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Our Reference: MO-CO75/MO/HW



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To: Members of the Standards Hearings Sub Committee:
Voting members - Cllrs Stuart Hughes (Chairman),
Graham Godbeer, and Pauline Stott

Non-voting members – Tim Swarbrick and
Councillor Courtney Richards

Subject Member - Councillor John Taylor, Honiton Town Council
Complainant – Chetna Jones, Clerk, Honiton Town Council

Monitoring Officer
Deputy Monitoring Officer
Investigating Officer
Independent Person

For Information only:
Members of the Standards Committee

**Standards Hearings Sub Committee – Cllr John Taylor (MO-C075)
Monday, 30 November 2015**

10am (There will be a briefing for Sub Committee Members only in the Chairman's Office at 9.30am)

Council Chamber, Knowle, Sidmouth

Councillors and members of the public are reminded to switch off mobile phones during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting.

AGENDA

**Agenda
Page/s**

- 1 Where an application is made to hold a Hearing in private, the Sub Committee to determine whether there is reason to do so.
- 2 MO-C075 – Cllr John Taylor
To hold a hearing to consider an investigation report into a complaint about Councillor John Taylor, Honiton Town Council in accordance with the Council's procedure which includes:
 - a) To determine findings of fact and to decide whether or not the Councillor has failed to follow the Code of Conduct.
 - b) To determine what sanction, if any, should be imposed.

Attached papers:

	Agenda Page/s
➤ Pre- hearing Covering Report	3 – 5
Appendix A – Prehearing Summary Report	6 – 8
Appendix B – Investigating Officer’s Report	9 – 61
Appendix C – Subject Member’s comments on the draft Investigating Officer’s report	62 – 69
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[Decision making and equalities](#)

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Agenda Item 2

Standards Hearings Sub Committee

30 November 2015

HGL



MO-C075 Pre-hearing Covering report

Summary

The pre-hearing summary report sets out any findings of fact disputed by the subject member, Cllr John Taylor.

Recommendation

Members consider the information in this pre-hearing report during the Hearing process.

a) Reasons for Recommendation

To make sure members have all the information they need to hold a fair Hearing.

b) Alternative Options

None.

c) Risk Considerations

If Members follow the Hearings procedure, and consider all the evidence before reaching a decision, it will mitigate the risk of complaints about the process and decision.

d) Policy and Budgetary Considerations

This Hearing complies with both.

e) Date for Review of Decision

Not applicable.

1 Main Body of the Report

1.1 The Pre-hearing Summary Report (Appendix A) explains the background to this particular complaint. The Subject Member has denied breaching the Code of Conduct and this has necessitated it being independently investigated and subsequently referred to a Standards Committee Hearing. A copy of the Investigator's report is contained at Appendix B.

1.2 It is fair to say that the Beehive project in Honiton has generated significant issues for the Town Council to have to deal with. However, and notwithstanding this, it is my view (and this was a view shared by the Interim Monitoring Officer) that the statement

produced by the Subject Member on 27th January 2015 and signed by him fails to treat the Complainant, as an employee of Honiton Town Council, with courtesy and respect. Accordingly this amounts to a breach of the Town Council's code of conduct.

- 1.3 This conclusion, in my mind, applies irrespective of the accuracy or validity of what the Subject Member was actually saying. I have no doubt that issues pertaining to the Beehive will be raised during the Hearing. It will be for the Committee to decide the relevance of this information but in my view it should not distract from the key issue which is whether the comments made by the Subject Member in his statement resulted in the Complainant not being treated with courtesy and respect.
- 1.4 The conclusion (by two Monitoring Officers) that there has been a breach of the Code of Conduct is supported by the Independent Person and also the Investigator. Both the Independent Person and the Investigator will be at the Hearing to give their view and present their report respectively.
- 1.5 Throughout the process the Subject Member has denied that he has breached the Code of Conduct and he will also be in attendance at the Hearing to present his case to the Committee. The Chairman has agreed to written witness statements being provided by both the Subject Member and the Complainant to aid the Committees consideration of the matter and these will be provided to the Committee Members and relevant people in advance of the Hearing itself.
- 1.6 Notwithstanding that there will be further information provided, following the issuing of the Investigator's report both the Subject Member and the Complainant were given the opportunity to comment on the Investigating Officer's draft report prior to it being finalised. The Subject Member's comments on the draft report can be viewed in Appendix C. Prior to the Hearing, the Subject Member was given further opportunity to comment on the findings of fact in the investigation report and provide alternative wording for the paragraphs they disagree with by completing a written representation form. The Subject Member has submitted a version of this form (Appendix D).
- 1.7 In light of the information available at this time and the fact that further information is to be provided, it will be necessary for the Committee at the Hearing to;
 - 1.7.1 Determine findings of fact (Section 5 –Pages 8-19 – of the Investigator's report (*Agenda pages 16 -27*), and
 - 1.7.2 Determine whether the Subject Member has breached the Code of Conduct
- 1.8 If the Subject Member is found to have breached the Code of Conduct then the Committee will need to go on and consider whether to recommend to Honiton Town Council that a sanction should be imposed and, if so, what sanction is appropriate.
- 1.9 For information, a copy of the Council's adopted procedure for the hearing is contained at Appendix E.

Legal Implications

A solicitor will be present at the hearing to advise on law and procedure as necessary.

Consultation on Reports to the Committee

None

Background Papers

- Hearing papers

Henry Gordon Lennox

Standards Hearings Sub Committee

Monitoring Officer

30 November 2015



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Standards Hearing Sub Committee

Pre-hearing Summary Report

Name of Authority	Honiton Town Council
The name of the member who the allegation has been made about	Councillor John Taylor
The name of the person who made the original allegation (unless there are good reasons to keep his or her identity confidential)	Chetna Jones, Clerk to Honiton Town Council
The case reference numbers of the principal authority	J Taylor MO-C075
The name of the Standards Committee member who will chair the hearing	Cllr Stuart Hughes
The name of the Investigator	Tim Darsley
The name of the Monitoring Officer	Henry Gordon Lennox
The name of the clerk of the hearing or other administrative officer	Anita Williams, Principal Solicitor to give legal advice to the Committee. Diana Vernon, Democratic Services Manager to take minutes.
The date the pre-hearing process summary was produced	19 November 2015


The date, time and place of the hearing	30 November 2015, 10am, Council Offices, Knowle, Sidmouth
A summary of the allegation	<p>It was alleged that Cllr John Taylor slandered the Clerk's name in a written statement he issued on 27 January 2015, concerning the funding of the Beehive Community Centre in the Town. The statement made a number of claims about the legality and propriety of a loan obtained by the Town Council.</p> <p>The complaint was assessed by the Interim Monitoring Officer. His view was that there was sufficient evidence to suggest that Councillor Taylor, in the comments he made in the statement of 27 January 2015, had breached the Town Council's Code of Conduct by not treating the Town Clerk with respect. He suggested to Councillor Taylor that he issue an unreserved apology to the Town Clerk and make it known publicly that he had done so.</p> <p>Shortly afterwards, the role of Monitoring Officer at the District Council was confirmed and the complaint was taken over by the new post holder (Henry Gordon Lennox). After consulting with the Independent Person, the Monitoring Officer wrote to Councillor Taylor saying that he had reviewed the case and that he concurred with the view that Councillor Taylor had breached the Code of Conduct for the reasons already given. He again suggested that Councillor Taylor should make an unreserved apology to the Town Clerk and said that, if he did so, this would constitute an informal resolution of the matter.</p> <p>Councillor Taylor replied on 24 April 2015 to say that he did not accept the Monitoring Officer's view and that he would not apologise for his actions.</p> <p>In the absence of an informal resolution, the Monitoring Officer appointed Tim Darsley to investigate the complaint on 2 June 2015.</p> <p>Having investigated the matter, Tim Darsley concluded, by way of a report dated 31 July 2015, that Councillor Taylor had breached the Code of Conduct in respect of paragraph 4(a) but not paragraph 4(f).</p>

	Having been presented with the Investigator's report Councillor Taylor refused to accept the finding that he had breached paragraph 4(a) and accordingly the matter was referred by the Monitoring Officer to the Standards Sub Committee for a hearing to be conducted to determine the matter.
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The relevant section or sections of the Code of Conduct	<p>Relevant paragraphs from the Code of Conduct that were investigated:</p> <p>General obligations</p> <p>4(a) You must treat others with courtesy and respect.</p> <p>4(f) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature [subject to exceptions].</p>
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Further statutory background	None that is relevant.
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Whether or not the member or the MO will attend.	<p>Cllr Taylor has advised that he will be attending the Hearing.</p> <p>The Monitoring Officer and Investigator are attending.</p>
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Signed: 

Name: Henry Gordon Lennox, Monitoring Officer

Dated: 19 November 2015

CONFIDENTIAL

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

F i n a l

**Report of an investigation by Tim Darsley,
appointed by the Monitoring Officer
of East Devon District Council
into allegations concerning Councillor John Taylor
of Honiton Town Council**

Case Reference: MO-C075

3 1 J u l y 2 0 1 5

C o n t e n t s

- 1. Introduction**
- 2. Councillor Taylor's official details**
- 3. Relevant paragraphs of the Code of Conduct**
- 4. The evidence gathered**
- 5. Findings of fact**
- 6. Reasoning as to whether there has been a failure to comply with the Code of Conduct**
- 7. Findings**
- 8. Schedule of evidence taken into account**

Appendices:

Documents 1 to 12

1. Introduction

- 1.1 On 27 January 2015, Councillor John Taylor of Honiton Town Council issued a written statement concerning the funding of the Beehive Community Centre in the Town. The statement made a number of claims about the legality and propriety of a loan obtained by the Town Council. The statement is reproduced below.

I am a Town Councillor for Honiton St Michael's Ward. A meeting of the Council was held last night 26 January 2015 most of which was held in 'private'. I am publishing one event that asked me to conspire to break the law and I hope that I am allowed in law to issue this leaflet under the defence of Public Interest. I may be accused of breaking the rules of the Council and stopped from attending? I might even be arrested and prosecuted but if that happens you will know that I am being punished for telling of an offence, a conspiracy to use money from the Public Works Loan Board (PWLB) for an improper purpose. The Town Clerk of Honiton stated that she has applied for a loan of £98000 (value published) to cover 'poaching' of monies from the accounts (quote from published internal audit); in fact needed to replace 'poached reserves' used to pay £75000 worth of bills that should have been disputed. This intent etc is already in the public domain. However the Town Clerk stated that she would not need all of the money. That statement would be covered by the 'part B privacy rules'. She stated that she intended to put the surplus into a high interest account and use that as a reserve to pay down the loan. That also is covered by the Part B privacy rules. However to apply for money knowing that there it is not needed for a purpose allowed under PWLB rules is illegal because it is a way of replacing reserves that are required to be kept by all Councils but in the case of Honiton Town have been 'poached'. The Mayor suggested we use the fancy word 'virement'. I will not stay silent on this. There were other things in the meeting that were scams on the ratepayers of Honiton but I have yet to find out my rights of disclosure within section 100a of the Local Govt Act publish because of 'privacy' rules. I can say that six Counsellors have signed a request for a motion that asks for the finances of the Town Council and the Beehive to be investigated by the Devon and Cornwall Constabulary. The Mayor and Town Clerk got the request yesterday.

I think the loan must be approved by EDDC and must be consistent with the rules of PWLB. Will EDDC let the application go through? What is stated on the application as justification? - I have not seen it. The PWLB pays out from loans raised by the Government, i.e. 'the public borrowing requirement' of which all the political parties are shouting should be controlled and lots of people's incomes are under pressure because of this. Not Honiton Town Council (Beehive).

Issued by John Taylor Town Councillor for St Michaels. You may see me in handcuffs? Or gagged? I doubt I can be sued for whistleblowing on this.

[signed] J B Taylor 27th Jan 2015

- 1.2 On 28 January 2015, Chetna Jones, the Town Clerk, submitted a complaint to the Interim Monitoring Officer of East Devon District Council about the conduct of Councillor Taylor in issuing the statement. Her complaint is reproduced below.

Dear Ian,

It is with regret that I feel I need to send this but I have just discovered that this letter has been published in the Express and Echo.

I wish to make a complaint against Cllr John Taylor as he has slandered my name out in public when I as the Officer of the Town Council was only carrying as resolved and directed by the Town Council following professional legal and financial advice.

Please may I stress that this was not what I said and he has completely taken everything out of context and what was actually said in reality was said in a confidential meeting and not to the effect he implies.

I would like you to take appropriate action as this affects my professional reputation especially as I have only ever acted on the instructions of the Town Council following advice from both the Internal auditor and the Audit Commission. I have always ensured that work has been carried out in a professional and legal manner to say this is not the case is not acceptable.

My Chairman, Cllr Halse is in agreement that I bring this to your attention as well as possibly going to the employment tribunal.

I look forward to hearing from you.

Regards,

Chetna

- 1.3 The complaint was assessed by the Interim Monitoring Officer. His view was that there was sufficient evidence to suggest that Councillor Taylor had breached the Town Council's Code of Conduct by not treating the Town Clerk with respect. He suggested to Councillor Taylor that he issue an unreserved apology to the Town Clerk and make it known publicly that he had done so.
- 1.4 Shortly afterwards, the role of Monitoring Officer at the District Council was confirmed and the complaint was taken over by the new post holder. After consulting with the Independent Person, the Monitoring Officer wrote to Councillor Taylor saying that he had reviewed the case and that he concurred with the view that Councillor Taylor may have breached the Code of Conduct. He again suggested that Councillor Taylor should make an unreserved apology to the Town Clerk and said that, if he did so, this would constitute an informal resolution of the matter.
- 1.5 Councillor Taylor replied on 24 April to say that he did not accept the Monitoring Officer's view and that he would not apologise for his actions.
- 1.6 In the absence of an informal resolution, the Monitoring Officer appointed me to investigate the complaint on 2 June 2015.

2. Councillor Taylor's official details

- 2.1 Councillor Taylor has been a member of Honiton Town Council since May 2007.
- 2.2 As part of his declarations of acceptance of office, Councillor Taylor has undertaken to be guided by the Town Council's Code of Conduct.
- 2.3 Councillor Taylor has served on the Finance, Policy and Planning Committees of the Town Council. He has also chaired the Market Committee.

3. Relevant paragraphs of the Code of Conduct

- 3.1 I have investigated Councillor Taylor's conduct in relation to the Code of Conduct of Honiton Town Council, adopted in October 2014.
- 3.2 The following paragraphs of the Code of Conduct are relevant:

General obligations

- 4(a) You must treat others with courtesy and respect.
- 4(f) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature [subject to exceptions].

4. The evidence gathered

Documentary evidence

4.1 I have taken account of the following information:

- Agendas and Minutes of Honiton Town Council (www.honiton.gov.uk/)
- Internal Audit Reports for 2013/14 and 2014/15 produced by South and West Internal Audit
- All about the Borrowing Approval System – Joint Guidance by DCLG and NALC, April 2013
- The application for borrowing approval made by the Town Council
- The application for a loan from the Public Works Loan Board made by the Town Council
- The on line editions of the Express and Echo (www.exeterexpressandecho.co.uk) and Pulman's Weekly News (www.honiton-today.co.uk)

Oral evidence

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

- Chetna Jones, the complainant,
- Councillor John Taylor, the subject member.

I have also spoken by telephone with Jack Dixon, a reporter of Pulman's Weekly News.

4.3 The interviews were recorded. The written records of the interviews were sent to the interviewees for their confirmation of accuracy. The dates of sending the record and of the confirmations that the record is accurate are shown at the end of each record.

4.4 The records of the interviews are shown at documents 10 to 11.

5. Findings of fact

- 5.1 The Town Clerk confirmed at interview that her complaint is that Councillor Taylor has made a public statement associating her name with claims of conspiracy to break the law and applying for and using a loan for improper purposes.
- 5.2 The focus of the complaint is the written statement issued by Councillor Taylor. What he wrote in the statement is a matter of record.
- 5.3 The claims made within the statement, however, are of more contention. They range from what the Town Clerk said in a Council meeting; through how the Council has managed its finances, the purpose of the loan and the rules of the PWLB; to whether there has been a conspiracy and whether laws have been broken.
- 5.4 At one level, it could be said that, regardless of whether Councillor Taylor was right or wrong in his claims, to suggest publicly that the Town Clerk had acted improperly and illegally was not the right way to proceed and failed to treat the Clerk with respect. I have taken the view that a somewhat wider approach is appropriate so that account is taken of the validity of Councillor Taylor's claims and of any justification for them.
- 5.5 I have therefore included in my examination the issues of;
- the accuracy of Councillor Taylor's claims of what the Clerk had said,
 - the advice received on the need for a loan and on its subsequent application,
 - the guidance on the PWLB loan procedure, and
 - the extent to which the claimed actions were those of the Clerk or of the Town Council.
- 5.6 I am quite clear, however, that establishing the validity or otherwise of the additional building costs which made the loan necessary, is outside of my remit. This is a matter for the Town Council and the contractor to pursue. Any disputed costs should be resolved by negotiation or through dispute resolution under the contract. The outcome of this process is not required in order to reach a finding on this complaint.
- 5.7 Although not included in the complaint, I have also considered whether anything disclosed by Councillor Taylor in his statement was confidential information.

Undisputed facts

- 5.8 The Beehive is a community centre situated in Dowell Street, Honiton. It was built by the Town Council and is now run by the Honiton Community Complex Ltd (HCCL). The centre provides a 300 seat auditorium with supporting facilities, a range of meeting rooms and also accommodation for the Town Council.
- 5.9 The cost of the building was to be funded by a contribution from the District Council, a loan from the Public Works Loan Board (PWLB) and planning contributions. Construction started in early 2013 and the centre opened in April 2014. The construction works overran the original budget, with a number of cost items being raised by the contractor at a late stage.
- 5.10 In June 2014, an Internal Audit Report drew attention to the risk faced by the Council arising from the additional costs combined with the Council's very low level of reserves (document 1). The Auditor called for speedy and decisive action to get the Council's finances back on an even keel. He suggested that the most obvious option was to extend the borrowings from the Public Works Loan Board.
- 5.11 The Council received the Internal Audit Report, together with a funding update report from the Town Clerk, at its meeting on 23 June 2014. The Council agreed to borrow up to an additional £100,000, to be repaid through the anticipated income with no increase in the precept and only to proceed if necessary once liabilities had been agreed.
- 5.12 At its meeting on 13 October 2014, the Council agreed to lease the Beehive to Honiton Community Complex for 10 years at a nominal rent, excluding the three Town Council offices.
- 5.13 On 10 November 2014, the Council received a further funding update report from the Town Clerk (document 2). This included a list of the additional costs submitted by the contractor. When added in to the cost of the project, it was apparent that the total costs exceeded the funding available by £98,073. The Council received the report and noted the potential liability as a worse case.
- 5.14 An application to the DCLG for borrowing approval for £98,073 was made on 17 November 2014 (document 3). Approval for this was granted on 2 December 2014.
- 5.15 An application to the PWLB for a loan of £98,000 was made on 23 January 2015 (document 4).
- 5.16 At its meeting on 26 January 2015, the Council agreed to sign and seal the 10 year lease to the Honiton Community Complex.

- 5.17 On 27 January, Councillor Taylor issued his statement referring to the Council meeting of the previous night. On that afternoon, Jack Dixon, a reporter from Pulman's Weekly News, emailed Town Councillor Peter Halse, copied to the Town Clerk, asking for comments on Councillor Taylor's statement. The Town Clerk replied to ask for a copy of the statement.
- 5.18 On 28 January, Jack Dixon emailed a copy of the statement to the Town Clerk.
- 5.19 Also on 28 January, an article was published in the Express and Echo on line headlined 'Councillors call for police to investigate Honiton Beehive Community Complex finances'. The article referred to Councillor Taylor's claim of improper action (document 5).
- 5.20 Later that day, The Town Clerk submitted her complaint to the Monitoring Officer at the District Council.
- 5.21 On 3 February an article was published in Pulman's Weekly News on line headlined 'Councillors call for police to investigate Beehive finances' (document 6). The article reported that Councillor Taylor claimed that £100,000 had been borrowed for an improper purpose. The article referred to Councillor Taylor's statement 'issued last week' and reproduced the following from it:
- "... to apply for money knowing that it is not needed for a purpose allowed under PWLB rules is illegal because it is a way of replacing reserves that are required to be kept by all councils but in the case of Honiton Town [Council] have been 'poached'".
- The article also quoted Councillor Halse as saying:
- "To suggest that the Town Clerk has acted improperly is totally false and I very much hope these unfounded allegations will be immediately withdrawn and an apology offered."
- 5.22 On 9 February, the Town Council accepted an offer from the District Council to fund an appropriate mediation exercise to address and resolve ongoing concerns regarding the compliance and governance of the Beehive. The Southwest Audit Partnership (SWAP) was appointed to undertake the review.
- 5.23 An interim Internal Audit Report on the Council's 2014/15 accounts was published on 11 March (document 7). This pointed out that the Council's high risk status would not change until the PWLB loan had been drawn down.

- 5.24 Regarding the Beehive project, it stated that 'the Council will have to meet its contractual obligations to the main contractor which means paying all certified payments including any not yet certified or made'. It recommended that 'the Council should satisfy itself that all payment instructions certified only included variations agreed by the Council and determine what action if any to take in the event that this is not the case'.
- 5.25 Regarding borrowings, it stated that 'The loan sanction for an additional loan was verified' and 'The outstanding balance at PWLB for year end was agreed'. Its conclusion was 'Satisfactory – no issues'.
- 5.26 The interim Internal Audit Report was received by the Finance Committee on 18 March. The Committee also agreed to 'draw the full funds from PWLB'.
- 5.27 The SWAP review was also published on 18 March. It made a number of recommendations regarding the governance of the Beehive Centre. Regarding claims of unauthorised payments, it recommended that the Internal Auditor's recommendation to address and resolve all payments issues should be implemented. It recommended that this should be overseen by a panel or committee with delegated authority to deal with the issues.
- 5.28 The Final Internal Audit Report on the 2014/15 accounts was issued on 25 June (document 8). It changed the Council's risk status to low since the PWLB loan had by then been drawn down. Regarding loans, it stated 'The loan balance and in-year payments were agreed to PLWB data and documentation'. Its conclusion was 'Satisfactory – no issues'.

Disputed facts

The issuing of Councillor Taylor's statement

- 5.29 The mechanics of how Councillor Taylor issued his statement are not entirely clear. At interview he told me that he gave out no more than 10 printed copies to some of his constituents and one or two councillors.
- 5.30 The Pulman's reporter Jack Dixon told me in an email that he was increasingly sure that a scanned copy of the statement was sent to him via email by Jill McNally - now a councillor and then a constituent of Councillor Taylor. He said that she regularly issued letters to a mailing list that included district councillors and members of the press. He felt this could also explain how the Express & Echo article appeared online on 28 January (document 9).

5.31 This is consistent with the information I have to hand and I find that it is likely that:

- Councillor Taylor gave out around 10 printed copies of his statement to some constituents and fellow councillors.
- A scanned copy of Councillor Taylor's statement was distributed by email by Jill McNally to a mailing list which included the press.

The accuracy of Councillor Taylor's claims of what the Clerk had said

5.32 In his statement, Councillor Taylor states three things that the Town Clerk had said at the Council meeting of 26 January:

"The Town Clerk of Honiton stated that she had applied for a loan of £98,000 to cover 'poaching' of monies from the accounts ..."

5.33 At interview, the Town Clerk told me she had not said that phrase. She had never agreed with the Auditor's term 'poached' and did not use it. She said she may have explained that the loan would enable the earmarked reserves which had been diverted to the building to be reinstated.

5.34 I note that neither the Town Clerk's report to the Council on 23 June, nor the Council's resolution make any reference to the loan being to replace reserves, let alone 'poached' reserves.

5.35 Both the application for borrowing approval and the application to the PWLB state that the purpose of the loan is for additional building costs towards the construction of the Beehive Centre.

5.36 At interview, Councillor Taylor initially reiterated his claim of what the Clerk had said. He then accepted that she probably hadn't used the word poached but must have meant that.

5.37 Councillor Taylor's claim of what the Clerk had said was therefore inaccurate. Though only one word, his addition of the word 'poaching' gave a negative and disreputable slant to the phrase. Leaving aside this word, he was incorrect in claiming that the application was made for the reinstatement of reserves.

“The Town Clerk stated she would not need all of the money”

- 5.38 At interview, The Town Clerk told me that she had not said that she would not need all of the money. The position was that the Council did not know if it would need all of the money because the final amounts had not been agreed. The sum of £98,000 was the best estimate of what was needed at the time.
- 5.39 I note that the Council had received a detailed breakdown of the additional costs, amounting to £98,073, and that the Clerk had pointed out that this was a worst case scenario. It is quite clear from the minute that councillors understood and agreed that the amount of loan was to cover the worst case.
- 5.40 At interview, Councillor Taylor reiterated this claim.
- 5.41 Whilst it is true that the final reckoning of the additional costs may be less than £98,000, it is also possible that it may be more. By claiming that the Town Clerk had said definitively that not all of the money would be needed, I consider Councillor Taylor was being selective and misleading.

“She stated that she intend to put the surplus into a high interest account and use that as a reserve to pay down the loan”.

- 5.42 At interview, the Town Clerk told me that since the loan was for the amount needed, she would not have said that there would be a surplus that would be put in to a high interest account. She said she may have mentioned that retention money due on the building could be put aside until it had to be paid.
- 5.43 At interview, Councillor Taylor reiterated his claim.
- 5.44 The total of £98,000 was the worst case scenario. Although the final amount might be less, it will not necessarily be so. The Town Clerk knew this and had reported this to councillors. I consider it unlikely, therefore, that she said what Councillor Taylor claimed.
- 5.45 If there was any surplus due to lower additional costs being agreed, there seems little to be gained by putting it in a high interest account for repayment at a later time, as opposed to repaying it immediately. Putting retention money in a savings account until needed would, however, be a logical suggestion. I consider it likely, therefore, that a reference to a high interest account has been presented out of context by Councillor Taylor.

5.46 Overall, on the question of the accuracy, I find that

- The claims in Councillor Taylor's statement about what the Town Clerk had said were inaccurate, selective and out of context. As a result, they were misleading.

The advice received on the need for a loan and on its subsequent application

5.47 The principal advice on the need for a loan was given by the Council's Internal Auditor in his report of 9 June 2014. This drew attention to the risk that the council was facing due to the increased costs of building the Beehive and the Council's very low reserves.

5.48 The Auditor pointed out that the construction of the Beehive was under a standard construction industry contract under which the Council was legally bound to pay sums certified for payment within specified periods and subject to interest for late payment. Thus, although the Council might feel that it had recourse against either the project managers or the construction company, it must first pay certificated sums and then attempt to recover sums.

5.49 He urged speedy and decisive remedial action and suggested that the most obvious option was to extend the borrowings from the PWLB.

5.50 Having received the report on 23 June, this strategy was adopted by the Council and was taken forward by the Town Clerk.

5.51 In the process of applying for the loan, the Town Clerk obtained the relevant application forms and guidance notes. She also sought and received advice from the PWLB directly and also from Lesley Smith, the County Secretary representing the Devon Association of Local Councils (DALC). Ms Smith is responsible for the processing and vetting of all PWLB applications from Devon.

5.52 I find therefore that:

- The Council was advised by its Internal Auditor that to extend its borrowings from the PWLB was the most obvious option for dealing with the additional costs arising from the construction of the Beehive.
- In implementing the Council's decision to apply for a PWLB loan, the Town Clerk obtained the relevant guidance and took advice from the PWLB directly and the County Secretary representing the DALC.

The guidance on the PWLB loan procedure

5.53 Guidance on the system for borrowing by Parish and Town Councils is provided jointly by the Department for Communities and Local Government (DCLG) and the National Association of Local Councils (NALC). The current guidance was issued in April 2013.

5.54 The Guidance points out that the law that allows a local council to borrow money is contained in paragraph 2 of Schedule 1 of the Local Government Act 2003. This states that a local authority may borrow money;

- a) for any purpose relevant to its functions under any enactment, or
- b) for the prudent management of its financial affairs.

This is subject to the borrowing being;

- a) only for a purpose or class of purpose approved by the appropriate person (ie the Secretary of State) and
- b) in accordance with any conditions subject to which the approval is given.

5.55 There are therefore two stages in the borrowing process. The first is to obtain borrowing approval from the DCLG. Applications for approval have to be sent firstly to the local County Association affiliated to the NALC. The Association will consider the application for omissions and errors and then forward it to the DCLG.

5.56 The application for borrowing approval must, amongst other things, state the purpose of the borrowing. The borrowing approval will in turn state the purpose for which the money may be used.

5.57 The borrowing should be for a purpose that would be capital expenditure and the definition of this is explained in appendix A of the guidance.

5.58 The Council's application for borrowing approval was submitted on 17 November 2014, signed by the Chair of the Council and the Town Clerk. The application was for the approval of borrowing £98,073, being the difference between the project cost of £2,025,085 and the funding available of £1,927,011. The purpose of the borrowing was stated as "Additional building costs towards the construction of Honiton Community Complex".

5.59 The application for approval would have been reviewed and checked by the Devon County Association before being forwarded to the DCLG.

- 5.60 Borrowing approval for an amount not exceeding £98,074 was issued by the DCLG on 2 December 2014. The conditions attached to the approval included that the Council may borrow only for 'the additional building costs towards the construction of the Honiton Community Complex'.
- 5.61 The Council then applied for the loan to the PWLB on 23 January. The form was completed and signed, as was required, by Town Clerk. The application was for £98,000 and the purpose of the loan was stated as 'additional building costs towards construction of Honiton Community Complex'.
- 5.62 Following the agreement to the loan, the monies were drawn down in late March 2015.
- 5.63 From the above, I find that:
- The Town Council applied for borrowing approval for a sum of £98,074 for additional building costs towards the Honiton Community Complex.
 - The application for borrowing approval was considered and checked by the Devon Association of Local Councils.
 - Borrowing approval was granted for a sum not exceeding £98,074, to be used for additional building costs towards the construction of the Honiton Community Complex.
 - The application for loan to the PWLB was for £98,000 for the purpose of additional building costs towards construction of Honiton Community Complex
 - The process of applying for the loan was in line with the provisions of the Local Government Act 2003 and followed DCLG/NALC guidance.

The extent to which the claimed actions were those of the Clerk or the Town Council

- 5.64 At interview, the Town Clerk said that Councillor Taylor's claims gave completely the wrong impression of the discussions that had taken place. She had been portrayed as the one making all the decisions.
- 5.65 Councillor Taylor, at interview, told me it was fair to link his claims of improper and illegal actions to the Town Clerk. He said she was the one who made the decisions.

5.66 The key decisions in the process of applying for the loan were:

To receive and accept the Internal Auditor's analysis of the Council's financial position	Agreed by the Town Council 23 June 2014 – minute 14/332 (a)
To decide the amount of funding in the earmarked funds for 2014/15	Agreed by the Town Council 23 June 2014 – minute 14/332 (b)
To borrow up to an additional £100,000	Agreed by the Town Council 23 June 2014 – minute 14/332 (c)
To grant a 10 year lease for the Beehive to the HCC	Agreed by the Town Council 13 October 2014 – minute 14/391
In the light of details of the additional costs, that £98,000 would need to be borrowed	Received and agreed by the Town Council, 10 November 2014 – minute 14/410
To sign and seal the agreement for the lease and service level agreement	Agreed by the Town Council 26 January 2015 – minute 15/20

5.67 It was the Town Clerk's role to implement these decisions and she did so in accordance with the Council's resolutions.

5.68 From this analysis, I find that:

- The key decisions regarding the application for a loan from the PWLB were taken by the Town Council.
- The decisions on the amounts of funding in the earmarked funds were taken by the Town Council.
- The Town Clerk implemented these decisions in accordance with the Council's resolutions.

The validity of Councillor Taylor's claims

5.69 In the light of the above, I have considered the validity of Councillor Taylor's principal claims, namely that the law had been broken and the loan money is to be used for an improper purpose.

- 5.70 The Local Government Act 2003 enables Town Councils to borrow money for any relevant purpose or for the prudent management of its financial affairs. The key requirement is that the loan must be used for the purpose which has been approved by the Secretary of State.
- 5.71 I have established that the purpose applied for was for additional building costs towards the HCC. This was the purpose that was approved.
- 5.72 I find, therefore, that:
- There is no evidence to suggest that the loan application was in any way illegal.
- 5.73 The second principal claim is that the loan money has been used to replace poached reserves and this is an improper purpose.
- 5.74 Councillor Taylor's view seems to be that money locked away in separate reserves was spent on the Beehive. Money from the loan was then used to replace these reserves.
- 5.75 The Town Clerk explained to me that the 'reserves' were simply allocations of the Council's total resources that had been earmarked as intended for certain projects or for general reserves. Even though additional costs for the Beehive project had emerged, the Council decided to maintain these reserves and, at the same time, apply for a loan that would safeguard its position.
- 5.76 With the loan approved, the Council was in a position to cover all of its potential liabilities and its aspirations. The existing earmarked and general reserves were maintained throughout and no monies from the loan were added to them.
- 5.77 The Town Clerk has confirmed that every pound of the loan had been or would be spent on the Beehive and that none of the loan would be applied to any other project.
- 5.78 Another way of viewing this is that the Council had earmarked funding for certain projects that it wished to carry out. The decision to maintain the earmarked reserves in the light of the additional Beehive costs meant that, at some stage, the Council might not have held sufficient funds to cover its liabilities and all of its aspirations.
- 5.79 However, the Council was not obliged to proceed with all or any of its aspirations and in any case had approval for a loan which would enable both liabilities and aspirations to be covered. The earmarked reserves were never taken away and no loan money was added to or spent on them.

5.80 In my opinion, the second interpretation is a more realistic and reasonable view of what has taken place.

5.81 I find that:

- Councillor Taylor holds a particular interpretation of the use of the loan.
- He has not demonstrated that the loan is being used for an improper purpose.

Did Councillor Taylor disclose confidential information?

5.82 Councillor Taylor's statement refers to the Council meeting held on 26 January 2015 "most of which was held in private". Indeed, the meeting was an Extraordinary meeting of the Council and the single item of business was held in confidential session. If Councillor Taylor disclosed any information presented in the meeting he would have breached the confidentiality attached to it.

5.83 Although prompted by the meeting of 26 January, much of Councillor Taylor's statement is concerned with earlier events such as the application for the loan and the management of the reserves. Such general information was already in the public domain.

5.84 There were two specific items of information quoted in the statement. The first was that the value of the loan applied for was £98,000. This figure had already been published in the Council minutes of 10 November. The second specific item was a figure of £75,000 being "the worth of bills that should have been disputed". This figure was not one presented by the Town Clerk but was an estimate forwarded by another councillor. It was not therefore an 'official' item of information.

5.85 I find therefore that;

- Councillor Taylor's statement covered earlier events already in the public domain and his own contentions. He did not disclose specific confidential information.

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

- 6.1 My findings about Councillor Taylor's conduct can now be assessed in relation to the Town Council's Code of Conduct.

Paragraph 4(a): You must treat others with courtesy and respect

- 6.2 Treating people with courtesy and respect involves having regard for them and their feelings and showing politeness towards them.
- 6.3 The Code's requirement for respect does not mean that councillors cannot challenge the views or performance of officers. Members are able to question the actions and performance of officers provided it is done in an appropriate way.
- 6.4 Debating and questioning a proposed course of action, for example, would normally take place in a committee or council meeting. Any differences of views would ultimately be resolved by the voting of councillors and would result in an agreed course of action for the Council.
- 6.5 It is important that councillors should raise any issues about the performance of officers in a proper forum and not in a public meeting or through the media. Personal criticism made in public is unlikely to be acceptable.
- 6.6 In his statement, Councillor Taylor makes serious claims of conspiracy to break the law and of using money for an improper purpose. The statement mentions the Town Clerk three times but the resolutions of the Town Council not at all. The Town Clerk is clearly associated with his claims of breaking the law and impropriety. Council Taylor told me that such an association was correct, saying "she had done the lot".
- 6.7 Councillor Taylor wrote his statement and sent it to around 10 members of the public and other councillors. He sent one of the copies to Jill McNally, an associate who had previously copied around his statements to a mailing list including the press. The statement was passed to the Express and Echo and Pullman's Weekly News and articles referring to and quoting from it appeared in both.
- 6.8 This episode amounts to Councillor Taylor making public his claims of illegality and impropriety linked to the Town Clerk. Councillor Taylor intended this to be the case, telling me he was addressing his constituents.

- 6.9 Council Taylor made his claims publicly, outside of Council procedures and with no opportunity for the Clerk to respond and defend herself.
- 6.10 On these facts alone, it seems clear that Councillor Taylor has not treated the Town Clerk respectfully. However, Councillor Taylor insists that he is completely correct in his assertions and that it is in the public interest for him to publicise them.
- 6.11 I have therefore examined at some length the validity of his claims and whether they were justified, regardless of whether they were disrespectful.
- 6.12 I found firstly that Councillor Taylor's account of what the Town Clerk had said in the Council meeting was inaccurate, selective and presented out of context. As a result, it was misleading.
- 6.13 I found it was the Council's Auditor who advised that the borrowings from the PWLB should be extended and that the Council agreed to do so. In implementing this decision, the Town Clerk obtained the relevant guidance and took advice from the PWLB and the Devon Association of Local Councils.
- 6.14 I found that the loan application was for the additional costs of building the Beehive. The application was checked by the Devon Association of Local Councils and approved by the DCLG. The loan was granted for the purpose applied for. The process followed was in line with the provisions of the Local Government Act 2003 and DCLG/NALC guidance.
- 6.15 Subsequent audit reviews have found the loan arrangements satisfactory and with no issues.
- 6.16 I found that the key decisions concerning the loan were made by the Town Council. Similarly, the decisions regarding the earmarked reserves were made by the Council. Councillor Taylor was wrong, therefore, to associate his claims with the Town Clerk.
- 6.17 Although he holds a particular interpretation of events, Councillor Taylor has not established or made a convincing case that it is correct.
- 6.18 My conclusion is that there was no justification for Councillor Taylor to go beyond acceptable bounds of respect for others.
- 6.19 Councillor Taylor publicly made claims of illegality and impropriety associated with the Town Clerk. In the absence of any reasonable justification for his claims, I find that Councillor Taylor did not treat the Town Clerk with respect.

Paragraph 4(f): You must not disclose information given to you in confidence or information which is of a confidential nature

- 6.20 I consider that Councillor Taylor's statement covered events already in the public domain and his own contentions. I find therefore that he did not disclose any confidential information.

7. Findings

- 7.1 In summary, I find that:
- **In his statement issued on 27 January, Councillor Taylor did not treat the Town Clerk with respect. He therefore failed to follow paragraph 4(a) of the Code of Conduct.**
 - **Councillor Taylor did not disclose any confidential information in his statement. He therefore did not fail to follow paragraph 4(f) of the Code of Conduct.**
- 7.2 The reasoning for my findings is set out in section 6 above.
- 7.3 Councillor Taylor and Chetna Jones were sent a draft of this report on 7 July 2015.
- 7.4 Chetna Jones accepted the draft report and its conclusions. She suggested some minor corrections which I incorporated.
- 7.5 Councillor Taylor submitted a response to the draft report on 28 July. I carefully considered this and made some amendments to my report as a result. The response did not, however, lead me to change my findings.
- 7.6 This is my final report. It will be will be forwarded to the Monitoring Officer who will carry out the remaining stages of the Council's complaints procedure.

8. Schedule of evidence taken into account

Document No.	Description
1	Internal Audit Report 2013/14 – Interim June 2014
2	Funding Update – submitted to Town Council meeting of 10 November 2014
3	Application for borrowing approval dated 17 November 2014
4	Application to PWLB dated 23 January 2015
5	Article in Express and Echo (online) of 28 January 2015
6	Article in Pulman’s Weekly News of 3 February 2015
7	Internal Audit Report 2014/15 – Interim March 2015
8	Internal Audit Report 2014/15 – Final May 2015
9	Text of email from Jack Dixon dated 17 June 2015
10	Record of interview with Chetna Jones
11	Record of interview with Councillor John Taylor
12	Response of Councillor Taylor to Record of Interview

Document 1: Internal Audit Report 2013/14 – Interim June 2014

South and West Internal Audit

48 Fore Street
Totnes
Devon
TQ9 5RP

Tel: 01803 862771 Mobile: 0773 012 5505
Email: parishaudit@gmail.com

9th June 2014

Report prepared by: Ken Abraham

Honiton Town Council

Internal Audit Report 2013-14 - Interim June 2014

In accordance with testing strategy testing was carried out as appropriate and is reported below.

The Council is currently re-assessed as high audit risk owing to the very low reserves and uncertainty about additional costs that may arise in 2014-15 and the ability to meet them.

➤ **Financial Outturn 2013-14, Financial Control and Risk Management**

The Council has undertaken a very large construction project in the Beehive involving expenditure in excess of £2.045m at a time when it had a new clerk in post. Not everything has gone to plan but the Council have added a significant new resource to the Town and put considerable effort into achieving this.

The analysis that follows is based on the need for Council to realistically address the problems that have recently become apparent in a prudent manner.

The Council had no in house expertise in managing large projects. Nor did the Council have adequate accounting skills that would be present normally when managing larger projects. The usual way of coping with this gap at this level for large projects has been to use either district or county expertise and pay for it as was the case for example with the Watermark at Ivybridge or the Amory Centre at South Molton. This had been planned for by Council. But the EDDC employee assigned took early retirement and they were unable to provide a replacement.

The project was managed by Bailey Partnership and they provided a project manager who was in place for a large part of the contract but the project manager left them well before the project neared completion.

Setting up a complex of the size of the Beehive requires a strong financial base. At Ivybridge the operation has been in significant operating deficit from day 1 to date but had adequate resources built into the funding to enable the centre to operate at deficit in its early years.

The Beehive construction project has overrun its budget. The Council is rightly investigating both the cause of this and looking at containment of cost.

The Council had minimal free reserves at the start of the project and therefore should have risk assessed the implications of a cost overrun on the project and ensured that sufficient resources could be put in place so as not to jeopardise existing Council services in that event.

As it is, the Council was reduced to having only c£2,000 in all reserves at year end. Certain earmarked reserves were not available since the balance should have been £18,627 based on figures provided by the Clerk. This means that earmarked funds have actually been applied to general fund expenditure.

Going forward the budgeted expenditure for 2014-15 is £ 253,090 with a balanced budget. This implies that the Council's free reserves (General Fund) should be between £63,000 and £253,000 to comply with statutory guidance. Add to this the "poached" earmarked reserves of £18,627 the Council has a potential funding gap of at least £81,627. Additionally the Council has no budget for further costs associated with Beehive that may become evident in the coming months and need to be allowed for in planning cash management.

The construction of the Beehive is under a standard construction industry contract under which the Council is legally bound to pay sums certified for payment within specified periods and subject to interest for late payment. Thus, although the Council may feel that it has recourse against either the project managers or the construction company it must first pay certificated sums and then attempt to recover sums.

The Council has had concern over the ongoing future control of the centre. If it retains control of a non- charitable company, it would likely lose the current volunteer management of the centre and find that it has not only the previously identified funding gap but also the prospect of a building that cannot be operated as there are no funds for staff to run it.

It would also find itself liable for 100% business rates on the building whereas a charity could rely on at least 80% relief or 100% relief with goodwill from EDDC.

There is clearly some uncertainty about the operating costs of the Beehive and the extent of its use by the public cannot be guaranteed both short and longer term.

There is therefore the question of capitalisation of whatever entity runs the Beehive if not the Council. In the absence of adequate capitalisation this entity will lack the resources to ride out any adverse trading periods for whatever reason and the Council needs to address this in its longer term financial planning as well as having a clear short term plan for any unforeseen costs in the start-up phase. (This pattern has been clearly seen in several community centre operations of which we are aware.)

There seem to be extremely limited options available to Council:

- *The most obvious would be to extend the borrowings from PWLB to enable the Council to put its finances back on a more stable footing. This could sensibly be over the same timeframe as existing borrowing.*
- *Precepting is not an option until 2015-16 and probably would be resisted even then given the current economic climate.*
- *Fundraising may be an option but cannot be relied upon and also is usually restricted to specific costs and cannot be relied upon succeeding on a very short timescale.*
- *Otherwise the Council is looking at having to potentially reduce the net cost of other services which would compound the problems as termination of significant cost streams may well result in short term increased costs to achieve future savings.*

Borrowing a little more than the absolute minimum thought necessary to give some head room could also have merit. In the event that it is not all required it could provide resources for additional capitalisation of the Beehive or to hold down the precept, thus making it less likely that there will be further call on public funds in the immediate future.

What is clear is that speedy and decisive remedial action is required if the Council is to get its finances back on an even keel.

A realistic and conservative cash flow forecast should be prepared to identify the expected cost pattern for 2014-15.

Decisions on Charitable Status and additional borrowing need to be moved on speedily before current year 2014-15 funds run out.

Financial controls need to be reviewed and appropriately tightened and financial information appropriately sharpened and focussed.

The Council needs to look at its approach to risk and develop a more robust strategy to ensure it does not again become financially overstretched when future risks are assessed.

Ken Abraham (signed electronically 09/06/2014)

**Document 2: Funding Update – submitted to Town Council meeting of
10 November 2014**

Update Report to Town Council – November 2014
Rationale for Further Funds

Outline

The Town Council in early 2013 started a project to provide a community complex to the people of Honiton. The outcome of this is that the Town has ended up with a wonderful Community Complex, known as The Beehive, a facility that the Town was severely lacking. The Beehive is a modern, accessible centre offering additional space and opportunity for a mix of uses for Honiton People including community and arts activities.

Public Support

In the six months of operating as a Community Complex the facilities have proved to be very popular and demand has been higher than expected. With the aid of Friends of Beehive various fundraising activities and grant applications have taken place with approximately £80,000 raised to complete the fitting out.

Many people have benefitted whether for social or wellbeing purposes including being able to provide a venue for young adults with learning disabilities to enable them to mix in a real working environment, training centre for the unemployed, various dance classes for both adults and children, community cinema and a meeting place for local organisations including Honiton Pantomime Society and Honiton Carnival. Various letters of support have been provided and are available through the Town Council office.

Funding requirement and Timescale

As previously identified (report produced in June) additional unanticipated variations in the build not originally identified in the tender specification required further funds to be borrowed from the Public Works Loan Board. This funding is required because Town Council is legally responsible to ensure that all certified work is paid in full to the Contractor and this is in line with the contractual requirement as explained below under “repayment of Loan”.

As previously agreed the plan is to ensure that sufficient funds were available to cover the costs of the additional work in order that the reserves were not depleted and this would be at **no further cost to the residents of Honiton** via the precept.

Although the building is complete and a Certificate of Completion is obtained, additional variations brought to the Town Council’s attention are being addressed and discussion are continuing to establish why these were not included in the original specification. Every attempt is being made to ensure that the Town Council only pays for genuine variations that were essential to the project.

The Council is working closely with the project management team to ensure that final account will only reflect the actual cost that the Town Council is liable to pay.

The variations were due to a number of reasons and included:

Surface drainage issues as identified in a report produced by East Devon District Council in 2007

Steel strengthening to hold stage lights and stage curtains

Various other changes implemented resulting from incomplete plans or poor design following a very quick value engineering (VE) exercise where the project costs were reduced by approximately £300,000 in order that the project could proceed. As a result of this the height of the building was reduced and the internal structure altered. The incomplete plans were not identified until two thirds of the way into the project and therefore additional costs have been encountered.

Whilst the exact date that the additional amount needs to be paid in full is not identified it is envisaged that the final account will need to be settled within 12 months of certificate of completion and this date is known to be 10th March 2015.

Full details of the Variations

The following information has recently been provided by the project management team.

Substructure	£	-13,441.28	Redesign of substructures to suit revised superstructure, following value engineering. Savings realised and less reinforcement and contaminated material.
Frame	£	29,731.48	Lighting beams added as client request additional fittings and steelwork to suit redesigns, and additional steel following VE exercise.
Upper Floors	£	-	
Roof	£	5,020.60	Requirement to provide stronger supporting structure for various verge and eaves details
Stairs	£	2,920.79	Building regulations added safety requirements including filling gaps against walls, change handrail/colours and guard rail
External Walls	£	19,665.93	Improvements to feature window and cladding to conference room, additional requirements for cladding rails, changed details to cavity trays, changes in frame locations affected glazing/spandrel panel layouts.
Windows and External Doors	£	178.75	Minor ironmongery change
Internal Walls and Partitions	£	5,398.37	Change in positions of partitions and associated walls, insulation requirements, in-fill at junction of different materials and to provide more consistent finishes

Internal Doors	£	2,598.04	Amendments to lintel sizes, change from roller shutter door to fire doors in projection room for building control, minor ironmongery changes
Wall Finishes	£	777.42	Changes to layout and associated finishes
Floor Finishes	£	1,499.20	Changes to stair in hall to suit retractable seating, minor changes to finishes/screed to suit on site details
Ceiling Finishes	£	3,674.29	Ceiling changed to improve access, acoustics and visual appearance in the main hall
Fittings and Furnishings	£	15,000.49	Addition of curtains and full height backs to retractable seating, data cupboards change and amendment to kitchen/bar fittings
Sanitary Appliances	£	705.29	Additional 2 nr showers requested by building control
Ventilating Systems	£	32,684.49	Following VE exercise, plant roof space reduced which required changes to plant, ductwork and louvers to suit new layouts. Note as we await further information from the contractor this sum may include items from other mechanical sections.
Electrical Installations	£	25,043.41	Changes to light fittings, amendments to layouts requiring different power & lighting requirements, note as we await further information from the contractor this sum may include items from AV and protective installations
Lift Installations	£	1,610.00	Fireproofing to the lift door details
Site Works	£	34,597.35	Changing to fencing, bin store size, planning and screening, render and painting to retaining walls, changes to external levels following changes to building level, provision of temporary retaining structure adjacent to the main road
Drainage	£	92,249.44	SWW and East Devon council requirements and attenuation work
External Services	£	23,551.03	Increased costs to statutory connection and additional associated builders work, external gas kiosk housing.

The costs have been submitted by the contractor and are the worst case costs.

Construction

Estimated Final Sum	£1,931,071.67
South West Water	32,072.30
Professional Fees	61,941.57
Total Cost of project	£2,025,085.54
Total income received	£1,927,011.62
Funds required	£98,073.92

This would be the worst case scenario and as a pre-emptive measure the Town Council will need to ensure it has sufficient funds to complete the project. Therefore the Town Council will need to **borrow £98,000** to ensure that sufficient funds are available.

Repayment of Loan

The Town Council has already made provision for repaying the original loan through the precept to the value of £60,000 per year.

The repayment cost last year (2013/14) was £52,453.63. This means that each year from the £60,000 that has been precepted for the lifetime of the loan there will be a surplus of funds of approximately £ 6,500 and it is envisaged that it is this amount that can be used towards the repayment of the additional loan.

In addition the Town Council will be generating income from the Car Park at the Beehive. Whilst the exact amount is not known, as a best guess it is envisaged that the net profit could be in the region of £6,640. This was based on 8 cars parking for a total of 8 hours a day at £1 per hour, 260 days a year earning an income of £16,640 less running costs of approximately £10,000. Total capacity of the car park is 32 spaces, 2 coaches and 2 mini buses so potentially there is scope for more income. Part of this income could also be used to supplement the repayment if required.

Typically the cost of a loan based on a fixed rate Annuity basis was likely to be

Period (years)	Rate (%)	½ Yearly Cost (£)	Total Cost (£)
Over 4.5 not over 5	1.97	10,549.72	105,497.20
Over 9.5 not over 10	2.61	5,713.23	114,264.60
Over 14.5 not over 15	3.05	4,178.70	125,361.00
Over 19.5 not over 20	3.36	3,453.56	138,142.40
Over 24.5 not over 25	3.58	3,043.47	152,173.50
Over 29.5 not over 30	3.75	2,790.40	167,424.00

It order to tie in with the original loan and to ensure that the amount already set aside in the precept would be used to cover the cost of this loan it would be prudent to consider a length of up to 25 years. This would mean that there would not be a need to increase the original amount of precept in order to cover the cost of the loan.

Recommendation Update

The original resolution still applies and is as follows:

To agree to borrow up to an additional £100,000 to be repaid through the anticipated income with no increase to the precept and to only proceed if necessary once liabilities have been agreed.

This report is to provide the update as per above in order that the Town Council is aware of the exact variations and what the cost is for each variation and what the Town Council could be liable to pay. This highlights that a total of £98,000 will need to be borrowed to be repaid over 25 years and that it will be at no further cost to the taxpayer via the Town Council's precept.

Chetna Jones
Town Clerk
November 2014

Document 3: Application for borrowing approval dated 17 November 2014

Department for
Communities and
Local Government



APPLICATION FOR BORROWING APPROVAL FOR TOWN/PARISH COUNCILS

- If you have any queries about completing this form please contact your local county association.
- When completing this form please use CAPITALS.
- Once completed and signed please send this form to your local county association.

1. Name of Council	Honiton Town Council
2. Name of Clerk Working Address (inc. Postcode) Telephone Email address	Chetna Jones, Town Clerk Honiton Town Council offices The Beehive Dowell Street Honiton Devon EX14 1LZ
3. Name of Chair Home Address (inc. Postcode) Telephone Email address	Clr J Peter Halse Eddystone, Langford Road Honiton Devon EX14 1QA
4. District/Unitary Council area	East Devon
5. Purpose of Borrowing Please give a brief description of the purpose for which funds are required and the amount(s) of finance involved:- a) Purchase of land/buildings b) Construction/building works c) Provision of other assets d) Provision of grant to another body e) Other - please specify	Additional building costs towards the construction of Honiton Community Complex
6. Total Contract/Project Value <u>Minus</u> Funding from Council's own resources Funding from other sources <u>Equals</u> Amount to be borrowed	£ 2,025,085.54 £952,011.62 £975,000.00 £1,927,011.62 £98,073.92
7. Deadline for approval (if applicable) If borrowing is required by a specific date – eg an auction date, or to meet matchfunding requirements - give details here.	24 th November 2014
8. Is funding from other sources confirmed?	Yes No
8. Proposed Borrowing Source	PWLB
9. Intended Borrowing Term (please specify the number of years)	25

National Association of Local Councils • 109 Great Russell Street, London WC1B 3LD
Tel: 020 7637 1865 • Fax: 020 7436 7451 • e-mail: nalc@nalc.gov.uk • website: www.nalc.gov.uk
Department for Communities & Local Government • Zone 5/J3, Eland House, Bressenden Place, London SW1E 5DU
Tel: 0303 444 2085 • Fax: 0303 444 3294 •
e-mail: parish.borrowing@communities.gsi.gov.uk • website: www.gov.uk

10. Details of Existing Loans	1 st loan	2 nd loan	3 rd loan	4 th loan
Date Taken Out	28/06/12	24/10/12		
Amount Outstanding	£ 480,513	£461,620	£	£
Unexpired Term	2 1/2 yrs	28 yrs		
Source	PWLB	PWLB		
11. Precept for current year	£ 201,130			
12. Number of Electorate	8,711			
13. Value and purpose of all funds, capital/revenue reserves and balances currently held	Bank £295,857.58 inc Earmarked = £150,390.50 (Reserves £60,590.68, Allotments £8,319.73, Community Complex £69,651.56, Other inc youth, admin, election £11,828.53) Accrual re construction = £201,867.81			
<p>14. Approval of Full Council</p> <p>The above application was agreed by resolution of the full council on 23/11/14 (date), the Report to Council and Budget attached have been taken to and approved by the full Council, and the draft Minutes attached have been seen and authorised for submission by the Chairman.</p> <p>The Council undertakes to notify the Department for Communities and Local Government (DCLG), as soon as reasonably practicable, in the event:-</p> <ul style="list-style-type: none"> • of not exercising the approval, or, • it finds that the original amount requested is greater than the actual borrowing need. <p>SIGNED..... <i>J Peter Halse</i> DATE..... 17/11/14 (Chair of the Council)</p> <p>NAME..... JOHN PETER HALSE</p> <p>SIGNED..... <i>Chetna Jones</i> DATE..... 17/11/14 (Responsible Financial Officer)</p> <p>NAME..... CHETNA JONES</p>				

Document 4: Application to PWLB dated 23 January 2015

LC1



United Kingdom
Debt Management
Office

Public Works Loan Board

Eastcheap Court
11 Philpot Lane
London
EC3M 8UD

T 020 7862 6610
F 020 7862 6509
E pwlb@dmo.gsi.gov.uk
www.pwlb.gov.uk

APPLICATION FOR A LOAN BY A PARISH COUNCIL IN ENGLAND OR A COMMUNITY COUNCIL IN WALES

The lending arrangements are set out in guidance note LC2, which is on the Board's website (www.pwlb.gov.uk)

<p>NAME OF COUNCIL in full</p> <p>PWLB REFERENCE NUMBER if known</p> <p>BORROWING APPROVAL REFERENCE:</p> <p>PURPOSE OF LOAN: please describe the works or other purposes</p> <p>SUM NOW REQUIRED (see note 3)</p> <p>TYPE OF LOAN REQUIRED: please delete whichever is not applicable.</p> <p>FIXED RATE LOANS: Half-Yearly Interest Payment Days (See note 4)</p> <p>VARIABLE RATE LOANS: Payment Frequency ('rollover')</p> <p>TERMS OF REPAYMENT: please complete either a, b or c:</p> <p>a) ANNUITY (Fixed Rate Loans only) - where each payment is of a constant amount inclusive of principal and interest, or</p> <p>b) EIP - where each payment consists of a constant instalment of principal plus a diminishing amount of interest calculated on the balance of principal then outstanding, or</p> <p>c) MATURITY - where each payment is of interest only with a single repayment of principal at the end of the term</p>	<p>HONITON TOWN COUNCIL 07606 SRP5/23/05 App 2014-15(79)</p> <p>ADDITIONAL BUILDING COSTS TOWARDS CONSTRUCTION OF HONITON COMMUNITY COMPLEX £ 98,000.00</p> <p>Fixed Rate / Variable Rate 1st APRIL & 1st OCTOBER</p> <p>Monthly / 3 Monthly / 6 Monthly (Delete as required)</p> <p>ANNUITY - repayable over 25 years</p> <p>EIP - repayable over years</p> <p>MATURITY - repayable over years</p>
<p>PREFERRED DATE OF ADVANCE</p> <p>Loans may be advanced on any banking day.</p> <p>The completed form should reach the Board two weeks before the intended advance date.</p>	<p>FRIDAY 6th MARCH 2015</p>

NOTES:

- The loan application must be accompanied by a blank cancelled cheque or a bank statement verifying the details of the bank account to which the advance should be made.
- The terms of the loan will be agreed by telephone in accordance with the arrangements set out in guidance note LC2.
- The fee due in respect of the loan will be deducted from the advance (see LC2).
- It is open to borrowers to choose their own half-yearly payment days, for example to coincide with the repayment days of existing loans or with regular income such as from the precept. By default, the first repayment date will be six months after the day of the advance, and at regular six monthly intervals thereafter. For example, a loan agreed on Wednesday, 24 February 2010 is advanced on Friday 26 February 2010 and falls due for repayment on 26 February and 26 August.

The following additional information is required:

<p>LOAN DEBT Please give the annual costs and balance of any loans held by the Council outstanding at the time of making this application.</p> <p>Amount already borrowed against the Borrowing Approval (if any)</p> <p>INCOME to be received by the Council during the current financial year from:</p> <p>Council Tax</p> <p>Grants</p> <p>Other sources (please specify)</p>	<p>Balance: £ 942,133.82 Annual Cost: £ 53,567.14</p> <p>£ /</p> <p>£ 253,090.00</p> <p>£ 201,130.00</p> <p>£ 17,860.00</p> <p>30,000.00</p> <p>£ 4,100.00</p> <p>STREET MARKET COUNCIL SERVICES</p>
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DECLARATION TO BE COMPLETED BY THE RESPONSIBLE FINANCE OFFICER

I, the undersigned, MRS CHETNA JONES

(Print Full Name)

COUNCIL OFFICES, THE BEEHIVE, DOWELL STREET, HONITON, DEVON, EX14 1LZ

(Print Address)

as the Responsible Finance Officer for HONITON TOWN Council hereby apply for a loan of the amount stated overleaf to be repayable in the manner stated with interest at the appropriate rate determined by HM Treasury for loans of the appropriate type, duration and method of payment.

I certify that the information given is true to the best of my knowledge and belief.

I authorise the Public Works Loan Board to pay the sum applied for or such lesser sum as it may agree to lend, subject to deduction of the fee payable from the advance at the time it is made.

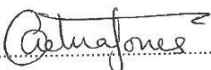
Details of Council's Bank account to be credited

Bank sort code Bank account number

30 - 94 - 36 00396540

Please enclose a blank, cancelled cheque or a bank statement bearing the name and the number of the account to which the advance should be made (see note 1). Please also enclose a completed Direct Debit instruction for the account from which scheduled repayments will be collected.

Bank name and Branch LLOYD BANK, HONITON (309436)

Signed  Date 23/01/15

Daytime contact no 01404 42957 e-mail address townclerk@honiton.gov.uk

December 2014

Document 5: Article in Express and Echo (online) of 28 January 2015

Councillors call for police to investigate Honiton Beehive Community Complex finances

By [Exeter Express and Echo](#) | Posted: January 28, 2015

HONITON town councillors have called for the intervention of the police to investigate concerns over the way finances related to the town's £2m community complex project have been handled.

Six councillors have signed a request for a motion to be added to February's full council meeting that asks for the finances of the town council and the Beehive Community Complex to be investigated by Devon and Cornwall Police.

It states: "Given matters impacting on risk to the precepting authority Honiton Town Council and relating to the Beehive Community Centre, this council resolves to approach a truly independent body, namely the Devon and Cornwall Constabulary to investigate concerns relating to public finances and contractual matters".

Councillor John Taylor, who suggested the motion, said: "I'm concerned that we're not being given clear costings of the accounts and that we need a totally independent organisation to be involved that can ask questions of all the parties."

In November the town council agreed to borrow an extra £100,000 in case extra payment is required to cover extra costs of the construction. An application was made to the Public Works Loan Board for the funds.

The controversy arose in discussion about a current dispute over invoices covering additional building costs of about £75,000 for the Beehive, which are described as a variation to the initial build quote by building contractor Midas. But it is understood that this disputed amount has already been paid.

Cllr Taylor is also concerned that some of the £98,000 will be put into a high interest account to help repay the council's loan on the build of the Beehive – a move he calls "improper".

It is understood that a further £41,000 has been paid to Midas by the council in order that they return and fix a problem with the stage's retractable seating. Now, it's understood that the project management is currently agreeing final invoice which could amount to tens of thousands of pounds more.

At an extraordinary meeting of the town council on Monday, January 26, in closed session, members were due to agree a 10 year lease for the company that runs the complex, which means they can now apply to become a charity.

As previously reported by the Echo, concerns have been voiced by some town councillors over the decision to grant a 10-year lease to the company which runs the town's community complex – for £1 per year. The building is owned by the town council, but it pays £20,000 per year to occupy its offices. The agreement, voted through at October's town council meeting, means that the town council will lease the £2m building to the company for £1 per year for 10 years. And if the company becomes a charity, the company directors will assume virtually all control over the council-owned asset, while councillors will have 20 per cent of the votes.

Residents have recently seen a 30 per cent council tax rise, partly to help pay for a 28-year, £53,500-per-year loan the town council took out to pay for the Beehive.

In the meeting of the finance committee following the extraordinary meeting, members were due to receive an update regarding the construction of the Beehive, also in closed session.

Document 6: Article in Pulman's Weekly News of 3 February 2015

Councillors call for police to investigate Beehive finances

By Jack Dixon

A GROUP of Honiton town councillors has called for a police investigation into the council's finances, following allegations of mismanagement over the Beehive project.

The matter will be discussed at the full council meeting next Monday (February 9th), after six members signed a request for the item to be included.

They will call for the police - "a truly independent body" - to look into the council's finances and scrutinise the costs of the Beehive project.

Their motion reads: "Given matters impacting on risk to the precepting authority Honiton Town Council and relating to the Beehive Community Centre, this council resolves to approach a truly independent body, namely Devon and Cornwall Constabulary, to investigate concerns relating to public finances and contractual matters."

The "wholly unfounded" allegations were strongly refuted by the Mayor of Honiton Peter Halse, who said he was "astonished" by the claims.

One of the signatories, Cllr Taylor, claims that £100,000 borrowed from the public works loan board (PWLb) is to be used for an "improper purpose".

The council agreed to borrow the money in order to provide a "safety net" to cover the unexpected costs of the Beehive project, but Cllr Taylor says it will be used to "replace poached reserves" instead.

He alleges that the council's reserves have been depleted because £75,000 worth of bills - described in a November report as "additional unanticipated variations" for the construction of the Beehive - were paid before being disputed.

He also says he believes that some of the money will be placed in a high interest account to help repay the council's original loan for the Beehive build.

In a statement issued last week, he said: "... to apply for money knowing that it is not needed for a purpose allowed under PWLB rules is illegal because it is a way of replacing reserves that are required to be kept by all councils but in the case of Honiton Town [Council] have been 'poached'."

But the claims were later dismissed as "totally false" by Cllr Halse, who called for the allegations to be withdrawn and an apology offered.

He said: "I would not normally comment on such ill-informed statements, but Honiton deserves a clear assurance that no such breach of public trust has occurred.

"Financial affairs of public bodies like Honiton Town Council are strictly controlled by both an internal and external auditor. These experienced officials have scrutinised and accepted our accounts. Not only so, but the councillors themselves have approved all the payments made by the town clerk at their quarterly finance committee meetings."

Councillor Halse said every administrative step in the "landmark" Beehive project had been made under the advice of the council's solicitors, with legal advisors consulted over the granting of a lease to the Beehive company.

He added: "No vote was taken without legal advice being given. Decisions made and recommended to the council by the town clerk were only made after exhaustive enquiries from local government professional advisors and our own solicitors.

"To suggest that the town clerk has acted improperly is totally false and I very much hope these unfounded allegations will be immediately withdrawn and an apology offered."

The row followed a meeting held behind closed doors last Monday evening, during which councillors resolved to agree a 10-year lease for the Beehive company to run the community centre, enabling it to apply for charity status.

Document 7: Internal Audit Report 2014/15 – Interim March 2015

South and West Internal Audit

48 Fore Street
Totnes
Devon
TQ9 5RP

Tel: 01803 862771 Mobile: 0773 012 5505
Email: parishaudit@gmail.com

March 11, 2015

Report prepared by: Ken Abraham

Internal Audit Report 2014-15 - Interim March 2015

Honiton Town Council

In accordance with testing strategy developed in the Financial Risk Assessment 2013-14 that concludes the audit risk is high due to low reserves and will not change until the PWLB loan is drawn down, testing was carried out as relevant and detailed below:

The underlying records are maintained on Sage Line 50.

➤ Beehive Construction Project

The project has not yet been finalised. The Council will have to meet its contractual obligations to the main contractor which means paying all certified payments including any not yet certified or made.

The Council should satisfy itself that all payment instructions certified only included variations agreed by the Council and determine what action if any to take in the event this is not the case. (see paragraph 11.1 b of the contract).

✓ Insurances

Insurances were reviewed.

Council is insured with Zurich Municipal. There was evidence of management of cover to reflect addition and disposal of assets in the year.

The level of fidelity guarantee cover of up to £250,000 is adequate based on the guidance formula.

Satisfactory. No issues.

➤ Fixed Assets

The fixed asset register was compared to the insurance cover in place and all items insured were traced to the fixed asset register.

Work needs to be done to record a separate cost or formal valuation column in the register and construct total value for the Annual Return box 9 consistent with the guidance in Governance and Accountability 2014.

✓ Borrowings

● Page 2

March 11, 2015

The loan sanction for an additional loan was verified. The loan had not been called down at the date of visit.

The outstanding balance at PWLB for year end was agreed.

Satisfactory. No issues.

✓ **Core Governance**

The Council has general power of competence.

There are a range of items that require annual or periodic review that are used as indicators for the effectiveness of the Council's governance arrangements that were tested. P= Periodical

✓ *Review of Standing Orders*

Last review was October 2014

✓ *Review of Financial Regulations*

Last reviewed in April 2014.

✓ *Review of Committee Delegations*

Last reviewed May 2014.

✓ *General and Financial Risk Assessment including Health and Safety*

Last risk assessment review was in September 2014

✓ *Investment Policy and Strategy*

The Council has no invested funds due to not yet restoring earmarked reserves temporarily used to pay additional building construction by drawing down approved PWLB loan.

✓ *Annual Review of Charges*

Charges for market pitches are to be reviewed in March 2015. Related equipment hire has been terminated in October 2014

✓ *Statement of Internal Control*

The 2013-14 Statement was approved in June 2014

Council's core governance arrangements are robust.

Satisfactory. No issues.



Document 8: Internal Audit Report 2014/15 – Final May 2015

South and West Internal Audit

48 Fore Street
Totnes
Devon
TQ9 5RP

Tel: 01803 862771 Mobile: 0773 012 5505
Email: parishaudit@gmail.com

25th June 2014

Report prepared by: Ken Abraham

Honiton Town Council

Internal Audit Report 2014-15 - Final May 2015

In accordance with testing strategy testing that concluded the Council was a low risk, testing was carried out as appropriate and is reported below.

✓ **Bank Reconciliation**

Bank reconciliations have been regularly performed throughout the year.
Year end bank reconciliation was re-performed and agreed to statements and receipts and payments book.
Satisfactory. No Issues

✓ **Fixed Assets**

The fixed asset register was reviewed and agreed to the Annual Return
Satisfactory. No issues.

✓ **Loans**

The loan balance and in year payments were agreed to PWLB data and documentation.
Satisfactory. No issues.

✓ **Internal Accounts and Annual Return**

Sage and year end accounts working papers were well documented.
Year end accounts were reviewed and totals for the Annual Return agreed back to the accounts.
Debtors and creditors were reviewed and traced to supporting documentation.
All testing in the year was reviewed for consistency with the financial statements.
Satisfactory. No issues

✓ **Fidelity Guarantee Cover**

Cover in place £250,000 was compared to that indicated as appropriate by Audit Commission guidance £253,000.

Satisfactory. No issues.



Document 9: Text of email from Jack Dixon dated 17 June 2015

Note of telephone call to Jack Dixon – 16 June 2015

He gave details of two articles published following Cllr Taylor's statement of 27 January. He believed he was passed the statement by Cllr Taylor at a Council meeting.

Text of subsequent email sent on 17 June

Dear Mr Darsley,

Further to our conversation yesterday, I have some additional information which may be of use.

You first asked me whether I had a copy of a statement from Cllr Taylor and whether elements of it had been used in a story. This is correct. I had a copy of the statement which I forwarded onto the town clerk and the then mayor Peter Halse for their response. An article appeared in Pulman's on February 3rd.

You also asked me how I received Cllr Taylor's statement of January 27th and I said that I suspected it was handed to me at a council meeting. Looking again at the dates of the meetings, I don't think this is right.

Cllr Taylor's statement is dated January 27th but the only meeting I attended before February 3rd (when the article in Pulman's was printed) was on January 26th. Therefore, I could not have been handed the statement by Cllr Taylor in person at the meeting.

I'm increasingly sure that a scanned copy of the statement was sent to me via email by Jill McNally - now a councillor, then a constituent of Cllr Taylor's - on either January 27th or January 28th. At this time she regularly issued letters with a mailing list that included district councillors and members of the press. This could also explain how the Express & Echo article appeared online on January 28th.

Unfortunately I cannot confirm this with 100 per cent certainty as I no longer have a copy of that email. But I do now think it was inaccurate of me to suggest that Cllr Taylor had issued a statement in person.

I'm determined to make sure I give you the correct information to the best of my knowledge and I hope this is now clear.

Please let me know if I can be of any further assistance.

Many thanks,
Jack Dixon

**Document 10: Record of Investigator's meeting with Chetna Jones
15 June 2015, 2.30pm**

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this. I outlined how the record of the interview may be used.
2. You told me that you joined the Town Council in January 2013 as the Town Clerk. You had no legal or financial qualifications but had business and other Parish Council experience. When you arrived at the Council, the Beehive project was just about to start. The design, planning and funding stages had been completed and the resolution to set up the Honiton Community Complex Company had been agreed. The District Council had run the project initially but everything was handed over when the contract was agreed.
3. The Bailey Partnership had designed the building and took on the project management role. Councillor Zarczynski was designated to oversee the project, with Councillor Bayliss, as Chair of the Finance Committee, overseeing the finances.
4. The project was to be financed from a PWLB loan of £975k, £500k from District Council S106 money and £333k initial funding from the District. The contract sum was £1.73m following a cost reduction exercise. There was only a very small contingency and the funding plan was extremely tight. The latest loan was to cover additional costs incurred during the building project.
5. We considered the Audit Report of June 2014. This pointed out that the Council had minimal free reserves at the start of the project. You confirmed that 'earmarked funds' referred to funding that the Council had earmarked for certain other projects. By 'poaching' the Auditor meant spending these funds on the Beehive project. He had suggested that the most obvious solution was to extend the borrowings from the PWLB and that borrowing more than the absolute minimum to give some head room could have some merit.
6. You explained that any application to the PWLB had to go to DCLG via the Devon County Committee. You had been advised that you needed to state the purpose of the loan and the exact amount. So borrowing more than was needed was not permitted. The Council did not want to do this and you had acted within that framework.
7. The Audit Report confirmed that the Beehive was constructed under a standard contract, with the Council legally bound to pay sums certified for payment.

8. The Council received the Audit report on 23 June 2014 and were concerned at the designation of high risk. The Council resolved to borrow up to an additional £100k. In the Final Audit Report, the risk rating was dropped to low, because the Council had agreed to further borrowing to cover the anticipated additional costs.
9. The annual returns and accounts, together with details of the agreement to borrow, had then been sent off the Grant Thornton, the external auditors. This had been found to be satisfactory.
10. Regarding the application for the loan, you said that there was guidance provided by the PWLB and the NALC. You had also taken advice from Leslie Smith at the County Committee who dealt with all the Devon applications. She had reviewed the Council's application. The stated purpose was to cover the anticipated cost of the additional variations and £98k had been applied for.
11. You confirmed that the loan application was made for the costs associated with the building works. Every pound of the loan had been or will be devoted to the building and none of it will be applied to any other project. This was demonstrated by the fact that year's earmarked reserves were very similar to those of the previous year – there had been no increases.
12. We turned to the Extraordinary Council meeting of 26 January, held the day before Councillor Taylor issued his statement. You confirmed that the Beehive item was held in confidential session because contractual matters were to be discussed.
13. We reviewed the phrases that Councillor Taylor claimed you had said in the meeting. You told me you had not said you had 'applied for a loan to cover poaching of monies from the accounts'. You had never agreed with the Auditor's use of the term poached. You may have explained that the earmarked funds would be reinstated.
14. You had not said that you did not need all of the money. The Council did not know whether it would need all of the money because the final amounts had not been agreed. The sum of £98k was the best estimate of what was needed at the time.
15. Since the loan was for the amount needed, you would not have said that the surplus would have been put in a high interest account. You may have mentioned retention money, due on the building, which could be put aside until it had to be paid.
16. You did not understand the criticism that the surplus would be used to pay down the loan. No surplus was anticipated. If there was, it would be used to pay back the loan and this was surely the correct course of action.

17. You confirmed that you had not said those things as he stated. He had presented matters completely out of context and was implying that more money than was needed was intentionally being borrowed. That was not the case.
18. You rejected the claim that you had asked councillors to 'conspire to break the law'. Similarly, you rejected the claim that the borrowed money was to be used for 'an improper purpose'. You had questioned and double checked with the Internal Auditor and the County Committee and both were completely satisfied that it was proper.
19. I asked you if you considered that any confidential information had been disclosed in Councillor Taylor's statement. You pointed to the figure of £75,000 of disputed bills but accepted that this was only an estimate of one councillor. You accepted that the fact that additional costs had been submitted and were being challenged was generally known.
20. You pointed out that Councillors had agreed not to talk publicly about the disputed items until costs had been agreed. You felt that Councillor Taylor had not abided by the Council's media policy.
21. You told me that the loan monies had been received at the end of March 2015. It had been deposited in the Council's main bank account. It had been used to pay the outstanding bills where they had been agreed. It had not been spent on anything else.
22. You confirmed that your complaint was principally that Councillor Taylor had published a statement linking your name to claims of conspiracy to break the law and applying for a loan for improper purposes. His claims of what you had said gave completely the wrong impression of the discussions that had taken place. It was as if you were the one making all these decisions – they were of course all Council resolutions.
23. You said the statement had contributed to making your job very difficult. You were being made to feel by one or two councillors that you were incompetent. If any councillor had problems with your work there were proper channels through which they should be raised. Councillor Taylor should not have raised his concerns through the press. You thought the statement had appeared in the Express and Echo.
24. You referred to the Southwest Audit Partnership report, which had been commissioned by the District Council to review the Council's governance arrangements in relation to the Beehive. This had identified a number of improvements to how the Council should work. The implementation of these was being resisted by some councillors.

25. The interview ended at 3.40pm.

Sent to witness for confirmation:	18 June 2015
Agreed by witness as an accurate record	18 June 2015

**Document 11: Record of Investigator's meeting with
Councillor John Taylor - 15 June 2015, 4.00pm**

1. Councillor Taylor was accompanied by Jill McNally, a friend and constituent of Councillor Taylor, and now a Town Councillor.
2. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this. I outlined how the record of the interview would be used.
3. You told me you had become a Town Councillor in May 2008. You had been a member of the Finance, Policy and Planning Committees. You had taken an interest in the Beehive project over those years but had no specific role designated by the Council in it. You had no formal legal or financial qualifications but experience in running a number of companies.
4. We considered various reports on the Beehive project in 2014 and 2015.
5. Regarding the Internal Audit report of June 2014, you pointed out that some £18,500 of earmarked reserves had been used up. You confirmed that you had seen this report and were aware of the suggested option to extend the borrowings from the PWLB.
6. You confirmed you were aware of the Council resolution of 23 June 2014 to agree to borrow up to an additional £100,000. You were also aware of the Council resolution of 13 October 2014 to grant a 10 year lease to Honiton Community Complex.
7. The Council meeting of 10 November 2014 had received the update report which provided the rationale for the further funds. You pointed out that the term 'variations' used in the report meant that the items had been agreed. You said they had not been agreed. You said that the Council was not obliged to pay any sums that they contested. You acknowledged that items totalling just over £98,000 had been listed and that the Council agreed to receive the report.
8. You said that unlawful payments had been made. There had been a cover up on the £75,000 by the Town Clerk, the Mayor Peter Halse and others.
9. I asked you if, in the light of the reports and the resolutions, you thought that applying for that loan was properly authorised by the Council. You said no. The Council had not authorised applying for a loan for variations.
10. We turned to the meeting of 26 January after which you had issued your statement.

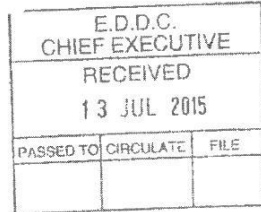
11. You reiterated your claim that, in the meeting of 26 January, the Clerk said that the loan applied for was to cover the poaching of monies from accounts. You also said that she hadn't stated 'poached reserves' – she had said reserves but must have meant poached reserves. You accepted that the Town Clerk probably hadn't used the word 'poached'.
12. You also reiterated your claim that the Clerk had said she would not need all of the money. She had also said that some of the monies could be used to pay down the loan.
13. You reiterated your claim that the Clerk had said that she would put the surplus into a high interest account and that she would use it to pay down the loan.
14. You said that you had issued your statement because the matter had been held in part B (closed session). There had been no commercial sensitivity whatsoever. It was to tell your constituents that the Council had agreed the loan but it was not to cover variations.
15. I put it to you that the item on the Extraordinary Town Council meeting on 26 January was not about the loan or the variations but was to agree to sign and seal the agreement for the lease to HCC. You said the minutes were incomplete – the Clerk had brought it up.
16. I asked you why, if aspects of the project had been unlawful, you had not reported them before. You said you had reported it to the Internal Auditor.
17. You told me you had not issued the statement to a reporter. You said you had given it to Jill McNally and some others – not more than 10. You said you were addressing your constituents. You had previously leafleted but this statement was not turned into a leaflet.
18. You said it had not been in the newspaper. You did not know how Jack Dixon got hold of the statement. You did not use email.
19. I asked you how widely you expected the statement to be circulated. You said you wanted your constituents to look at the reports.
20. We considered the claims made in your statement:
21. You confirmed that you were asked to conspire to break the law. You had been 'asked' by the motion.
22. You confirmed that you were being punished for the telling of an offence.
23. You said the purpose of the loan was improper because you cannot borrow money from the PWLB to replace reserves.

24. You reiterated your claim that to apply for money knowing that it is not needed for a purpose is unlawful.
25. You did not accept that the purpose of the loan was to cover the items listed totalling £98,000.
26. I put it to you that your statement referred specifically to the Town Clerk several times. And that your claims of conspiring to break the law, an offence being committed, and improper and illegal actions were associated with the Town Clerk. You said that was correct and that she had done the lot. You said she's the one who makes the decisions.
27. I asked you if that was fair – were all the decisions those of the Town Clerk or were they decisions of the Town Council? You thought it was fair.
28. I asked you if you thought that issuing your statement was treating the Clerk with respect. You said yes.
29. Although the item was in Part B, you did not consider that you breached any confidentiality. If it was suggested that you had, you would argue that what you had said was in the public interest.
30. I asked you about what actually happened when the loan had been received. You believed the money was received on 28 March 2014 and was in the Council's general account. I asked you what the money had been used for and you said the reserves had been replenished. You said the sums in the reserves were now identical to those before the poaching.
31. The interview ended at 5.30pm.

Sent to witness for confirmation:	18 June 2015
Agreed by witness as an accurate record:	Councillor Taylor made no specific corrections or amendments to this record of interview. He provided further comments on the history of the payments for the Beehive and these are shown in document 12.

Document 12: Response of Councillor Taylor to Record of Interview

Mr Tim Darsley
 C/o Mr Gordon Lennox
 Monitoring Officer
 East Devon District Council
 The Knowle
 Sidmouth EX10 8HL



Beechwood Annexe
 Feniton, Devon
 EX14 3ED
 Saturday 11 July 2015

Dear Mr Darsley (and Mr Gordon Lennox)

1. Thank you for your letter of 7 July. It was fortunate that my landlords returned to Beechwood for the mid-week and thus I had my mail, accumulated over a period of time, placed inside the annexe.

2. I have forwarded your report to my lawyer and this letter will accompany it. I assume that he will analyse the correspondence. I suspect that he will write saying that your timescale is impossible but we shall see. Otherwise for my lawyer's benefit as well as yours I write these few comments on the 'summary of transcript' that you sent by second-class mail and that has been languishing within Beechwood. I reserve the right to add to the comments when I see my solicitor. I believe that the complaint by Ms Jones is unsubstantiated and that I have been the subject of harassment for some months by several parties.

3. I condense what was a complicated history and that comprised part of the interview.
 - a) The closed accounts of 2013-14 include cheques totalling £75500 paid to the builder Midas when the content had been challenged and thus should not have been paid. You quoted the Town Clerk as saying that she has to pay the invoices (and then reclaim the payment) but I pointed out that other clause in the contract that says that invoices can be challenged. One does not pay a bill that is challenged.
 - b) There was a payment of £41000 made in about August/September 2014 that was blatantly unlawful since it was in excess of the fixed price contract of £1.73M for the build.
 - c) You suggest that I have not protested this unlawfulness. I have and indeed there was a motion signed by six Councillors suggesting that the Council debate a referral of the happenings to the Police. That request for a debate was reported in the press but was denied to the Council due to legal considerations.
 - d) There were reports in the press in or about May/June 2014 that stated there was an overspend and that overspend was blamed upon East Devon District Council failing to pay £200000. The Originators of that press debate were the then Mayor Peter Halse, the then Chair of Finance former Cllr Bayliss and Mrs Chetna Jones, Town Clerk. That excuse was wrong and I accompanied the then Deputy Mayor to a meeting of EDDC where he apologised for the behaviour.
 - e) I remind you that the Town Clerk is the Responsible Financial Officer of HTC (it could be a Cllr and is in some Councils) and as such the issuance of the cheques was her decision, her

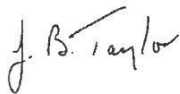
responsibility and ultimately her liability should the Council seek to recoup losses that can be assigned to that responsibility as is the duty of Cllrs to protect the taxpayer's money.

- f) The Council did indeed authorise a request for a further loan but the documentation justifying that request, sent to Devon Association of Local Councils, has not been released by the Clerk to the Council. I presume that the then Mayor Cllr Peter Halse countersigned that application, but I emphasise that I have not seen the application. I know that the Clerk has stated that the loan is for Variations but Council has approved no such Variations nor has the topic come up prior to the payments. To quote the former Chair of Finance, former Cllr Bayliss " We only realised that there was a problem when the money ran out."
- g) I note that you seem to have not comprehensively included the accusation that I was responsible for releasing my statement of January to the Press. In fact I have recently acquired considerable and indisputable evidence that there was enormous disquiet within EDDC after the 26 January meeting and I will be sending that to my solicitor.
- h) I note that in the interview you were unaware of a series of emails between individuals that included Ms Jones, Cllr Halse, Cllr Bayliss and several persons associated with HCCL. Those emails relate to 7 January – 28 January 2015. I know that Mr Gordon-Lennox has seen those emails and indeed has made written comment on them. I hope that you were provided with that documentation otherwise the whole of your investigation is worthless.
- i) Finally I refer you to the letter I wrote to Mr Henry Gordon-Lennox on Friday 24 April of which you will have been given a copy. I will not remain silent on this abuse of public funds and the assigning of the lease of the Beehive to a 'Charity' when that lease was obtained by issuance of a threat to disrupt the workings of the then wholly owned (by HTC) company HCCL.
- j) As a further point of note, I believe that Mr Gordon-Lennox has had a meeting recently with the Town Clerk and new Mayor and according to their report to Council; Mr Gordon-Lennox has advised that HTC should not pursue the matter.

I have to stop since I have work to do. I have spent numerous hours on exposing this scamming of ratepayer's assets to a charity, a burden that continues at the rate of £60000 per annum for 28 years. I point out to you that EDDC provided land and other assets at less than best value that are in the region of £2M. I do wonder at the propriety of having EDDC investigate a circumstance that it itself is involved in but I recognise that Mr Gordon-Lennox holds one of only three statutory positions within EDDC and so I will need to include that topic in my conversations with my solicitor.

Yours sincerely

John Taylor



I reiterate that I wait for my solicitor's opinion before fully responding to the threat of a hearing before the Standards Committee of EDDC. I confidently write: Ms Jones has issued several unlawful cheques.

Response by Dr John Brandon Taylor

To The

Report of Investigation

Draft

Case Reference MO-C075

28 July 2015

1. Introduction

1.1. It is admitted that on the morning of 27 January 2015 a written statement (the Statement) was issued concerning the funding by Honiton Town Council (HTC) of the Beehive Community Centre in Honiton. The Statement speaks for itself. Councillor Taylor delivered the Statement to Ms Jill McNally, a constituent present at the extraordinary general meeting held on 26 January 2015 to consider sign and seal the lease between HTC and HCCL (Honiton Community Complex Ltd). He denies that he disclosed the Statement to the media and believes that the Statement was disclosed by others to the media who contacted the Chetna Jones (the Complainant) on 28 January 2015 thereby bringing to the Complainants attention the Statement.

1.2. Councillor Taylor as Councillor acted reasonably in responding to an enquiry from a constituent and in writing. If in paragraph 1.2 the Complaint of the Complainant in relation to Councillor Taylor "issuing" the Statement is that he published the Statement in the media this is denied. He admits that he authored and signed the Statement as a letter to a constituent who disclosed it to others.

1.2.1. In her Complaint the Complainant says that she has "*just discovered that this letter [the Statement] has been published in the Express and Echo*". Councillor Taylor denies that the Statement referred to above has ever been published in the Express and Echo or any other media.

1.2.2. In her Complaint she alleges that Councillor Taylor has "*slandered my name out in public*". Councillor Taylor denies that he has slandered the Complainant. Slander is the publication of defamatory words or actions in a temporary or transient form. This is not therefore a slander in any circumstance because the words are not in temporary or transient form.

1.2.3. Even if the words in the Statement could be construed as "slander", which is denied, Councillor Taylor does not make an accusation of wrong doing, criminal

or otherwise, by the Complainant in the Statement and which is attributable directly to her.

1.2.4. Further Councillor Taylor is able to make the statements and non attributable to the Complainant on the basis that the Statements are justified and in other words are true on the plain meaning of the words. The Internal Auditor of HTC when describing the use of the reserves described them as being “poached” and subsequently stated, in the same document, that HTC would be required to borrow £100,000 to replenish reserves. Councillor Taylor understands that the Internal Auditor report comments have been published in the media previously.

1.2.5. Further Councillor Taylor is able to comment on a matter of public interest provided that he has an honest belief in the truth of the opinion expressed and this clearly is a matter of public interest and is clearly recognisable as comment and based on facts which an honest person could reasonably hold and without malice.

1.3. Councillor Taylor admits this paragraph but notes that the assessment was undertaken by the Interim Monitoring Officer without input and information from Councillor Taylor and who was at that time in ignorance of any Complaint.

1.4. Councillor Taylor admits this paragraph but notes that the assessment was undertaken by the Monitoring Officer without input and information from Councillor Taylor and who was at that time in ignorance of any Complaint.

1.5. Admitted.

1.6. Councillor Taylor neither admits nor denies the appointment of the Investigator, Tim Darsley, on 2 June 2015 as he does not know but the Investigator did contact Councillor Taylor on that date by telephone to request Councillor Taylor to attend an Investigative Interview. A date for Investigative Interview was ultimately agreed through further communications with the Investigator.

2. Councillor Taylor’s Official Details

2.1. Councillor Taylor has been a member of HTC since May 2007.

2.2. Admitted.

2.3. Councillor Taylor has also chaired the Market Committee of HTC.

3. Relevant Paragraphs of the Code of Conduct

3.1. Admitted.

3.2. Admitted.

4. The Evidence Gathered

4.1. Councillor Taylor neither admits nor denies that the Investigator has taken account of the information referred to in this paragraph. Councillor Taylor notes that the Investigator has taken account of "The Application for a loan from the Public Works Loan Board made by the Town Council". Councillor Taylor avers that the Complainant has repeatedly stated that the loan was for Variations and not Additional Building Cost. This is a fixed price contract. There has been no agreement by HTC for any variations over and above the fixed price contract.

Oral Evidence

4.2. Councillor Taylor notes that the Investigator has not approached the Express and Echo where the Complainant alleges that the Statement has been published but has approached Pulman's Weekly News of whom the Complainant does not complain the Statement has been published. Councillor Taylor avers that the Investigator fact investigation is deficient and he cannot have all facts matters and circumstances within his knowledge if he has not communicated with the Express and Echo.

4.3. Noted.

4.4. Councillor has commented to the Investigator by letter dated 11 July 2015 in relation to the record of interview and so does not accept that the document numbered 11 is a true and accurate reflection of the oral evidence as it lacks comprehensiveness.

5. Findings of Fact

5.1. The Investigator in paragraph 5.1 of his Findings of Fact paraphrases and misrepresents the Complainants complaint by his use of the word "*essentially*".

5.2. Councillor Taylor agrees that the Statement speaks for itself but is not a matter of fact as it refers to opinion honestly held and fact not solely fact.

5.3. Councillor Taylor admits that the conduct of HTC in relation to the application for loan to the PWLB is contentious.

5.4. Councillor Taylor denies that he suggested "publicly" that the Complainant has acted improperly or illegally but notes the conclusive nature of the finding of fact by the Investigator.

5.5. Councillor Taylor notes that the Investigator has not interviewed other Councillors in relation to the statements made by Complainant and in relation to all the bullet point issues referred to therein. On that basis alone the Investigators Report and finding will be unbalanced and subjective.

5.6. Councillor Taylor avers that it is necessary to consider additional building costs and the applications for the PWLB loan by reason that in the absence of such information the Investigator will not be able make a finding of truth or otherwise and

thereby cuts off a defence to the Complaint of fair comment and honest belief in the truth of the statements made.

5.7. Councillor Taylor believes that it is beyond the Investigators jurisdiction to consider matters beyond the Complainants complaint. Councillor Taylor believes it is not within scope of Investigation as specified by the Monitoring Officer. Councillor Taylor requests disclosure of the Interim Monitoring Officer and Monitoring Officers correspondence with the Investigator as to scope of investigation.

Undisputed Facts

5.8. Admitted.

5.9. Councillor Taylor avers that the final sentence of this paragraph is incorrect. He alleges that the cost overrun was established early in the build project and not “*a number of cost items being raised by the contractor at a late stage*”.

5.10. Document 1 refers to the word “*poached*” in relation a fixed price contract and so the Investigator should acknowledge the use of this word and the fixed price nature of the contract in his Report for balance.

5.11. The liabilities are not agreed even at this date.

5.12. This statement is incomplete. There is no 10 year lease in existence at this time.

5.13. Councillor Taylor notes that the Complainant is disputing this costs overrun. The contract is a fixed price contract.

5.14. Councillor Taylor notes that this application does not disclose that the contract was a fixed price contract and there should be no “Additional Building Costs”.

5.15. Councillor Taylor notes that this application does not disclose that the contract was a fixed price contract and there should be no “Additional Building Costs”.

5.16. Councillor Taylor believes there is no 10 year lease in place.

5.17. Councillor Taylor notes that the Statement was not published by Express and Echo and appears not to be published by Pulman’s Weekly News.

5.18. Noted but this is still not a publication in either media outlet.

5.19. The Article to which the Investigator refers is a different document. The Statement has not been published.

5.20. Neither admit or deny

- 5.21. The Statement was not published in full and only excerpted but it was not Councillor Taylor that published the Statement or extract. This is a fixed price contract.
- 5.22. Admitted but the Complainant and the Mayor, Councillor Halse, were on holiday which facilitated the mediation.
- 5.23. Admitted but HTC continues to be high risk as the contractual dispute with the contractor as to monies owed remains.
- 5.24. Admitted. No variations to the contract have been agreed by HTC and therefore there is no authority to make payments under the fixed price contract.
- 5.25. It is agreed that there shall be additional borrowing but the fixed price contract has not been varied. Therefore there is no authority for the additional borrowing.
- 5.26. Admitted.
- 5.27. No panel or committee is established to investigate and authorise additional payments to the contractor over the life time of the fixed price contract.
- 5.28. Councillor Taylor considers the Internal Auditor is conflicted as his remit includes oversight and monitoring of risk and payment but payments have been made in excess of the fixed price contract.

Disputed Facts

- 5.29. Admitted.
- 5.30. Noted.
- 5.31. Councillor Taylor did not publish in the media.
- 5.32. Councillor Taylor notes that the edited attribution to him takes what he says out of context and for proper and full context and balance the full Statement made by Councillor Taylor should be adopted. The Auditor used the word "poached", Councillor Taylor did not say that the Complainant had used the word "poached" and qualified what he stated, which is the context missing by the Investigator, that "*(quote from published internal audit)*".
- 5.33. Councillor Taylor avers that the admission by the Complainant of "*She may have explained that the loan would enable the earmarked reserves which had been diverted to the building to be reinstated*" means she accepts that the reserves had been "*poached*". It must be emphasised that HTC continues to owe about £70,000 to the contractor under the terms of the fixed price contract which will have to be paid out of the "*reinstated reserves*".

- 5.34. The Complainant Report and her quoted recollection (5.33) are inconsistent.
- 5.35. Councillor Taylor believes that there can be no Additional Building Cost pursuant to a fixed price contract and if Additional Building Costs were paid that would be unlawful.
- 5.36. Councillor Taylor expressed uncertainty not acceptance but her admission in 5.33 is consistent with the word "*poached*".
- 5.37. This conclusion ignores the Complainants statement in 5.33 and is prejudicial.
- 5.38. Noted.
- 5.39. Councillor Taylor notes that worst case implies there could be a surplus and this is consistent with the Complainant stating that it would be placed in a high interest account. Councillor Taylor notes that evidence has not been secured from other Councillors and relies on Minutes authored by the Complainant.
- 5.40. Noted.
- 5.41. Councillor Taylor does not accept he is being selective misleading and notes that no other Councillors evidence has been secured in this regard. Other Councillors will support Councillor Taylor's statement.
- 5.42. Other Councillors will support Councillor Taylor's statement.
- 5.43. Noted.
- 5.44. Councillor Taylor is prepared to provide witnesses to be interviewed by the Investigator as to the accuracy of the statement he made should the Investigator wish to secure further objective evidence.
- 5.45. The retention of £28,500 is not in a savings account and never has been.
- 5.46. On the question of accuracy the Investigator's findings are partial and unbalanced on the basis that he has failed to interview other Councillors which would corroborate what Councillor Taylor stated.
- 5.47. See 5.28 above.
- 5.48. This is a fixed price contract under which the contractor is obliged to complete the works within the fixed price. All certificated sums must be within the fixed price. Any sums paid over and above the fixed price are incorrectly paid.
- 5.49. See 5.28 above.
- 5.50. See 5.28 and 5.48.

5.51. Councillor Taylor requests copies of the Advice referred but notes the applications do not refer to the contract as a fixed price contract.

5.52. The Investigator should consider as part of his investigation the fixed price contract and understand the law in relation to the same and in relation to the payment of Additional Building Costs before he makes his findings.

5.53. 5.53 to 5.63 – Noted but at no time is the nature of the fixed price contract referred to and there is no authority to exceed the Fixed Price and pay Additional Building Costs. Variations to the contract have not submitted and approved by HTC.

5.64. 5.64 – 5.68 HTC receives advice from its Proper Officer and its Responsible Financial Officer (the Complainant) and so all decisions are dependant on the Complainants acts and omissions.

5.69. 5.69 – 5.81. The Investigators findings are flawed on the basis of his failure to understand the consequences of the contract for construction being a fixed price contract.

5.82. 5.82 – 5.85 – Noted.

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

6.1. 6.1 to 6.5 Noted.

6.6. Councillor Taylor considers that the Investigators reasoning is flawed and references to the number of times the Complainant is mentioned is not the measure of “respect” and upon a proper reading of the Statement Councillor Taylor does not associate the Complainant with claims of breaking the law and impropriety at all and when in interview Councillor Taylor refers to the Complainant having “done the lot” this was because she is the Proper Officer and Responsible Financial Officer and so all minutes, recommendations and actions are conducted through and by her.

6.7. Councillor Taylor’s letter to a constituent is a proper forum and not a public forum and Councillor Taylor did not publish the Statement in any media. Councillor Taylor could not give the Complainant an opportunity to defend herself on the basis that he did not publish the Statement.

6.8. Councillor Taylor has always treated the Complainant with respect. He reiterates that the construction contract is a fixed price contract and acting in the public interest it is proper for him to make this statement.

6.9. The Investigator cannot assess validity in the absence of a failure to acknowledge the consequences of a fixed price contract.

6.10. This is inconsistent with what the Complainant herself says at 5.33.

- 6.11. See 5.28
- 6.12. The Additional Building Costs are in excess of the Fixed Price Contract and the application to PWLB failed to disclose the contract as a Fixed Price Contract.
- 6.13. See 5.28 above
- 6.14. The Proper Officer and Responsible Financial Officer recommended that HTC submit the application for loan to PWLB.
- 6.15. Councillor Taylor's interpretation of the Fixed Price Contract is in fact correct.
- 6.16. The conclusion is incorrect.
- 6.17. The conclusion is incorrect.
- 6.18. Noted

7. Findings

- 7.1. Noted
- 7.2. Noted
- 7.3. Councillor Taylor requests that the Investigator addresses the issue which he has been at pains to highlight which is that the construction contract is a Fixed Price Contract and therefore seeks substantial amendment to the Final Report from the Draft Report.
- 7.4. Councillor Taylor refers to his letter to the Investigator dated 11 July 2015 and in particular the Investigator should consider the emails referred to in paragraph h) and which letter post dates the Draft Report.
- 7.5. As indicated the Final Report and the Findings would in Councillor Taylors opinion be improved if the Investigator interviewed other Councillors the names of which Councillor Taylor can provide to the Investigator at his request.

28 July 2015

Appendix D

Written representation form

Please return to:

Monitoring Officer, EDDC, Council Offices, Knowle, Sidmouth EX10 8HL
by 12pm on Monday 26 October 2015



Complaint Ref: MO-C075

Subject member: Cllr John Taylor

Submitted by:

(Subject member) – in response to the evidence set out in the investigation report.

1. Please enter the number of any paragraph in the investigation report where you disagree with the findings of fact, and give your reasons and your suggested alternative (please continue on a separate sheet if necessary).

Paragraph number from the investigation report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read
Those paragraph numbers referred to in the Respondents response to the Investigation Report.	See the Respondents response and to the Investigation Report for the Respondents reasons for disagreeing with the findings of fact contained in the Investigative Report	The Respondents response to the Investigative Report refers.

- 2 Please advise of any additional evidence you feel is relevant to the complaint that you feel should be taken into account. You may wish to attach any witness statements.

Relevant paragraph number from the investigation report	Additional/supporting evidence
	It has been agreed that witness statements can be relied upon by the Respondent and these witness statements will be provided to the Monitoring Officer by 5:00PM on 25 November 2015. The Respondent requires that these witness statements are held to his order pending the delivery to the Respondent or his solicitors of the Complainant's witness statements.

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3 Please advise of any legitimate reasons for holding the Hearing in confidential session or for any of the relevant documents being withheld from public inspection.

Reasons for holding the Hearing in confidential session

The Respondent does not consider there is any legitimate reason for holding the Hearing in confidential session.

Reasons for any part of the documents to be withheld from public inspection (please specify which documents you are referring to)

There are no reasons for any documents to be withheld from public inspection so far as the Respondent is concerned.

4 Please advise of any mitigating circumstances you wish to be taken into account if you are found to have failed to follow the Code of Conduct.

Factors for the Standards Sub Committee to take into account when deciding any sanctions or making recommendations

The Respondent addresses the question of sanction in his witness statement.

5 Please confirm whether or not you will be attending the Hearing on the proposed date.

I will / will not* be attending the hearing

The Respondent will be attending the hearing on 30 November 2015

(*please delete as appropriate)

If you are not attending, please explain why:

I will be accompanied by a friend/associate :

Nigel Kinder, Solicitor, Pardoes Solicitors LLP and those witnesses whose witness statements have been delivered to the Monitoring Officer.

Appendix E

Standards Hearings Sub Committee Hearings Procedure

(a) Formalities

1. The Chairman of the Sub Committee will introduce the members of the Sub Committee, the officers supporting them, and the councillor whose actions led to the investigation.
2. The Chairman will explain the reason for the meeting and outline the procedure to be followed. The Chairman may choose to vary this procedure in any particular instance where s/he is of the opinion that such a variation is necessary in the interests of fairness.
3. The Chairman will also explain that the hearing will normally be held in public unless the Committee exercises its discretion to exclude the public from all or part of the hearing in accordance with the Local Government Act 1972.
4. The Chairman will then confirm that all those involved understand the procedure to be followed and ask if there are any preliminary procedural issues which anyone wishes to raise before the Hearing begins.
5. If any procedural issues are raised, the Sub Committee will hear representations on them, before determining them.
6. If the Councillor is not present at the start of the meeting, the Sub Committee will consider any reasons given by them for his/her non-attendance. If the Sub Committee is satisfied that there is good reason for their non-attendance, it may adjourn to another date, or proceed if it has been requested to do so by the Councillor.
7. If the Sub Committee is not satisfied that there is good reason for the Councillor's non-attendance, or if the Councillor failed to give any reason for his/her non-attendance, the Committee can decide:
 - whether to consider the matter and make a determination in the absence of the Councillor, or
 - agree to adjourn the Hearing to another date.

(b) The Hearing

8. The Committee will identify the areas of disagreement between the Investigator and the Councillor on the Investigation report's facts or conclusions.
9. The Investigator will be invited to make representations in support of his/her report and about the written pre-Hearing submission of the Councillor.

10. The Councillor will then be invited to make representations in support of the fact(s) concerned and whether the evidence gives rise to a breach or breaches of the Code of Conduct.
11. The Complainant will then be invited to comment on representations made by the Investigator and Councillor.
12. The Sub Committee has the discretion to question any of the parties at any point, as it sees fit. The Sub Committee, as a matter of course, seek the views of the Independent Person before reaching any conclusion.
13. The Sub Committee will consider what it has heard in private accompanied only by its clerk. The Sub Committee may ask the legal advisor to advise them when required.
14. The Chairman will then announce to all present at the Hearing the Sub Committee's decision as to whether or not the Councillor has failed to comply with the Code of Conduct, whilst setting out the facts upon which the conclusions have been reached.
15. If the Sub Committee decides that the Councillor has not failed to follow the Code of Conduct, the Committee will then consider whether it should make any recommendations to the Council.

(c) Sanction

16. If the Sub Committee decides that the Councillor has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the Investigator, the Monitoring Officer and the Councillor as to:
 - a. whether or not the Sub Committee should impose a sanction and/or recommend to Council that a sanction be imposed; and
 - b. what form of sanction(s) is/are appropriate.
 - c. Any mitigation the Councillor wishes the Sub Committee to take into account
17. The Sub Committee will consider in private, accompanied only by its clerk [and legal advisor if required] whether or not to impose/recommend the imposition of a sanction on the Councillor and, if so, what form.
18. The Sub Committee will also consider whether or not it should make any recommendations with a view to promoting high standards of conduct among members of the relevant authority.

(d) Issue of decision

19. In announcing its decision in public at the conclusion of the hearing the Sub Committee will also provide a short written decision.
20. The Sub Committee will issue a full written decision including reasons within two weeks of the hearing.