

Reigate and Banstead Borough Council
Standards Committee – 24th September 2007
Alleged breach of the Code of Conduct
Councillor Richard Nixon
Hearing Process Summary and Decision

Summary of references and interested parties

- R&B reference: GP T08/10/01 (07834)
- SBE reference number: 16100.06
- Date of Investigator's report: 19th March 2007
- Date report was received: 21st March 2007
- Name of member: Richard Nixon
- Name of member's representative: None
- Relevant authority concerned: Reigate and Banstead Borough Council
- Name of Ethical Standards Officer (ESO): Jennifer Rogers
- Name of investigator: Kris Malde – LGA in Practice Investigations
(*Allegation was investigated under Section 60(2) of the Local Government Act 2000.*)
- Date of the hearing: 24th September 2007 - originally 6th June 2007 but rescheduled at the request of Councillor Nixon.
- Names of Standards Committee Members present at the hearing:

Chairperson: Mrs J. Paul (Vice Chairperson)
Member: Councillor Mrs J.S. Bray
Member: Councillor Mrs J.A. Cook (Salfords and Sidlow PC)
Member: Councillor S.A. Kulka
Member: Councillor Mrs R.S. Turner (substituting for Councillor R S Mantle)

Apologies- Mr J Broadbent (Chairman), Councillors Mrs F.D.M.Dixon, R.S. Mantle & Dr R.Olliver (Horley TC).
- Name of the Legal Adviser to the Standards Committee: Ann Coronel
- Name of the Clerk of the Hearing: Arabella Davies

Section 1: Summary of the Allegations

1.1 The referral from the Ethical Standards Officer:

On 4th October 2006 the ESO referred an allegation about you to the Monitoring Officer for investigation. The allegation was investigated by Kris Malde, Chief Investigator at LGA in Practice Investigations who prepared a report of his findings. The Investigator's report concerns a possible breach of the Code of Conduct and, under paragraph 5(7)(d) of the Regulations, the Investigator referred his report to the Standards Committee for a hearing in accordance with the Regulations.

1.2 The allegations were that you failed to comply with the Council's Code of Conduct in that:

Allegation 1-

You lobbied members of the Council's Planning Committee, and also Council Officers, regarding a planning application relating to Elbourne House, Horley, a development containing your residence, and by so doing, used your position as a member to improperly secure for yourself and other people, an advantage.

Allegation 2-

By behaving in the manner outlined in allegation 1, you have brought your office and the authority into disrepute.

Section 2: Oral and written submissions (procedural)

2.1 The Standards Committee's decision on any procedural matters was as follows: No such decisions were required.

Section 3: Findings of fact

3.1 You asked for an additional paragraph to be added to the facts, which was set out on the case summary of the Committee's agenda at page 28. The Investigator raised no objections and therefore this was included as part of the evidence.

3.2 In addition you had requested that 2 additional letters from you to the Council's Chief Executive be taken into consideration. These were circulated to the Committee and the parties in advance under cover of a letter dated 20th

September. The Investigator raised no objection to these indicating that they provided background information and context to your concerns and reasons for your actions. These were therefore added to the facts and evidence considered by the Committee.

- 3.3 In accordance with the hearing procedure you made representations to the Committee. You stated that the additional paragraph had been discussed with the Investigator during interview and you were concerned when it was not set out in the draft report. This was the reason you had requested its inclusion.
 - 3.4 In addition these representations, and all others until the Committee withdrew to consider its decision as to whether any breach had occurred, were recorded (vision and sound). A copy is retained by Democratic Services and may be inspected, or a copy provided, by appointment.
 - 3.5 Minutes of the Meeting were taken by Arabella Davies. A draft is attached at Annex 2 but will only be approved at the next meeting of the Committee.
 - 3.6 No other facts, as contained in the Investigator's report, were in dispute. However you made representations as to those parts on which you wished particularly to rely. These are set out in full in Annex 1- paragraph 1. In summary these were-
 - That of the members of the Planning Committee interviewed by the Investigator, none felt they had been lobbied. They all confirmed that they had reached a decision on the evidence presented and that the loss of the affordable housing was the most important factor.
 - You did meet with officers to discuss the issues and understood that what your wife did could affect your position under the Code. However, you emphasized that she was not an elected member, had committed no offence and had a right to make her own representations, in the same way as Mrs Blair challenged in court actions taken by her husband's Government.
 - 3.7 The Standards Committee's needed to make no findings as to the facts, as none were in dispute.
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Section 4: Decision on whether the Code was breached

- 4.1 The submissions by you are set out in Annex 1 paragraph 1.
- 4.2 The submissions by the Investigator are also set out in Annex 1 paragraph 2.
- 4.3 The Standards Committee reached the following decision after considering the submissions of the parties, which was made known at the hearing:

“ Having carefully considered all the papers and the representations this evening, the Committee concludes that Allegation 1 is proved and Councillor Nixon breached the Code in that he used his position to gain a personal advantage and an advantage for others at Elbourne House, Horley. These are both breaches of paragraph 5(a) of the Code of Conduct.

Secondly Allegation 2 is also found to have been proved, and Councillor Nixon brought his office into disrepute by the actions he took. This is a breach of paragraph 4.”

Section 5: Sanctions

5.1 A summary of the submissions made by you, as to the appropriate sanctions, are set out in Annex 1 paragraph 3.

5.2 The Investigator made no submissions as to sanctions.

5.3 The Standards Committee reached the following decision after considering your submissions, which was made known at the hearing:

“The Committee have formed a view that this was a serious matter, but have given credit for Councillor Nixon’s apology and that he was a new Councillor when the breaches first occurred.

The decision is that Councillor Nixon’s pass card be removed for a period of one-month preventing access, and that his direct access to the planning department be revoked for 2 months.

Finally, the Committee require him to attend an external training course on the Code of Conduct as approved by the Monitoring Officer, as soon as it can be arranged.”

5.4 The Standards Committee’s reasons for deciding to impose the sanctions are set out Annex 3: Penalty Tariff Checklist, which details the deliberations of the Committee and reasons for the imposition of the sanctions. The Committee approved the format of that checklist on 2nd July 2007, as part of the Hearing Procedure.

5.5 In particular your attention is drawn to Annex 3 – note 3, in which the resources to which your access is restricted or denied is explained.

- 5.6 The sanctions are to take effect as from Monday 8th October 2007. You are required to deliver your access pass to Democratic Services immediately thereafter. The periods imposed are Calendar months and therefore
- The one-month period will begin in the 8th October and end on the 7th November 2007.
 - The two-month period will begin on the 8th October and end on the 7th December 2007.
- 5.7 Due to current proposed industrial action by Post Office staff, this notice and the Annexes have been emailed to you as well as sent by first class post. Only the posted copy of this notice has been signed by the Chairman of the Committee. However, it will be assumed that this notice was received on the date the email was sent to you by the Monitoring Officer.
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Section 6: Right to appeal

- 6.1 You have the right to apply in writing to the president of the Adjudication Panel for England for permission to appeal the Standards Committee's finding. The president of the Adjudication Panel must receive written notice requesting permission to appeal within 21 days of your receipt of this decision notice. The contact details for the Adjudication Panel for England are –

23, Victoria Avenue
Harrogate
HG1 5RD

Telephone: 01423 538 783
Fax: 01423 525 164
Email: enquiries@adjudicationpanel.co.uk
Website: www.adjudicationpanel.co.uk

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Mrs. J Paul
Chairman of the Standards Committee
Dated:

Annex 1

Notes taken at the Standards Committee held on Monday 24th September (Please note these are not verbatim)

1. Representations made by Councillor R Nixon as to whether a breach had occurred:

(In accordance with Paragraph 5 of the Standards Committee "Code of Conduct" Hearing Procedure)

- 1.1 This whole case is based on something that has run over a number of years. I opposed the application six months prior to my election. It was well known and included in my publicity material for the election campaign. The officers also knew my name. So it was an ongoing situation in terms of opposing the applications.
- 1.2 In 2003, I was nominated by Reigate and Banstead Borough Council (RBBC) as a key worker to the Guinness Trust Housing Association for affordable housing on the top floor of Elbourne House, Horley. The second and first floors were intended for use as offices and a community centre.
- 1.3 There was a section 106 Agreement in place to provide all affordable homeowners with use of car parking spaces on weekday evenings and at weekends. We received assurance of this both verbally and in writing. Eight other homeowners were also given this opportunity.
- 1.4 We purchased our property and for a number of years had the use of the car parking spaces at night and at weekends and sometimes during the day.
- 1.5 The residents of the Quadrangle informed us then that the proposal for a Community Centre would not be going ahead, as Surrey County Council had pulled out. This was covered in the press.
- 1.6 This gave the developer the opportunity to go back to RBBC to negotiate more properties (9 flats on the second floor, then seven flats together with a small community centre). The section 106 agreement required that these be affordable housing.
- 1.7 We had no issue with this. The issue for the residents and me was when it was brought to our attention that the barrier already in place would be moved (re accommodation on the first floor) and we would be denied access to the parking spaces.
- 1.8 The planning officers informed us that this was the developer's prerogative. This led to correspondence with RBBC and Councillors for the Ward and the local M.P (Peter Ainsworth, M.P.) and we kept the campaign going.
- 1.8 In the Spring of 2006, I went for interviews as a candidate for the Horley East Ward and was duly elected.

- 1.10 I tried to keep our parking spaces secure for us as residents. Immediately after I was elected, I was given a card, which gives access to most areas within the building (RBBC Town Hall).
- 1.11 I then asked to see the file in connection with planning on this site. I was horrified to see what was happening. The developers had made a change, not only to remove the car parking spaces, but also asking for the seven existing flats and two new ones (which were built before permission was granted). We were concerned about the loss of affordable housing.
- 1.12 23 High Street, Horley was to be given to the Town Council for affordable housing.
- 1.13 By submitting a Freedom of Information request, I understand the Town Council has been offered this shop for £150,000 but the property is actually worth £500,000. This was of great concern to us as residents. We would be denied our parking spaces.
- (At this point the Head of Legal and Property Services/Monitoring Officer interjected to advise that Councillor Nixon needed to restrict his representations as to why he should not be found in breach of the Code of Conduct).*
- 1.14 I convened a meeting of the residents of the third floor. You are given three weeks in which to submit your representations to the Council. I could not be involved because I had a personal and prejudicial interest. I did not correspond with the Councillors. I explained this to all those present. I left it for all individuals, including my wife to make representations to the Council.
- 1.15 My wife wrote her own letter to the Council. She has two email addresses (a) joint and (b) in her own name. This latter account (hotmail) had lapsed, so my wife used our joint account instead.
- 1.16 My wife removed my name from the letterhead but not my mobile phone number. I did not realise this.
- 1.17 The email was then sent by my wife. I would ask you to consider the case of the Prime Minister and Cherie Blair who challenged the Government in the High Court. My wife has a right therefore to write her own letter.
- 1.18 I did send a letter to the Head of Development and Building Control along the lines "You know that I oppose this development and will declare a personal and prejudicial interest".
- 1.19 I met with the Investigator and was shown a copy of the email I had sent to Ray Langley (Housing Services). I did send this email. I was an affordable homeowner and was concerned about the loss of parking spaces.

- 1.20 I ask you to consider my wife's email as having nothing to do with me.
- 1.21 There is no dispute in relation to the emails I sent to Mr Harbottle and Mr Langley.
- 1.22 With reference to the letter of complaint sent to the Chief Executive, I sent this because the final approval for the housing development was signed off in April and the Developers installed the barrier to the car park in July. I wanted you to see my initial letter.
- 1.23 I sent a second letter to the Chief Executive dated 2nd August setting out the key point, i.e. a factual inaccuracy in use of the car park and the developer had not followed procedure.

(At this point the Head of Legal and Property Services/Monitoring Officer interjected to reiterate the representation should be restricted to whether he had breached the Code and that this complaint was not relevant to that issue).

- 1.24 I am still awaiting a reply. I know the information has been provided to Democratic Services in order for them to prepare a reply. The Council is not following its own procedure of answering complaints within 21 days. Why haven't I received a reply and what was the Chief Executive's letter included in the Agenda papers?

(The Head of Legal and Property Services replied that she would ask the relevant Department to reply after the Hearing and anything further in relation to this point would need to be followed up outside the meeting).

- 1.25 As I read through the documentation, I noted that Members have indicated that they did not feel that they were lobbied. They came to their decisions, in their capacity as Planning Committee Members on the evidence presented by the Officers. This is an important point.
- 1.26 I did meet with the Officers and it was explained that anything my wife did could impinge on me. My wife is a ratepayer. She is not an elected member. She is responsible for her own actions. She has the right to complain and email the Planning Committee Members. She is an individual in her own right.

2. Representations made by Mr Malde as to whether a breach had occurred:

(In accordance with Paragraph 5 of the Standards Committee "Code of Conduct" Hearing Procedure)

- 2.1 I would refer the Committee to Section 5 of the Investigation Report and Section 6 setting out the alleged breach of the Code of Conduct.
- 2.2 With reference to the concerns expressed by Councillor Nixon in connection with the letter from the Chief Executive, the Committee may feel that it needs to see this letter before it reaches a decision.

2.3 Pages 74 and 75 of the agenda papers detail the Officer's notes in relation to the advice given to Councillor Nixon. These do state that Councillor Nixon's wife's action could reflect on Councillor Nixon.

3. Representations made by Councillor R Nixon in respect of the sanctions the Committee should impose:

(In accordance with Paragraph 6 of the Standards Committee "Code of Conduct" Hearing Procedure)

3.1 I understand your decision.

3.2 With reference to the penalty you wish to impose, I would remind you of the comments made by the Planning Committee and the letter from my wife, which did not lobby them in any way.

3.3 If you suspend me for three months this will prevent me from participating in the Horley Masterplan which I am very much involved with, including work in relation to the primary school. To not be involved would prevent me from any decision-making.

Annex 2

Draft Minutes
Borough of Reigate and Banstead Standards Committee

Minutes of a meeting of the Standards Committee held at the Town Hall, Reigate on Monday, 24th September, 2007 at 7.30 p.m.

Present: Councillors Mrs J.S. Bray, S.A. Kulka and Mrs. R.S. Turner*.

Mrs. J.A Cook – Salfords and Sidlow Parish Council

Mrs. J. Paul – Independent Member – Vice Chairman- in the Chair

Also Present: Councillors M.A. Brunt, M.J. Miller, A.R. Mountney and R. Nixon; and Kris Malde, LGA in Practice Investigations

* Substitute member

11. **MINUTES**

RESOLVED that the Minutes of the meeting held on 2nd July 2007 be approved as a correct record and signed.

12. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for Absence

Substitute Members

Councillor Mrs F.D.M.Dixon

Councillor R.S.Mantle

Dr R. Olliver

Mr J Broadbent

Councillor Mrs R.S.Turner

13. **DECLARATIONS OF INTEREST**

None

14. **STANDARDS COMMITTEE "CODE OF CONDUCT" HEARING PROCEDURE**

The Chairman reminded all those present that the Committee had adopted a Hearing Procedure (attached at Annex B to the Agenda) and this would be followed during the consideration of the matter as set out under Minute 15.

15. **REPORT OF AN INVESTIGATION UNDER SECTION 66 OF THE LOCAL**

GOVERNMENT ACT 2000 - COUNCILLOR R NIXON

The Committee considered the summary of the case and the procedural issues addressed to date, attached at Appendix C to the Agenda, together with the report of the Investigator, attached at Appendix D. Relevant parties namely Councillor R.Nixon and Mr K.Malde, the investigator of the complaint relating to an alleged breach of the Code of Conduct were present.

At the request of Councillor Nixon, the Committee also considered additional correspondence from the Chief Executive's department in relation to the letter detailed on pages 30-33 of the Agenda and Councillor Nixon's complaint under the Council's complaints procedure. The Investigator indicated that he had no objection to the submission of this additional correspondence.

The Committee noted that in accordance with Paragraph 2 (iii) of the Hearing Procedure, the only outstanding issue to be determined related to the paragraph, as detailed at the top of page 28, Appendix C relating to disagreements over findings of fact. At Councillor Nixon's request and with no objection from Mr Malde, this paragraph was included in the Investigators report at paragraph 3.2.

The Chairman then invited both parties to make representations. Neither Councillor Nixon nor Mr Malde called any witnesses during the course of their submissions and the Committee had no further questions to ask in relation to the representations made by either of the parties.

The meeting then adjourned so that the Committee could (a) consider the submissions of both parties and (b) decide whether a breach had occurred.

With reference to the decision as to whether Councillor Nixon had breached the Code of Conduct, the Standards Committee reached the following decision:

RESOLVED that, having carefully considered all the papers and the representations submitted to the Standards Committee:

- (i) allegation 1 is proved and Councillor Nixon breached the Code in that he used his position to gain a personal advantage and an advantage for others at Elbourne House, Horley. These are both breaches of paragraph 5(a) of the Code of Conduct; and
- (ii) allegation 2 is also found to have been proved and Councillor Nixon brought his office into disrepute by the actions he took. This is a breach of paragraph 4 of the Code.

Relevant parties made representations on the decision that the Code had been breached whereupon the Committee adjourned to consider the sanctions, if any, that should be applied.

With reference to the decision in relation to the sanctions to be placed on Councillor Nixon, the Standards Committee reached the following decision:

That although this was a serious matter, Councillor Nixon should be given credit for his apology and the fact that he was a new Councillor when the breaches first occurred.

The Standards Committee therefore

RESOLVED that:

- (i) Councillor Nixon's Council pass card be removed for a period of one month, thereby preventing access;
- (ii) Councillor Nixon's direct access to the planning department be revoked for two months; and
- (iii) Councillor Nixon be required to attend an external training course on the Code of Conduct, as approved by the Monitoring Officer, as soon as it can be arranged.

The Chairman informed all those present that a full written decision would be sent to all parties as soon as possible and in any event within the next 10 working days.

(NOTE: The decision would include a definition as to the resources to which access would be restricted, as intended by the removal of Councillor Nixon's pass card).

16. **FUTURE MEETINGS**

RESOLVED to note that meetings of the Committee were currently scheduled for:

5th November, 2007
28th January, 2008
10th March, 2008

17. **ANY OTHER URGENT BUSINESS**

None.

The meeting closed at 9.32 p.m.

Annex 3
Penalty Tariff Check list

Allegation	Code failure	Code para.	Assessment of Breach				
			Low 1	2	3	4	High 5
	Failed to promote with equalities or acted in a discriminatory manner	2(a)	None of these paragraphs were considered applicable				
	Failed to treat another with respect	2(b)					
	Compromised the impartiality of those working for the Council	2(c)					
	Disclosed confidential information	3(a)					
	Prevented another from gaining access to information	3(b)					
2	Brought the authority into disrepute	4	The Committee considered this paragraph but concluded there was no breach.				
2	Brought their office into disrepute	4					X See note 2
1	Used their position to gain a personal advantage or disadvantage	5(a)				X See note 1	
1	Used their position to gain an advantage or disadvantage for another	5(a)			X See note 1		
	Failed to comply with the Council's requirements as to the use of resources	5(b)(i)	Neither of these paragraphs were considered applicable				
	Used the Council's resources for unacceptable political purposes	5(b)(ii)					

	Failed to have regard to the advice of the Chief Finance Officer	6(a)(i)	This paragraph was not applicable
1 & 2	Failed to have regard to the advice of the Monitoring Officer	6(a)(ii)	The Committee considered this paragraph but as it did not form part of the Investigator's report, it was agreed that this would not be viewed as a separate breach but under the others identified, (paras 4 & 5). In particular the committee felt this was a factor in those breaches and that the advice given by Mr Cook had been after consultation with the Monitoring Officer.
	Failed to give reasons for an Executive decision	6(b)	None of these paragraphs were considered applicable
	Failed to report another Member they suspected to be in breach of the Code	7	
	Failed to declare a personal interest	8(1)	
	Failed to declare a personal and prejudicial interest but did not participate in the decision process	9(1) and 12(1)	
	Declared a personal and prejudicial interest but failed to withdraw from the meeting	9(1) and 12(1)(a)	
	Declared a personal and prejudicial interest but continued to exercise Executive functions	9(1) and 12(1)(b)	
1 & 2	Declared a personal and prejudicial interest but sought to improperly to influence the decision	9(1) and 12(1)(c)	

	Declared a personal and prejudicial interest of a financial nature but continued to participate in an O&S or area Committee	9(1) and 12(2)	None of these paragraphs were considered applicable
	Continued to participate in a relevant committee when they had a personal and prejudicial interest due to having been involved in the decision under review	11	
	Failed to register a relevant interest	14 or 15	
	Failed to notify a change in a registerable interest	16	
	Failed to declare receipt of a gift or hospitality	17	

Tariff calculation

Total possible Tariff score – 3 breaches identified	15
Total Tariff scored- 5 + 4 +3	12
Less-	1
i) Reduction for apology (scale of 1-5)	
ii) Reduction for other mitigating factors (scale of 1-5)	2
Specify reasons- He was a new Councillor at the time the breach first occurred. Naivety – felt he was seeking to do the right thing for the residents but that in so doing he did not appreciate or understand the seriousness of his actions in terms of the Code.	
Total tariff score less reductions agreed by the Committee	9
Overall Tariff score % - ie: Total tariff scored as a percentage of the total possible tariff score	60%

Penalty/tariff comparison table

NOTE- only those sanctions shown in bold were considered appropriate and therefore imposed by the Committee

Penalty and Committee deliberations	Overall Tariff Score %
<p><i>Censure –</i></p> <p><i>Note: this is the only penalty available for an ex Councillor, but may be used for others)</i></p> <p><i>Deliberations/Decisions - NOT APPLICABLE</i></p>	<p align="center"><i>1 – 20</i></p>
<p>Restrict Member’s access to resources for up to 3 months</p> <p>Specify the resources to which access is restricted and the period of the restriction-</p> <p>Deliberations/Decision- This is the appropriate sanction in terms of the tariff and impact -</p> <ul style="list-style-type: none"> i) Pass Card to access all areas to be relinquished for a period of 1 month ii) Direct Access to Planning Department to the withdrawn for a period of 2 months <p>See Note 3 for description of those resources to which this is to apply.</p>	<p align="center">20 - 60</p>
<p><i>Suspend/partly suspend the Member for up to 3 months</i></p> <p><i>Specify whether fully or partly suspended and the period of the suspension-</i></p> <p><i>Deliberations/Decision- NOT APPROPRIATE, even though the tariff was borderline, as the impact on Constituents would be too great</i></p>	<p align="center">60+</p>

<p><i>Suspend/partly suspend the Member for up to 3 months on condition that the suspension will cease if a written apology is made</i></p> <p><i>Specify whether fully or partly suspended and the period of the suspension-</i></p> <p><i>Deliberations/Decision- NOT APPROPRIATE, even though the tariff was borderline, as the impact on Constituents would be too great.</i></p>	<p>60+</p>
<p>Other penalties or requirements to be specified eg training</p> <p>Deliberations/Decision- External training on the Code of Conduct to be attended as soon as it can be arranged by the Monitoring Officer</p>	

Note 1:

- 1.1 The committee agreed that this should be dealt with as two separate breaches of paragraph 4 as the assessment of impact was considered different for an advantage to himself or others.
- 1.2 The committee found there was a breach of both parts. There was concern that his representations showed Cllr Nixon's main concern was a grievance as a local resident and, coincidentally, on behalf of other residents. The requirements under the Code in his role as a Councillor were of lesser importance to him.
- 1.3 Therefore in assessing the breach on his own behalf, this was viewed by the Committee as more serious, since his action would benefit himself.
- 1.4 As regards the benefit for others, particularly as he was a new Councillor at the time of the initial breach, the Committee concluded that he did not appreciate the critical importance of the code's requirements, which required him to "temper" his support of the other residents affected at Elbourne House.
- 1.5 If he had not had a personal and prejudicial interest, the Committee considered that these actions would have indicated a sound approach to his Ward Councillor responsibilities and would not have been criticised. However, since he had such an interest and had been clearly advised on the implications this was seen as only a minor mitigating factor.
- 1.6 The Committee had an over riding concern that he did not appreciate the requirements of the Code even after that advice had been given.

Note 2:

- 2.1 Two further emails were sent after the advice had been given. In addition during his representations Cllr Nixon confirmed he was aware of the significance and restraints under the Code, in that he explained this to his wife and other residents.
- 2.2 In pursuing his complaint to the Chief Executive, he wrote on behalf of himself and his wife on 2 occasions (29th June 2007 and 3rd August 2007) and had signed the letters himself. Both were sent after the investigation had commenced and well after he confirmed he understood the restraints the code placed on him. Nevertheless he pursued the issue, rather than leave this to his wife or other residents.
- 2.3 That in making his representations he had confirmed that the planning issue had been of concern to him for at least 6 months prior to the election, had been referred to in his campaign literature and had been of significant interest to him after his election, even after advice had been given on the Code of Conduct, the implications of which he confirmed he understood.
- 2.4 Finally, the Committees also considered that the concerns as outlined in Note 1 were also applicable in relation to this breach.

Note 3-

- 3.1 In setting the sanctions the Committee decided that restricting access to resources was the most appropriate. Where the term “access” appears in this document it must be read in that context.
- 3.2 The Committee agreed that-
- a) In terms of the resources to which access is to be denied, this means the Council’s offices, its officers, files photocopying and telephone facilities and all member room facilities.
 - b) Cllr Nixon’s access to these is to be restricted to those of any other member of the public for the two periods imposed.
 - c) For the avoidance of doubt those restrictions-
 - i) Will not prevent him attending meetings of the Council and Committees, or any “other meetings” to which the general public have unfettered access.
 - ii) In particular, in the case of the “other meetings”, where such access is by invitation only, he will not be entitled to access unless so invited.
 - iii) The restriction on the use of the copying, telephone and member room facilities will only apply for the initial one-month period.
 - iv) The use of the term “Planning Department” means the Council’s Building and Development Control Services.

- v) During the withdrawal of access to Building and Development Control Services, this includes the Building and Development Control offices, its officers and files, and any attempt to access that information through other officers, departments of the Council or Members.
- vi) As regards any other matters that are not related to the work of the Building and Development Control Services, Councillor Nixon's access to that other information remains unaffected.

Councillor R. Nixon
5 Elbourne House
Lumley Road
Horley
Surrey
RH6 7LB

Our Ref: AC/Cllr Nixon(07834)
Your Ref:

Date: 5 October, 2007
Contact: Ann Coronel
Direct Line: 01737 276058

Dear Cllr Nixon,

**RE: CODE OF CONDUCT HEARING 24TH SEPTEMBER
DECISION NOTICE**

I enclose the Decision Notice for your recent hearing at the Standards Committee together with -

- Annex 1 – Notes taken at the meeting of the representations made by you and the Investigator.
- Annex 2 – The draft minutes of the meeting
- Annex 3 – Penalty Tariff Checklist, which sets out the deliberations and decision of the Committee in greater detail.

In addition, I also enclose a Guidance note that I prepared to give clarity as to how the sanctions will be put into effect. This will be made available to officers and members of the Council. I would particularly draw your attention paragraph 4.1 which explains the period the sanctions are to be in effect.

I am in the process of identifying a training course on the Code that you can attend. I will write to you again separately on that sanction.

Finally, I confirm that, as required by the regulations, I will be arranging for a summary of the Committee's findings, reasons for them and the penalties imposed to be published in a local newspaper. I will confirm the date of that Notice and the publication in due course.

Yours sincerely,

Ann Coronel
Head of Legal & Property Services and Monitoring Officer



Reigate & Banstead
BOROUGH COUNCIL
Banstead | Horley | Redhill | Reigate

**REIGATE AND BANSTEAD BOROUGH COUNCIL
NOTICE OF STANDARDS COMMITTEE DECISION
As required by Regulation 8 of the Local Authority (Code of Conduct)
(Local Determination) Regulations 2003**

1. On 24th September 2007, Reigate and Banstead Borough Council's Standards Committee held a hearing into a complaint made against Councillor Richard John Nixon of Reigate and Banstead Borough Council, which had been referred to the Committee for determination by the Standards Board for England.

2. It was alleged that Councillor Nixon failed to comply with the Council's Code of Conduct in that:

- Allegation 1 - He lobbied members of the Council's Planning Committee, and also Council Officers, regarding a planning application relating to Elbourne House, Horley, a development containing his residence, and by so doing, used his position as a member to improperly secure for himself and other people, an advantage.
- Allegation 2 - By behaving in the manner outlined in allegation 1, he has brought his office and the authority into disrepute.

3. The Standards Committee found that Councillor Nixon had breached the Council's Code of Conduct in that he:

- Used his position as a Member to gain a personal advantage and an advantage for others at Elbourne House, Horley, which constituted breaches of paragraph 5(a) of the Code of Conduct.
- Brought his office into disrepute by the actions he took, which was a breach of paragraph 4 of the Code.

4. The Committee therefore decided to impose the following sanctions in accordance with Regulation 7(3)(ii) of the above-mentioned Regulations-

- (i) Councillor Nixon's Council pass card be removed for a period of one month, thereby preventing access to Council resources;
- (ii) Councillor Nixon's direct access to the Building and Development Control Services of the Council be revoked for two months; and

(iii) Councillor Nixon is required to attend an external training course on the Code of Conduct, as approved by the Monitoring Officer, as soon as it can be arranged.

5. The full decision of the Committee can be found in the Hearing Process Summary and Decision Notice produced by the Council. This explains in more detail the meaning of the sanctions and how they will be applied. That Notice can be viewed on the Council's website www.reigate-banstead.gov.uk under the News Section, or a copy can be obtained by contacting Arabella Davies of Democratic Services on 01737 276027 or by email at arabella.davies@reigate-banstead.gov.uk.

6. Councillor Nixon has been informed of his right to apply to the President of the Adjudication Panel for England for permission to appeal the decision of the Standards Committee.

Ann Coronel
Head of Legal and Property Services
and Monitoring Officer
October 2007