair for the meeting. | |
| 2. To consider the extent, if any, to which the public and press are to be excluded from the meeting. | |
| 3. Declarations of Interest, if any. | |
| A. A. Items where the Public and Press may not be excluded. | |
| 4. Consideration of the Investigating Officer's Report regarding complaints against Parish Councillor Michael Hennessey (Thorne-Moorends Town Council). | 1 - 64 |

(Appendix D and Annex 1 of the Investigating Officer's report contain exempt information under Paragraphs 1 and 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) (information relating to any individual and the financial or business affairs of any particular person (including the Authority holding that information))

Jo Miller
Chief Executive

Issued on: Monday 6th June, 2016

Senior Governance Officer for this meeting: Jonathan Goodrum
01302 736709

Members of the Audit Hearings Sub-Committee

Councillors John Healy, Richard A Jones and Alan Jones

Co-opted Members (Non-Voting)

Monica Clarke and Dave Harle

14th June 2016

**To the Chair and Members of the
HEARINGS SUB-COMMITTEE**

**CONSIDERATION OF THE INVESTIGATING OFFICER'S REPORT REGARDING
COMPLAINTS AGAINST COUNCILLOR MICHAEL HENNESSEY OF THORNE
MOORENDS TOWN COUNCIL**

EXECUTIVE SUMMARY

1. On 12th May 2016 Helen Potts (Investigating Officer) presented to the Council's Monitoring Officer (Scott Fawcus), her report relating to allegations in respect of Councillor Michael Hennessey of Thorne Moorends Town Council, that he had breached the Thorne Moorends Town Council's Member Code of Conduct.

EXEMPT REPORT

2. **Appendix D and Annex 1** of the Investigating Officer's report contain exempt information and are therefore NOT FOR PUBLICATION under Paragraphs 1 & 3 of Part 1 of Schedule 12 (a) of the Local Government Act 1972 (as amended). (Information relating to any individual and the financial or business affairs of any particular person (including the authority holding that information)).

RECOMMENDATION

3. The Sub-Committee is requested to consider the report of the Investigating Officer, attached as **Appendix E** and **Annex 1** and having regard to the comments made at the Hearing, determine if Councillor Michael Hennessey has breached the Code of Conduct and agree the appropriate course of action in accordance with the Council's complaint handling procedure.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. Having robust ethical governance policies and procedures in place, including mechanisms to deal with complaints of alleged Member misconduct, helps to strengthen public confidence in local governance through maintaining high standards of conduct by Members.

BACKGROUND

5. Two separate complaints were received by the Monitoring Officer in January 2016 against Councillor Michael Hennessey of Thorne Moorends Town Council:-
 - 5.1 The first complaint, submitted by Mrs Sharon Foster, alleged that in November 2015 Councillor Hennessey had interfered with goods, removing them from a Council store room and depositing them at Mrs Foster's home in an inappropriate manner, without authority from Thorne Moorends Town Council to do so.
 - 5.2 A second complaint submitted by Councillor Susan Durant of Thorne Moorends Town Council alleged that Councillor Hennessey had physically

assaulted her prior to the commencement of a Town Council meeting in December 2015.

6. Having considered the complaints in consultation with the Council's Independent Person (Mr Philip Beavers), the Monitoring Officer decided that, given the serious nature of the allegations, these matters should be the subject of a formal investigation under Section 28 of the Localism Act 2011. The Monitoring Officer subsequently appointed Helen Potts (Principal Legal Officer, Doncaster Council) to undertake the investigation on his behalf.
7. Following receipt of the Investigating Officer's Report on 3rd May 2016, in line with the Council's complaint handling procedure, the Monitoring Officer consulted with the Independent Person on the findings of the Investigation and decided to refer this matter to a meeting of the Council's Hearings Sub-Committee.
8. In accordance with the Council's procedure for hearing complaints, the Sub-Committee, upon receiving the report from the Investigating Officer and considering all the information, is asked to decide whether there has been a breach of the Code of Conduct. If so, the Sub-Committee is asked to consider recommending any appropriate sanctions against Councillor Hennessey to the Thorne Moorends Town Council.
9. The following documents are attached to this report to assist the Sub-Committee in its deliberations:-

Appendix A - DMBC Hearings Procedure;

Appendix B - Member Code of Conduct - Thorne Moorends Town Council;

Appendix C - Complaint form submitted by Councillor Susan Durant;

Appendix D - Complaint form submitted by Mrs Sharon Foster (Exclusion Paragraphs 1 and 3);

Appendix E - Investigating Officer's Report

Annex 1 - Investigating Officer's Report (Exclusion paragraphs 1 and 3)

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

10. As set out in the Hearings Procedure, if the Sub-Committee decides that the Member has **not** breached the Code of Conduct, the Sub-Committee can consider whether it should nevertheless make any recommendations to the Town Council as appropriate.
11. If the Sub-Committee decides that the Member **has** breached the Code of Conduct, where the Member is a Parish or Town Councillor, the Sub-Committee can only make recommendations to the Parish or Town Council as to the action it feels appropriate. This can include recommending any of the following possible sanctions against the Member concerned:-
 - (1) Censuring or reprimanding the Councillor;
 - (2) Publishing its findings in respect of the Councillor's conduct;
 - (3) Reporting its findings to the Parish/Town Council if appropriate for information;

- (4) Recommending to the Councillor's Group Leader (or in the case of ungrouped Councillors, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (5) Recommending that the Parish/Town Council arrange training for the Councillor;
- (6) Recommending to the Parish/Town Council that it removes the Councillor from all outside appointments to which he/she has been appointed or nominated by the Council;
- (7) Recommending to the Parish/Town Council that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access; or
- (8) Recommending that the Parish/Town Council exclude the Councillor from the Council's offices or other premises for a defined period of time, with the exception of meeting rooms as necessary for attending meetings of the Authority of which they are a member.

The Hearings Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Members' Allowances (including Special Responsibility Allowances).

IMPACT ON THE COUNCIL'S KEY OUTCOMES

12.

Outcome	Implications
Working with our partners we will provide strong leadership and governance.	The Audit Committee and its Hearings Sub-Committee have responsibility for overseeing the Council's ethical governance activities. This includes promoting and maintaining high standards of conduct by Borough and Parish Councillors and Officers.

RISKS AND ASSUMPTIONS

13. There are no identified risks associated with this report.

LEGAL IMPLICATIONS

- 14. Section 27(1) of the Localism Act 2011 places a duty on relevant authorities to promote and maintain high standards of conduct by Members and Co-opted Members of the authority.
- 15. Section 28 of the Localism Act 2011 requires Principal Authorities to have in place arrangements for investigating allegations of Member misconduct and taking decisions on those allegations. It also requires Councils to appoint at least one Independent Person who is to be consulted as part of the complaint handling process. Doncaster Council's ethical governance functions, including dealing with complaints of alleged Member misconduct referred to the Monitoring Officer under

Section 28(6) of the Localism Act 2011, are carried out by the Audit Committee and its Hearings Sub-Committee.

FINANCIAL IMPLICATIONS

16. There are no specific financial implications arising from this report.

EQUALITY IMPLICATIONS

17. There are no specific equalities implications associated with this report.

BACKGROUND PAPERS

DMBC Complaint handling and Hearings procedures
Complaints File (exempt).

REPORT AUTHOR & CONTRIBUTORS

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Scott Fawcus
Monitoring Officer

Doncaster Metropolitan Borough Council

**Audit Committee -
Hearings Sub-Committee**

Hearings Procedure

1. Interpretation

- (a) 'Member' means the Member of the authority who is the subject of the allegation being considered by the Sub-Committee, unless stated otherwise. It also includes the Member's nominated representative.
- (b) 'Investigator' means the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer, and his or her nominated representative).
- (c) 'The Matter' is the subject matter of the Investigator's report.
- (d) 'The Sub-Committee' refers to the Audit Committee's Hearings Sub-Committee.
- (e) 'The Committee Clerk' means an officer of the authority responsible for supporting the Sub-Committee's discharge of its function and recording the decisions of the Sub-Committee.
- (f) 'Legal Advisor' means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- (g) 'The Chair' refers to the person presiding at the hearing.
- (h) The 'Independent Person' means the person appointed under the Localism Act 2011 to assist the Monitoring Officer in dealing with complaints against Members.

2. Modification of Procedure

The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

3. Representation

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

4. **Legal Advice**

The Sub-Committee may take legal advice from its Legal Advisor at any time during the hearing or while they are considering the outcome.

5. **Setting the Scene**

At the start of the hearing, the Chair shall introduce each of the members of the Sub-Committee, the Member (if present), the Complainant(s) (if present) the Investigator (if present) the Independent Person (if present) and any other officers present, and shall then explain the procedure which the Sub-Committee will follow in the conduct of the hearing.

6. **Preliminary Procedural Issues**

The Sub-Committee shall then deal with the following preliminary procedural matters in the following order: -

(a) Disclosures of Interests

The Chair shall ask members of the Sub-Committee to disclose the existence and nature of any interests which they have in the matter, and to withdraw from consideration of the matter if so required.

(b) Quorum

The Chair shall confirm that the Sub-Committee is quorate (minimum of 3 voting Members must be present throughout the hearing to form a quorum).

(c) Hearing Procedure

The Chair shall confirm that all present know the procedure which the Sub-Committee will follow in determining the matter.

(d) Proceeding in the absence of the Member

In the event that the Member is not present at the start of the hearing, the Sub-Committee shall consider the matter and make a determination in their absence, unless the Monitoring Officer and Chair are satisfied that the Member has provided sound and valid reasons for their absence, in which case the Sub-Committee shall have the option of adjourning the hearing to another date.

(e) Exclusion of Press and Public

The press and public may be excluded in accordance with Schedule 12A of the Local Government Act 1972 (as amended) whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be discussed.

(f) Adjournment of Hearing

Where the Sub-Committee in the course of and prior to the conclusion of the hearing feels it needs additional evidence in order to come to determination of the matter, the Sub-Committee may adjourn the matter and request the Monitoring Officer to provide such further information or undertake further investigation. The Sub-Committee shall adjourn only once on this basis on any one matter.

The Complaint and Investigator's Findings

7. After dealing with any preliminary issues, the Chair shall invite the Investigator to present their report, including any documentary evidence or other material, and, with the Sub-Committee's permission, to call any supporting witnesses they require. This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.
8. The Sub-Committee may give the Member an opportunity to question the Investigator on the content of their report or any witness called by the Investigator about the evidence they have provided.

[NOTE: This is the Member's opportunity to ask questions arising from the Investigator's Report only and not to make a statement.]

9. Members of the Sub-Committee may question the Investigator on the content of their report and comments made to the Sub-Committee as well as any witnesses present.

The Member's Case

10. The Member or their representative may present their case and, with the Sub-Committee's permission, call any necessary witnesses in support.

[NOTE: Only evidence related to the information in the Investigator's Report will be allowed, not new evidence or issues.]

11. The Investigator may question the Member or witnesses.
12. Members of the Sub-Committee may question the Member or witnesses.

Summing Up

13. The Investigator may sum up the complaint.
14. The Member or their representative may sum up their case.

The Decision

15. All parties (with the exception of the Independent Person, the Legal Advisor/Monitoring Officer and the Committee Clerk) will be asked to leave the room while the Sub-Committee considers the representations and evidence in consultation with the Independent Person.

16. If the Sub-Committee decides that the Member **has not** failed to follow the Code of Conduct, the Sub-Committee can move on to consider whether it should make any recommendations to the Parish/Town/Borough Council or relevant Group Leader as appropriate.
17. If the Sub-Committee decides that the Member **has** failed to follow the Code of Conduct, it will decide:
 - whether or not to impose (or recommend) a sanction; and if so
 - what form any sanction should take; and
 - Whether any recommendations should be made to the Parish/Town/Borough Council as applicable with a view to promoting high standards of conduct amongst Councillors.

A list of possible sanctions is attached at **Appendix A**.

[NOTE: Where the Member is a Parish or Town Councillor, the Sub-Committee can only make recommendations to the Parish or Town Council as to the action it feels appropriate.]

18. The Sub-Committee may, at any time, question the Investigator, Complainant and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision. If it so wishes, the Sub-Committee may also invite the relevant parties to make any verbal representations as to imposing/recommending appropriate sanctions and what form these should take.
19. All parties will then be re-admitted into the room and the Chair will announce the Sub-Committee's decision and give reasons for its decision.
20. The close of the Hearing and Written Decision:
 - (a) The Sub-Committee will orally announce its decision on the day of the hearing together with a brief statement of its reasons.
 - (b) The Chair will thank all those present who have contributed to the conduct of the hearing and formally close the hearing.
 - (c) Formal notification of the decision, including reasons, will be communicated to all parties including the Member, the Complainant(s) and the Parish Clerk (where applicable) within 7 working days of the conclusion of the Hearing. Minutes of the hearing will be subsequently published on the Council's website and submitted to the next available meeting of the Audit Committee for information.

Appeals

21. There is no right of appeal for the Complainant or for the Member against a decision of the Sub-Committee.
22. If the Complainant or Member feels that the Council has failed to deal with the complaint properly and that this failure has caused injustice, they can make a complaint to the Local Government Ombudsman.

In the event of a finding of a breach of the Code, the Sub-Committee will have the option of imposing (or recommending) a sanction against the Member concerned. This can include:-

- (1) Censuring or reprimanding the Councillor;
- (2) Publishing its findings in respect of the Councillor's conduct;
- (3) Reporting its findings to Council [or to the respective Parish/Town Council if appropriate], for information;
- (4) Recommending to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (5) Recommending to the Elected Mayor that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (6) Instructing the Monitoring Officer to *[or recommending that the Parish/Town Council]* arrange training for the Councillor;
- (7) Removing *[or recommending to the Parish/Town Council that it removes]* the Councillor from all outside appointments to which he/she has been appointed or nominated by the Council *[or by the Parish/Town Council]*;
- (8) Withdrawing *[or recommending to the Parish/Town Council that it withdraws]* facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access; or
- (9) Excluding *[or recommending that the Parish Council exclude]* the Councillor from the Council's offices or other premises for a defined period of time, with the exception of meeting rooms as necessary for attending meetings of the Authority of which they are a member.

The Hearings Sub-Committee has no power to suspend or disqualify the Councillor or to withdraw Members' Allowances (including Special Responsibility Allowances).

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Code of Conduct

Introduction

Pursuant to section 27 of the Localism Act 2011, Thorne-Moorends Town Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

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Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

6. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.
7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.
8. A member shall register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.

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9. A member need only declare the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests at meetings

10. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
12. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting.
13. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.
14. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate (other than an interest in Appendix A), the member shall disclose the nature of the interest and not vote on the matter. He/she may speak on

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the matter only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

15. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

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Appendix A

Interests described in the table below.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 above for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses.
	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Council —
	(a) under which goods or services are to be provided or works are to be executed; and
	(b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge)—
	(a) the landlord is the Council; and
	(b) the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where—
	(a) that body (to the member's knowledge) has a place of business or land in the area of the Council; and
	(b) either—
	(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or
	(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'director' includes a member of the committee of management of an industrial and provident society.

*'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

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Appendix B

An interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;
- (iii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.

DONCASTER METROPOLITAN BOROUGH COUNCIL

COMPLAINT FORM – ALLEGATION OF A BREACH OF THE MEMBER’S CODE OF CONDUCT

Are you using the correct form?

This form should only be used for complaints which involve an alleged breach of the Code of Conduct for Members (i.e. misconduct by Parish Councillors or Borough Councillors). Please see guidance attached at Appendix 1 to assist you in deciding whether this is the correct form to use when making your complaint.

You can access the Council’s Code of Conduct for Members by visiting the Council’s website www.doncaster.gov.uk.

Further information can be found in our guidance for complainants which sets out the procedure that will be followed in handling a complaint, which can be viewed at <http://new.doncaster.gov.uk/services/the-council-democracy/how-to-complain-about-a-councillor> by accessing: ‘Complaint Handling Procedure’.

Please send the completed form together with any supporting documents to:

The Monitoring Officer
Civic Office
Waterdale
Doncaster
DN1 3BU

Email: TheMonitoringOfficer@doncaster.gov.uk

1. Please provide us with your name and contact details

Title:	Councillor
First name:	Susan
Last name:	Durant
Address:	48 Durham Avenue Thorne
Daytime telephone:	██████████
Evening telephone:	██████████
Mobile telephone:	██████████
Email address:	████████████████████

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress.

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

In normal circumstances, we will tell the following people that you have made this complaint:

- the Member(s) you are complaining about
- the Independent Person (a person appointed under the Localism Act 2011 to assist the Monitoring Officer in dealing with complaints against Members)
- the Parish Clerk (if your complaint concerns a Parish Councillor)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and/or details of your complaint being released, please complete section 7 of this form, in which case we will give consideration to the merits of protecting your identity. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Member of Parliament
- Local authority monitoring officer
- Local authority employee
- Other ()

3. Please provide us with the name of the Member(s) you believe has/have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name
Councillor	Michael	Hennessey	Thorne & Moorends Town Council
Mr	Jeremy	Sherlock	Clerk Thorne & Moorends Town Council

4. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer and the Independent Person in deciding whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said. In the case of complaints about statements made or alleged to have been made by a Member, the Monitoring Officer needs a minimum level of information about each of the statements complained of. This information consists of:
 - 1) When the statement is alleged to have been made, published or broadcast;
 - 2) Where the statement is alleged to have been made, published or broadcast;
 - 3) If it was not published or broadcast, who the statement was made to and who is alleged to have heard it;
 - 4) The words used in the statement which are complained of, and if the exact words cannot be supplied by the complainant, the gist of those words;
 - 5) Why those words are considered by the complainant to be a cause for complaint.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- **If the alleged incident occurred more than 28 days ago, clearly explain why the complaint was not made during that period of time. Please note that if a period of 3 months or more has passed since the date of the alleged incident, complaints will not be considered by the Monitoring Officer, unless there are exceptional circumstances.**

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

The Thorne & Moorends Town council meeting was scheduled Tuesday 8th December 2015. On the agenda was an item of interest which could possibly save a community building from being sold, the agreed sale of the building had seen members of the local community come together to try and save this building. The sale process had been challenged and voted against by Labour Councillors and a motion to rescind the sale was on the agenda with an expected turnout of over 100 members of the public which also included a coach picking up the public to take to the meeting. (we had asked previously for a larger building to be used and this was refused). I had asked the Clerk Jeremy Sherlock to open the room from 6 pm to allow members of the public in, especially as some of those wishing to attend were older more vulnerable members of the public. I was outside the Assembly Rooms when Cllr Hennessey arrived, he went to go into the meeting room and I shortly followed as this person is very volatile and always verbally attacks Annie Farrand. On entering the room Cllr Hennessey was shouting at her to get out, she wasn't allowed in and if she didn't move he would physically throw her out. I informed him he would do not such thing and he told me to get out! I stated that I am a councillor that I have every right to be there and that I had seen Jeremy to allow members of the public in from 6

pm. Cllr Hennessey continued to shout and threaten Annie Farrand and that he would physically remove her and went towards her in an aggressive manner. I went to pass Cllr Hennessey and he turned towards me, grabbed both my forearms and pushed me against the back wall. I was very unnerved by this, I told him to get of me and managed to get one arm free to try and push by him but he then used the physical force of his body to prevent me getting by. The only way I can think to describe this as stated to the police was the he "belly bounced" me. Annie Farrand asked Jeremy to call the police and he said NO!!. I managed to get past Cllr Hennessey and called 999, Cllr Hennessey continued to shout and berate at Annie and I. I informed Jeremy I would expect him to make a statement, he then left the room and Cllr Hennessey slammed the door, (Cllr Hennessey also stated it would be "No comment") this was as Cllr Holbrook's was coming into the room and therefore slammed in his face and would not let anyone in or out. I went to the door as someone knocked and I thought it was Cllr Houlbrook but it was my daughter Rachel Durant, the door opened and Rachel put her foot in the door and so did I but Cllr Hennessey tried stopping it opening and again had hold of my left arm and pushed the door shut. He stated no-ones coming in, whilst this was happening Annie opened the emergency exit which meant there was no point in keeping this door locked. Cllr Houlbrook told Cllr Hennessey never to slam a door in his face, I made sure that my mother (Annie Farrand) was ok. I then sat at the bottom end of the table as far away from Cllr Hennessey as possible and asked Cllr Houlbrook to join me as I was very shaken and frightened at this person's behaviour. Cllr Houlbrook came and sat next to me and asked if I was ok as I looked upset and I explained why I had asked him to sit next to me. I then phoned my husband to come down, I did not leave the meeting until the very end and made sure that Cllr Hennessey had left the room before leaving as there were pink papers which meant my husband was waiting outside for me with my daughter.

I am very disappointed with the clerk Jeremy Sherlock, he did explain that he had been asked for the room to be open for the public from 6 pm and did not ask Cllr Hennessey to refrain from the attacks and threats, he refused to call the police and when asked by my daughter if he was going to doing anything said he wasn't getting involved. This is shocking behaviour which not only allowed Cllr Hennessey to threaten, bully and intimidate a councillor but also a member of the public. To actually Man-handle me and then lock us into the room without our consent and against our will.

5. Making your complaint

- The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it.
- The Monitoring Officer will determine whether your complaint falls within the scope of the Members' Code of Conduct and, if so, will assess the complaint in consultation with the Independent Person. Having consulted with the Independent Person, the Monitoring Officer will take a decision as to whether the complaint merits formal investigation, or whether an alternative course of action (if any) should be taken. The Monitoring Officer will aim to do this within 20 working days of receipt of your complaint and you will then be notified in writing of his decision.
- The Monitoring Officer (in consultation with the Independent Person) may decide:-
 - that no further action should be taken regarding the allegation.
 - to seek to resolve the complaint informally without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Authority, such as training for the Member.
 - to forward the complaint to the relevant Group Leader/Political Group for informal resolution (or Parish/Town Council if applicable).
 - to arrange for an investigation to be undertaken in relation to the circumstances of the allegation that has been made, the findings of which will be referred to the Audit Committee's Hearings Sub-Committee for determination, where a breach of the Code is identified.
- Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.
- If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.
- The Monitoring Officer's decision will be communicated to the person(s) making the complaint, the Member who is the subject of the allegation and the Clerk of the Parish Council if the complaint is about the behaviour of a Parish Councillor.
- The types of behaviour covered by the Code of Conduct which you can complain about and those that are unlikely to be investigated further are set out at the end of this form.
- Any queries relating to how a complaint is being handled should be directed to the Monitoring Officer (see contact details on front page of this form).

6. Informal resolution

The Monitoring Officer will normally try to resolve your complaint informally, where practicable. To assist in this process, please give details of the remedy or outcome you are seeking or the action you think might provide a satisfactory resolution to your complaint.

Since Cllr Hennessey became a councillor in May nearly every meeting has been brought into disrepute regarding his behaviour, the manner in which he speaks to members of the public and fellow councillors with his aggressive and threatening behaviour. At least one member of the public has attended every meeting of the council to complain about this Cllr. This was not acceptable then and is not acceptable now. He has gone from verbal threats and intimidation, to man handling me which I have reported to the police (I have been provided with a crime reference number and investigations regarding a charge of assault without injury is ongoing). I have said I am willing to attend court and the Police will be speaking with Cllr Hennessey, the clerk and others with reference to this incident (if they have not already).

Cllr Hennessey is not fit to be a councillor, he ignores the code of conduct and the NOLAN principles, he has no respect for others and does not value anyone's opinions but his own.

The only remedy I can see would be to remove him as a councillor, suspend him and for him to attend training courses regarding

- Code of conduct
- Discrimination
- Bullying, intimidation and harassment
- Threatening behaviour
- Debate & Negotiation
- People skills

Only complete this next section if you are requesting that your identity is kept confidential.

7. In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

- Disclosure of your identity and information on the nature of the complaint could result in evidence being compromised or destroyed or
- Where there is a possibility of you or potential witnesses being intimidated by the Member concerned.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. In consultation with the Independent Person, the Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

8. Complaints must be submitted in writing. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

Alternative formats and languages can be made available upon request.

If you need any support in completing this form, please let us know as soon as possible.

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By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Doncaster Metropolitan Borough Council

Case Reference: PC 07/15

**Report of an investigation
Councillor Michael Hennessey
Thorne Moorends Town Council.**

Investigation under s28 of the Localism Act 2011, Helen Potts, Principal Legal Officer at Doncaster Metropolitan Borough Council appointed by Scott Fawcus, Monitoring Officer for Doncaster Metropolitan Borough Council.

Date 12th May 2016

Contents

1. Executive summary and list of key individuals.
2. Councillor Hennessey's official details
3. The relevant legislation and code.
4. The evidence gathered and its consideration
5. Summary of material facts
6. Reasoning as to whether there has been failures to comply with the Code of Conduct
7. Additional Submissions
8. Finding

List of background papers

Annex 1 – Evidence in relation to café items incident (complaint by Sharon Foster)

Note: Annex 1 is NOT FOR PUBLICATION because it contains exempt information within Paragraphs 1 & 3 of Part 1 of Schedule 12(a) of the Local Government Act 1972 (as amended). (Information relating to any individual and the financial or business affairs of any particular person (including the authority holding that information))

1. Executive Summary and List of Key Individuals

1.1. Two complaints were received against Councillor Michael Hennessey of Thorne Moorends Town Council:

1.1.1. Sharon Foster submitted a formal complaint to Doncaster Council on 5.1.16 that Councillor Hennessey had interfered with goods; removing them from a council store room and leaving them at her home on 22.11.15 in an inappropriate manner when he had no Council authority to do so and that was a breach of the Code of Conduct.

1.1.2. Councillor Susan Durant of Thorne Moorends Town Council submitted a formal complaint to Doncaster Council on 15.1.16 alleging that on 8.12.15 Councillor Hennessey had physically assaulted her before the start of a town council meeting and that this was a breach of the Code of Conduct.

1.2. I conclude as a result of the investigation that Councillor Hennessey has breached Thorne Moorends Town Council's Code of Conduct in that:

1.2.1. He has not behaved in such a way that a reasonable person would regard as respectful

1.2.2. He has acted in a way which a reasonable person would regard as bullying or intimidatory.

1.2.3. He has not used the resources of the Council in accordance with its requirements.

1.3 The key individual's in this case (with the abbreviations used) are;

Parish Councillor Michael Hennessey (CH)

Parish Councillor Susan Durant (SD)

Sharon Foster (SF)

Jeremy Sherlock, the Clerk to Thorne Moorends Town Council (JS)

Annie Farrand (AF)

Rachel Durant (RD)

Councillor Mark Houlbrook (MH)

1.4 The draft report dated 15th April 2016 was sent to the Complainants and to Councillor Hennessey for their comments. I have addressed the key issues raised through this in section 7 and have made some minor amendments to the report. In

addition a further complaint was sent to the Monitoring Officer on 25.4.16 from Lyn Ryan concerning an incident last year and this is considered in section 7.

2. Councillor Hennessey's Official Details

- 2.1. Councillor Hennessey was elected to office on 7.5.15 for a term of 6 years.
- 2.2. Councillor Hennessey currently serves on the following committees: – all Councillors are on Policy and Resources and Planning and Amenities Committees. Cllr Hennessey is also vice Chair of Policy and Resources, a member of the Neighbourhood Plan and Community Development Sub Groups, and represents the Council on the DMBC PCJCC, Thorne and District Anglers Association, and Friends of Thorne Community Wood.
- 2.3. Councillor Hennessey gave a written undertaking to observe the Code of Conduct on 19.5.15.
- 2.4. All Thorne Moorends Town Councillors were provided with the Code of Conduct as noted in the Minutes of the Council meeting of 19.5.15. Councillor Hennessey has attended a 'Councillor Skills and Development Seminar' on 18.6.15 organised by Yorkshire Local Council's Association. Councillor Hennessey has received training on the Code. Councillor Hennessey has received guidance on the Code of Conduct on 13.10.15 when Roger Harvey, former Monitoring Officer for Doncaster Metropolitan Borough Council and Phil Beavers, Doncaster Metropolitan Borough Council's Independent Person attended the Thorne Moorends Town Council Meeting.

3. The Relevant Legislation and Code.

S27 of the Localism Act 2011 requires that an Authority adopt a Code of Conduct to promote and maintain high standards of conduct by its members. Under s28 the Principal Authority, Doncaster Borough Council must have arrangements for handling complaints regarding allegations of member misconduct.

Thorne Moorends Town Council has adopted a Code of Conduct (at Appendix A) in which the following paragraphs are included:

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

4. The Evidence Gathered and its consideration

4.1 I was asked to investigate the complaints made against Councillor Hennessey on 29.1.16.

I have taken account of oral evidence from:

- Councillor Susan Durant, Complainant on 26.2.16 at the Civic Office
- Annie Farrand on 3.3.16 at the Civic Office
- Clerk Jeremy Sherlock on 9.3.16 at the Civic Office
- Rachel Durant (daughter of Councillor Durant) on 11.3.16 by telephone
- Councillor Mark Houlbrook on 11.3.16 at the Civic Office
- Sharon Foster on 5.4.16 at the Civic Office.
- Councillor Hennessey by telephone on 19.2.16 and 18.3.16.

Notes from these meetings are attached at Appendix B.

Councillor Hennessey did not wish to meet with me, wishing his police statement regarding the 8.12.15 incident to be his evidence. I have written to him on three occasions (16.2.16, 2.3.16 and 15.3.16) detailing the importance of meeting with me. The Monitoring Officer has also written to him on 17.3.16 reiterating the importance of participating in the investigation.

I have spoken to Councillor Hennessey by telephone on two occasions and my notes are attached at Appendix B (19.2.16, 18.3.16). I have also considered his emails of 8.2.16 to Roger Harvey, his formal complaint of 6.2.16 and his email to Scott Fawcus of 21.3.16, all of which are attached at Appendix B.

Councillor Hennessey did submit a formal complaint against Councillor Durant on 6.2.16. The response of the Monitoring Officer of 9th February 2016 details that no further action would be taken as it was only submitted once Councillor Hennessey was aware of the complaint against him.

As requested by Councillor Hennessey, I did seek to obtain a copy of his police statement concerning the incident of 8.12.15. However following the SYP Legal Service letter of 21.3.16 detailing the process involved, it was decided not to proceed for the following reasons:

- The time involved (28 days then a further 21 days before a statement may be released)
- Sufficient evidence of Councillor Hennessey's perspective had been obtained from the detail he has provided in telephone calls and in the emails and complaint that he has sent.
- Councillor Hennessey would also have the opportunity to comment on the draft of this report.

- The Police statement would not add to this as their investigation was focused upon only criminal matters, this Code of Conduct investigation has a wider remit and a lesser burden of proof..
- P.C. Briars has confirmed by email that she did not say it was ‘Councillor Durant’s fault’ as alleged by Councillor Hennessey. PC Briars has also rejected Councillor Hennessey’s suggestion that the Police were looking to prosecute Cllr Durant for “wasting Police time”
- The Police interviewed Cllr Hennessey solely about the Councillor Durant incident on 7.1.16 not the other matters which this investigation covers

4.2. I also have taken account of documentary evidence obtained, all contained within Appendix B:

- Email correspondence with PC Briars following the complaint to the police on the 8.12.15 incident.
- Councillor Hennessey’s email to Roger Harvey on 8.12.15, his formal standards complaint of 6.2.16 and his email of 9.2.16.
- Rachel Durant’s emails
- Thorne Moorends Town Council meetings minutes, code of conduct and social media policy

4.3. I wish to record my thanks for the co-operation and courtesy shown to me by those whom I interviewed.

Background

The history of two conflicting political parties and individuals at Thorne Moorends Town Council was detailed by all those involved.

Following the changes to Councillor Conduct made by the Localism Act 2011, Doncaster Council has been trying to promote internal resolution within local Parish Councils.

There has been a history of difficulties reported to Doncaster Council since the May 2015 elections at Thorne Moorends Town Council. In response to this, Roger Harvey, Monitoring Officer at Doncaster Borough Council (until 30.2.16) and Phil Beavers, Independent Person under the 2011 Act, visited Thorne Moorends Town Council on 13.10.15. The inappropriate issue of use of Facebook by Councillors was addressed in a social media policy adopted by the Town Council on 9.6.15, and issues concerning this are referred to in the Town Council minutes of 9.6.15 (2760); 1.9.15 (4257) and 13.10.15 (4272).

The change in the balance of power in May 2015 at the Town Council with Labour losing seats to the Community Group, and Councillor Hennessey being appointed caused tension.

Past animosity arose, in accounts by Annie Farrand, Rachel Durant, the Clerk, Sharon Foster, and Councillor Durant, due to a food bank matter. As reported by Councillor Hennessey, the Council premises used by the food bank required repair work. The works were carried out on a Wednesday meaning that the food bank was closed. Councillor Hennessey apparently refused alternative premises. This event appears to have caused great upset to Councillor Hennessey and the phrase 'you closed my food bank' has been used by him in public to attack Annie Farrand.

Further tensions arose within the Town Council over the possible sale of The Winning Post, a Council building. The lead up to the meeting of 8.12.15 is shown in the Town Council minutes of 1.9.15 (resolved to invite bids and carry out consultation); 13.10.15 (update); and 3.11.15 (resolved disposal be agreed in principle). The meeting of 8.12.15 was to vote on rescinding the sale of the building. Views on the future of the building were split on party lines; some members of the Community Party supported the sale, the Labour party supported retaining the building.

All those interviewed consider that the poor relationships need to be put aside for the good of the Borough but individuals seem to be unable to do this. Sharon Foster spoke particularly powerfully of the Council having the benefit of strong Councillors who could really benefit Thorne but the infighting and hostility, so evident at each Council meeting, are preventing the Council working for the good of the people.

In his email of 8.12.15 Councillor Hennessey states: 'that all this infighting should stop, for the good of Thorne and Moorends people'.

Café items incident (complaint by Sharon Foster)

The Incident

Sharon Foster had been the tenant of a café on premises owned by Thorne Moorends Town Council. In September 2014, Mrs Foster closed her café and was subsequently involved in negotiating commercial terms with the Town Council. On 22.11.15 Councillor Hennessey arrived at Mrs Foster's home without an appointment and proceeded to return several items left by Mrs Foster at the café. According to Mrs Foster's evidence, Councillor Hennessey behaved in a loud and abusive manner and caused embarrassment and upset to Mrs Foster. Councillor Hennessey also disclosed confidential business information about Mrs Foster without the consent of either Mrs Foster or Thorne Moorends Town Council.

The key disputed facts are:

- Whether Councillor Hennessey had Council authority to remove items from the Council control to return to a former tenant.

- Whether he acted appropriately in returning them directly to Sharon Foster on 22.11.15.
- Whether his manner in speaking to Sharon Foster on this date was appropriate.

[Note: Further details are set out in Annex 1 to this report. Annex 1 is **NOT FOR PUBLICATION** because it contains exempt information within Paragraphs 1 & 3 of Part 1 of Schedule 12(a) of the Local Government Act 1972 (as amended). (Information relating to any individual and the financial or business affairs of any particular person (including the authority holding that information)).

8.12.15 incident (complaint by Councillor Susan Durant)

The key disputed facts are:

- Whether Councillor Hennessey grabbed and held Councillor Durant's arms.
- Whether Councillor Hennessey acted inappropriately to a member of the public and blocked access/exit to a room.
- Councillor Hennessey states he was assaulted and injured and that the police agreed that it was Councillor Durant's fault.

The Complainant's Evidence

Councillor Susan Durant, in her complaint form, states that she had asked the Clerk JS to open the Town Council building early at 6pm due to the numbers of public expected to attend the Council meeting that evening and JS had agreed. A larger meeting place had been requested by the Labour group and refused. Her Mother (Annie Farrand) was already in the assembly room and SD followed CH into the room, aware that 'this person is very volatile and always verbally attacks Annie Farrand'. On entering the room CH began shouting at Annie Farrand to get out, telling her that she wasn't allowed in and if she didn't move he would physically throw her out. SD informed him he would do no such thing, CH responded by also telling SD to get out, to which SD stated that she was a Councillor and she had every right to be there. CH continued to shout and threaten AF; telling her that he would physically remove her. CH moved towards AF in an aggressive manner. SD tried to pass CH (to reach AF), at which point CH turned towards SD, grabbed both her forearms and pushed her back against the wall. SD was unnerved by this, she SD told CH to get off her and SD managed to wrestle one arm free to try and push her way past CH but CH then used the physical force of his body to prevent SD passing him. SD described this as CH 'belly bouncing' her. AF asked JS to call the police and JS refused. SD then called 999. CH went to close the door and shut it in MH's face. The door was opened again, by Rachel Durant and SD wedged the door open with her foot. This allowed SD to open the door from her side also SD. AF opened

the emergency exit and left the room, and as AF had left, CH let the door open. SD asked MH to come and sit with her at this point as she did not feel safe.

The words that SD uses to describe CH are volatile, aggressive, threatening and intimidating.

Annie Farrand's Evidence

AF is SD's mother and has a long history of political involvement which she detailed. AF was involved in the decision to close Council premises for repairs which led to the food bank being unable to open for a day. This event remains a source of tension with CH.

AF explained that CH and Councillor Roy Turner wanted the Council to accept a bid for £15,000 instead of £30,000 for the sale of the Winning Post pub as the bidder would give free use of the premises for 1 year for the food bank that Councillor Hennessey runs. The community was upset over the sale of the Winning Post. AF arrived at 6.20pm so that she could get a chair as she is awaiting a hip operation. JS allowed her in to the room; she was the first there. JS asked her to sign in and to encourage others to do so. CH then walked into the room and said 'get out' to her. JS was at the door too. AF replied: 'I'm in order' and JS responded 'okay', mumbled and left the room.

AF recalls that Councillor Hennessey said 'if you don't get out I'll physically remove you.' CH started to move towards AF.

SD entered the room; AF thought SD may have left her bag and had come in to retrieve it. At this point CH grabbed SSD and pinned her against the wall. CH's hands were on SD's arms; CH was pushing SD. SD requested that JS phone the police; JS responded that he was not getting involved. SD freed herself from CH and phoned the police. There is little space between the table and the wall and CH has pinned SD by the wall until she was able to push him away. CH closed the door of the room. RD then came to the room and tried to enter though CH was stopping entry. AF left the room using the fire exit (that led round to the corridor by the other entrance to the room). AF was not sure what would have happened if there was not an alternative exit. AF returned to the room for the meeting. During the meeting, CH had a real go at Councillor Karen Readmire who was in support of retaining the Winning Post (she and another Councillor had resigned from Community Group over the sale). The decision was taken that the Winning Post was not to be sold.

At a more recent council meeting, AF went to see JS (as she is still on Working Group and Allotment Group). JS told her to go in to the meeting room, however CH was already there and said to AF "get out", "get out", "you closed my and wife's food bank for weeks" AF replied "you are a blatant liar and it's about time it stopped."

CH likes to use Facebook; so he doesn't have to face those he is in conflict with. He has been using Thorne Community Facebook page to be abusive. AF stated that

- He has only has been elected through lies – people say now they would not have voted for him.
- He doesn't like others success, doesn't like others disagreeing with him.
- Annie by her own admission is prepared to stand up to CH. He is an arrogant bully.
- There was a car accident in village involving a young couple CH had blamed the driver stating he had taken "too much cannabis." on Face Book. A relative came to a Council meeting and asked for CH's resignation stating that CH should not make statements on Facebook and should resign – those in attendance at the meeting applauded the comment.

Rachel Durant's Evidence

RD is Councillor Durant's daughter and was previously a Thorne Town Councillor but had not stood at the last election due to work commitments. She had emailed Roger Harvey on 10.12.15 setting out her complaint regarding CH's behaviour and this was repeated in her telephone conversation with me on 11.3.16. On 10.12.15. RD had travelled by bus to the meeting with other residents. RD had knocked on the Council Chamber door; she heard voices and heard her mum say "that will be Mark (Houlbrook), let him in". She tried the door but it was locked and heard Councillor Hennessey shouting 'nobody is going anywhere, in or out, you're not coming in'. 'There was clearly a commotion in the room and so RD banged forcefully on the door before resorting to telling CH that if he didn't open the door she would call the Police; RD believed that "it was entrapment." The door opened abruptly and CH was stood directly in front of RD, facing RD, with one hand on the door and one hand firmly holding SD's arm (RD recalls that it was SD's left arm.) CH shouted that RD had no right being there and that she wasn't getting in. RD wedged the door open with her foot and advised that RD was delivering a message to SD that she was to call her husband CH then proceeded to try and slam the door into RD's face. CH was unable to close the door although RD believes that his intention was to injure her with the door causing real injury. JS was present during this and said he was not getting involved. CH also tried to close the door in Councillor Houlbrook's face. Rachel's grandma, AF then appeared saying she had come out of the emergency exit. CH then opened the door and people started to come in.

RD considers that CH has a vendetta against AF arising from when the food bank was closed for a day. RD cited examples of his poor behaviour included Facebook comments following a car crash, allegations by a shopkeeper over his behaviour, a vendetta against the Allotment Association and his treatment of the Parish Council staff. . At every public meeting complaints have been made about him. RD stated that he fails to respect anyone else's opinion; holds disagreements for a long time; is

quite nasty, aggressive and intimidating; and there is no reason for him to take matters so personally.

In the December Council meeting RD recounts that CH lunged over the table and shouted traitors at the two Community Party Councillors who had decided to become independent following the Winning Post issue. She did consider his behaviour improved when Roger Harvey and Phil Beavers attended the council meeting.

In her email of 27.1.16, RD states that at a Council meeting on 26.1.16 Councillor Hennessey inappropriately stated that she was the legal expert and she explained that she was not and was told to 'shut up'.

Councillor Hennessey's Evidence

8.12.15

In his telephone conversations CH stated that his evidence is in his statement to the police. His email to Roger Harvey, former Monitoring officer, of 8.12.15 (23:09) details that:

- He asked AF to leave the room prior to the council meeting starting as a Community Group meeting was to happen as usual. AF refused as she said the JS had said that people could come in earlier. CH said he would speak to JS.
- JS told CH he should have not let them in without telling the Community Group.
- As CH returned to the room SD came in and CH told her she was not allowed in as the Community Group were having their usual pre meeting. 'She tried to push by me and I tried to stop her, but with her weight she passed me, she said I am phoning the Police'
- There was a knock on the door, as CH locked it, it was MH, he was kicking the door down, and so CH let him in. MH threatened CH saying "don't ever lock the door on me again".

There is no reference to a back injury at this point by CH (this was first mentioned in his formal complaint of 6.2.16) nor to RD being outside.

This email was treated by Roger Harvey as an account of an incident that had occurred that night. It was not presented to the Monitoring Officer as a complaint. CH gave no indication in the contents of the email that he wished this to be considered as a formal complaint under the Code of Conduct against a councillor. If he had requested this in the email, a formal Complaint form would have been sent to him. The email outlined the ongoing tensions that the Monitoring officer and Independent Person were aware of. CH, since being notified of the complaint against him, believes this should have been dealt with as a formal complaint.

In his email to Roger Harvey of 10.2.16 CH details that 'after making my statement the Police Officer stated it was obvious that SD had caused this trouble, and they would be speaking to her' and states; 'with reference to the assault SD made on me, injuring my back'.

Following the notification to CH by letter on 29.1.16, a formal complaint by him against SD was sent on 6.2.16. Roger Harvey responded on 9.2.16. CH provides little detail in the complaint, aside from:

- 'Susan Durant assaulted me causing injury to my back after being asked to leave a private meeting'.
- Any information is available from the PC Louise Briars.
- 'I cannot comment more on this incident as I may be taking legal action for injury received'.

Councillor Houlbrook's Evidence

Councillor Houlbrook has been a Parish Councillor since 2011 and a Ward Councillor since 2014. When MH entered the Town Council building on 8.12.15 CH was in the doorway and slammed the door straight in MH's face- stating "you are not coming in here, it is booked for the Community meeting". MH was not aware that SD was in the room and went to speak to JS. He then returned to the room and expressed his dissatisfaction to CH about not being allowed to enter. CH retorted 'what are you going to do about it?' SD told MH to sit down with her and he understood that the police were called. He recounted a number of incidents concerning CH behaviour involving Face Book posts about a car crash, items from the café being removed, threats to a shop owner, and issues over the allotments and CH's general antagonism on social media. MH stated that CH is very aggressive. MH accepts that things have been difficult since the 2015 elections but that what is important are people's lives and not the issues which CH personalises.

The Clerk's Evidence

Jeremy Sherlock has been Thorne Moorends Town Clerk since 2011. He did concede that there was poor behaviour on both sides of the Council. After 3 months since the political shift following the elections, there was inappropriate behaviour and the Monitoring Officer Roger Harvey tried to resolve this informally; though they accepted what Roger told them the behaviours continued. JS was aware of tensions and has tried to remain neutral but cannot police the situation. JS had also been aware of the previous food bank closure, though he was on holiday at the time.

JS was aware of Councillor Hennessey's Facebook comments following a car crash. Councillor Hennessey is also very conscious of health and safety and raises these issues.

Jeremy Sherlock was present for some of the 8.12.16 incident and considers that Councillor Hennessey's behaviour was a significant breach of the Code. JS had agreed that for the 8.12.16 meeting concerning the Winning Post the meeting room could be opened up for members of the public; as a large number were expected to attend. An alternative room would be available if the Community Group wished to have their pre-meeting. AF had approached him before the meeting and he had told her she could go into the room. CH had then come into JS's room asking him to remove the public from the meeting room. JS explained why it was sensible that they were let in early and that an alternative room was available for the pre meeting. JS followed CH to the meeting room. JS explained that the table covered much of the room and the gap between the table and wall was not significant, only 1 person wide. AF was seated and SD was close by. CH was gesticulating and a dialogue was ongoing. SD tried to get past CH to reach her mum and he physically grabbed hold of her arms and used an element of force to obstruct her; SD could not get around, it was inappropriate. JS put his head in his hands at this point and SD told him he should call the police. JS did not as he did not believe that the Police would consider it a crime. JS returned to his office. JS does feel he is not there to police the Councillors but to serve them, not control them. There is clearly a history but CH's behaviour was inappropriate. JS is careful to remain neutral though to avoid accusations of bias. He considers both sides entrenched in their position and has not made progress with peace brokering.

Police Investigation

I contacted PC Louise Briars following Councillor Hennessey's request. Despite a number of attempts I was unable to speak to her on the telephone though she did return my emails, which are at Appendix B. She referred me to the Legal Department to obtain the CH interview. She did state in the email correspondence 'Just to clarify that Susan Durant was not at fault, but I will discuss that with you on Thursday'. I did not get to speak with PC Briars. I understand from speaking to the parties involved that no criminal matter was investigated as it was not in the interests of justice.

I wrote to the SYP legal services on 18th March 2016 and they responded on 21st March 2016 detailing what would be needed to request the statement.

Consideration of disputed facts

In making the decision on disputed facts I have considered why there is a disparity between recollections.

- Collusion
Councillor Hennessey states that Sharon's complaint was encouraged by Councillor Durant. Mrs Foster's complaint arrived before Councillor Durant's complaint. Mrs Foster did state she had spoken to Councillor Durant about Councillor Hennessey's behaviour and what she can do but it was Mrs

Foster's own decision to fill in the complaint form. Clearly Councillor Durant's mum and daughter may support and encourage each other but I found no evidence of deliberate collusion. In addition the Clerk's and Councillor Houlbrook's evidence did agree with what I had been told by the other witnesses. Councillor Hennessey was asked if there were any people he would suggest should be interviewed but he did not name anyone.

- **Raised passions at meeting**

The meeting of 8.12.15 was a difficult one with the likelihood that the decision supported by the Community Group to sell The Winning post would be overturned and no doubt Councillor tensions among the Community party were raised, particularly as two of its members resigned during the meeting, over the decision. It is accepted that Councillor Hennessey may not have initially known that the meeting room would be open to the public beforehand and this again would have caused some tension when he was expecting a pre-meeting in there. He was however told by the Clerk of the reasons for the room being available to the public but continued to object. These raised emotions may be partly why Councillor Hennessey's recollection is different to the others.

- **Political situation and past history**

The past animosity between the Labour Party and the Community group and particularly Councillor Hennessey and Councillor Durant and her family create some tensions. It seems both sides are entrenched in this animosity. Those I spoke to suggested that Councillor Hennessey finds it difficult to forget past grievances and does not deal well with accepting alternatives to his own position on matters.

Conclusion

Items from cafe

Councillor Hennessey did not have permission to remove the items for the Council store room located at the café. He was told to return them by the Clerk once the Clerk was notified of this. He chose to take them to Sharon Foster. He informed the Clerk she had accepted them. His initial aim may have been to obtain the items for the Food Bank but on being told to return them decided he would instead take the items to Sharon Foster. His behaviour, as detailed by Sharon, on the morning of 22.11.15 was hostile and intimidating. He repeatedly referred to his Councillor status; he shouted and was aggressive to her outside of her home.

I find that:

- Councillor Hennessey did act inappropriately in removing goods from the storeroom and then acted inappropriately and aggressively in returning them to Sharon Foster's home instead of the storeroom as instructed to by the Clerk.

8.12.15

Councillor Hennessey was told on the evening of 8.12.15 by the Clerk that the room had been opened early for members of the public. He still continued to tell Annie Farrand to leave and was aggressive to her. He did not allow Councillor Durant to join her mother in the room but grabbed her by her forearms and held her. There was little space between the desk and the wall at the point where Councillor Durant wished to pass to reach her mother but Councillor Hennessey should have stepped out of the way rather than preventing Councillor Durant passing him. He also tried to prevent entrance or exit to the room.

I find that:

- Councillor Hennessey acted aggressively in speaking to Annie Farrand, he did physically hold Councillor Durant and barred access or exit to the room.

I am also required to consider any aggravating or mitigating circumstances

Mitigation/Aggravating factors

- The animosity between both sides and particularly Councillor Hennessey and Councillor Durant and her family, with the history of the Food Bank closing and the change in political power in 2015 elections provides background to the situation within the Council but does not provide a reason for Councillor Hennessey's behaviour.
- Councillor Hennessey is portrayed by all I interviewed as a strong character who does not like people disagreeing with him. He can be aggressive and intimidating and appears to use Facebook as a way of expressing his concerns.
- There were heightened emotions on 8.12.15 throughout the community, reflected in the number of the public who came to save The Winning Post from being sold. Councillor Hennessey had been in favour of the sale, and two of the Community group had resigned from it due to this decision so clearly Councillor Hennessey may have felt defensive and under attack before arriving at the meeting.

5. Summary of material facts

Councillor Hennessey removed items from the café store room when he did not have permission to do so. He was instructed to return the items by the Town Clerk to the store which he did not do. Councillor Hennessey visited Sharon Foster to return them and inappropriately spoke to her, embarrassing her in front of her granddaughter and her neighbours.

Councillor Hennessey was informed on the evening of 8.12.15 that the meeting room would be available before the meeting for members of the public. He spoke in a harsh and inappropriate manner to Annie Farrand. He prevented Councillor Durant from passing him. He grabbed Councillor Durant by her arms to prevent her getting past. He tried to prevent entrance or exit to the room and did attempt to close the door on Councillor Houlbrook and Rachel Durant.

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

Previous guidance from the now disbanded Standards Board provided that a very clear line has to be drawn between the Code of Conduct's requirement of respect for others, including members of the Authority with opposing views, and the freedom to disagree with the views and opinions of others. In a democracy, members of public bodies should be able to express disagreement publically with each other. Allegations of simple name-calling, political point-scoring or mild rude and inappropriate language are something that the Monitoring Officer considers should be addressed by local resolution. However, where behaviour becomes abusive, malicious, persistent, disruptive, accompanied by threats of violence, or if a member abuses officers or members of the public who do not have the same platform to defend themselves as Councillors do, further action is required.. The public should not be expected to put up with such behaviour from their representatives.

Councillor Hennessey has behaved in such a way that a reasonable person would regard as disrespectful.

- His behaviour toward Sharon Foster in his method of returning the goods to her was disrespectful.
- His aggression and use of language towards Annie Farrand on 8.12.15 was disrespectful.
- His actions towards Councillor Durant were very disrespectful as it can never be appropriate to physically hold and restrain another person in these circumstances.
- His behaviour in preventing access and exit to the room was also disrespectful.

Councillor Hennessey has acted in a way which a reasonable person would regard as bullying or intimidatory.

- His behaviour towards Sharon Foster on 22.11.15 was bullying and intimidatory.
- His behaviour before the meeting on 8.12.15 towards Annie Farrand and Councillor Durant was bullying and intimidatory.

- His behaviour towards Rachel Durant and Councillor Houlbrook was intimidatory.

Councillor Hennessey has not used the resources of the Council in accordance with its requirements.

Councillor Hennessey should not have removed the café items. Councillor Hennessey acted inappropriately in removing property which did not belong to him and with no authority. He then did not return the goods from where he had taken them, as he had been instructed by the Clerk, but inappropriately returned them to the former cafe owner at her home and embarrassing her in doing so. The café items did belong to the Council.

7. Additional Submissions

As required by our procedures, I sent a draft report dated 15th April 2016 to the complainants and Councillor Hennessey and requested feedback. I received responses from Councillor Hennessey and Councillor Durant. Sharon Foster has emailed me but has not commented on the report. As a result of these comments I have made some amendments to my report and set out the key points below. The comments do not change the outcome of my report. An additional complaint was also received from a Lynn Ryan on 26th April 2016 and Councillor Hennessey's response to this was received on 29th April 2016. The two responses and complaint email and response are attached in Appendix 2.

Complaint from Lynn Ryan

During my investigation, an incident in the sweet shop was referred to by a number of those I interviewed. Despite suggestions that the sweet shop owner Lynn Ryan has complained, no record of this could be found. Lynn Ryan sent an email on 26th April 2016 to the Monitoring Officer outlining her complaint. It was decided not to ask for a formal complaint form to be submitted but to send a copy to Councillor Hennessey for his comments and to refer to the email in this report. This incident details Councillor Hennessey's alleged inappropriate behaviour towards a member of the public. The incident arose over Facebook comments and suggests Councillor Hennessey was unhappy with Lynn questioning him on Facebook and so visited her in her shop, shouted and was aggressive. The email is vague on the actual date and the actual Facebook comments but does corroborate behaviour that both Councillor Durant and Sharon Foster complain of. Councillor Hennessey validly raises the issue of the delay in this being reported to the Council as it occurred in May 2015. He also denies the behaviour that Lynn Ryan accused him of whilst inside the shop and states he did raise his voice outside the shop and did apologise later that day and assist her with her concerns. His admissions suggest that his initial reaction to conflict and opposition can be inappropriate.

Councillor Hennessey

Councillor Hennessey submitted 7 pages in response to the draft report.

- The café goods

CH accepts that JS did ask him to return the café goods (to the Council's garage store). At this point he accepts he has had the goods in his shed.

CH states that he received Councillor help in loading the equipment from the café but does not proved the details of their names.

CH states it was SF who was shouting not himself.

CH is not clear why he did not return the goods as the Clerk requested. His explanation for the Sunday was that he was busy at the food bank during the week and the store was closed at the weekend. .

CH accepts that SF did not want the equipment returned. He accepts she was upset but considers that it was not due to his behaviour but for other reasons.

8.12.15

CH states that the Clerk only told him after the incident with SD of the agreed arrangements with the room.

CH does state that AF did say to him 'don't touch me' corroborating that she considered CH was about to remove her from the room physically and her response made him stop; he states: 'I did then feel sorry for Anne and turned around'. He denies using bad language towards her.

CH does not accept that SD was trying to reach her Mother AF when the incident occurred. CH states that SD ' barged into me and CH's response was 'self-defence'. 'I defended myself by raising my arms to defend myself "putting my hands up to stop me falling'. CH does accept he held SD 'Jeremy Sherlock saw me holding SD, because I was defending myself from SD who had barged into me, SD made contact with me, if SD had not barged into me I would not have touched her at all'. . CH states that CH did injure his back.

CH accepts he locked the door to prevent access to the room. He denies being disrespectful in preventing access.

CH believes that the fact that the police are not taking action proves there was no assault.

CH states:: 'My behaviour before the meeting was of shock SD had pulled by asking to use the room at 6pm knowing the Community Group would come at 6.30 and I believe this was done again to solely cause trouble'.

Councillor Hennessey's response makes a number of complaints concerning SD, alleging that she was responsible for matters;-

- SD only wanted the room opened to the public to stop the pre meeting;
- SD encouraged SF to make the complaint ' as she has used her friends to make complaints previously';
- Susan Durant has deliberately caused the incident knowing the community group meet in the chamber before a council meeting';
- 'Councillor Durant has on many occasions, by bringing her friends to the council to disrupt the proceedings and barrack me and blacken my name';'

- With regard to the closure of the food bank and AF 'Annie Farrand should not have interfered it was nothing to do with her, it was her Daughters idea';

CH refers to his email to Roger Harvey of 8.12.15 referring to the incident that had just occurred. CH considers this should have been treated as a formal complaint. The reasons this was not treated as a formal complaint is detailed at p15 (Councillor Hennessey's evidence).

Conclusion regarding additional submissions from CH

Café incident: Councillor Hennessey states that he could only return the goods at the weekend and, as the store room was not accessible then, he delivered them to Sharon Foster's home. Once instructed by the clerk, Councillor Hennessey should have made returning the goods a priority. The food bank is open only on a Wednesday morning and it is not accepted that in the working week there was not time for him to make the return arrangements.

8.12.15: The clerk states that he told CH that members of the public were allowed in early to the meeting room on the evening when CH came to see him on finding AF in the room. The incident with SD occurred after this. I conclude that CH was told of the room arrangements before the incident but still chose to act as he did in demanding AF and SD leave the room.

CH's account is different to SD's, AF's and the Clerk's evidence. Their evidence is that CH grabbed SD as she passed him. On the balance of probabilities, with the corroborating evidence of three people including the Clerk I accept Susan Durant's account rather than CH only defending himself.

Councillor Hennessey's response shows that he perceives that the complaints made are a conspiracy against him and he accepts no blame but accuses others instead. His blaming of Councillor Durant repeatedly for a number of matters does suggest a level of personal animosity and ill feeling directly against her; it appears to have reached the level in which any actions he blames on her personally.

His response does show that he responds to complaints by defending his own behaviour and attacking those that have complained. He is unable to accept any level of criticism or blame but justifies it due to others behaviour

Councillor Hennessey does not show any remorse or contrition for the behaviour that has led to these complaints. He is keen to justify and excuse his behaviour. The two incidents and recent complaint show that he is quick to lose patience with people and act in an aggressive manner, particularly in situations where people are disagreeing with him.

Councillor Durant

Councillor Durant comments that

- It was due to the behaviour of CH and the community party that Roger Harvey and Phil Beavers attend the meeting in October
- 'It is unfair to suggest that 'our family' and CH are embroiled in dispute; it has always only ever been one sided. CH repeatedly tries to instigate arguments either on Facebook or at meetings. We've done our best to ignore him and have never engaged with him on Facebook therefore it would not be right to imply this. CH is the one that has a vendetta and is not open to reason with reference his behaviour and targeting Annie (Farand), Joe (Blackham – DMBC Councillor) and I. However the constant reference to family has a far wider reach and consequence and I believe that this is also harassment, bullying and intimidation of a family, their good name and character. It must be clear that this person is the sole instigator, and the person making these attacks'.

Conclusion

Councillor Hennessey is particularly aggressive towards the Durant family, however from the clerk and Councillor Hennessey's evidence there is some responsibility for poor relationships from the other councillors. I do consider Jeremy's Sherlock's evidence pertinent to his as he states both sides had not behaved well. . It is accepted that interparty relationships are strained but this does not excuse Councillor Hennessey's behaviour. I have therefore not amended my report with regard to this.

8. Finding

My finding is that there has been a failure by Councillor Hennessey to comply with the Code of Conduct of the authority concerned in relation to the following obligations of the Code.

8.1 He/she shall behave in such a way that a reasonable person would regard as respectful.

This is in regard to the incidents on 8.12.15 and café items matters.

8.2 He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

This is in regard to the incidents on 8.12.15 and café items matters.

8.3 He/she shall use the resources of the Council in accordance with its requirements.

This is in regard to the incident concerning the café item matters.

List of Background Papers

Key Documents

1. DMBC arrangements for handling complaints regarding allegations of member misconduct.
2. Thorne-Moorends Town Council Code of Conduct

Schedule of evidence taken into account

1. Formal Complaint by Sharon Foster
2. Formal complaint by Councillor Durant
3. Thorne-Moorend Town Council Social Media Policy (approved 9.6.15)
4. List of Thorne Moorend Town Councillors
5. Updates from Thorne-Moorends Town Council website on winning post
6. CouncilMinutes:AGM19/5/16;9.6.15;14.7.15;1.9.15;13.10.15;3.11.15;8.12.15;26.1.16;8.3.16.
7. 8.12.15 Email from Cllr Hennessey to Roger Harvey.
8. 10.12.15 to 1.3.16 Emails from Rachel Durant re incident on 8.12.15 Letters/Calls during investigation
9. 29.1.16 Letter Scott Fawcus to Cllr Hennessey
10. 6.2.16 Councillor Hennessey's code of conduct complaint
11. 9.2.16 Letter to Cllr Hennessey from Roger Harvey
12. 16.2.16 Letter to Cllr Hennessey from Helen Potts
13. 19.2.16 Telephone note Helen Potts with Councillor Hennessey
14. 2.3.16 Letter Helen Potts to Councillor Hennessey
15. 15.3.16 Letter Helen Potts to Councillor Hennessey
16. 17.3.16 Letter Scott Fawcus to Councillor Hennessey
17. 18.3.16 Telephone Note Helen Potts with Councillor Hennessey
18. 21.3.16 Email from Councillor Hennessey to Scott Fawcus.
19. Email correspondence Helen Potts with P. C. Briars.
20. 18.3.16 Letter from Helen Potts to South Yorkshire Police Legal Department
21. 21.3.16 Letter from SY Police to Helen Potts

Interview Notes

22. Councillor Susan Durant
23. Annie Farrand
24. Jeremy Sherlock
25. Rachel Durant

26. Councillor Mark Houlbrook
27. Sharon Foster
28. Additional submissions from Councillor Hennessey
29. Additional submissions from Councillor Durant
30. Email from Lynn Ryan re sweet shop incident

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