

REPORT

by the

**PUBLIC SERVICES OMBUDSMAN FOR
WALES**

on an

INVESTIGATION INTO ALLEGATIONS

against

Councillor Simmonds

of

Caerphilly County Borough Council

PUBLIC SERVICES OMBUDSMAN FOR WALES

LOCAL GOVERNMENT ACT 2000

Report Numbers 200900929 and 200901218

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PUBLIC SERVICES OMBUDSMAN FOR WALES

Report by the Public Services Ombudsman for Wales on the investigation of allegations made against Councillor Simmonds of Caerphilly County Borough Council, of breaches of the Council's statutory code of conduct for members

THE ALLEGATIONS INVESTIGATED

1. On 6 August 2009 I received an allegation from Councillor Vera Jenkins that Councillor Simmonds had failed to observe the code of conduct for members of Caerphilly County Borough Council ("the Council"). It was alleged that during a meeting which she chaired of the Council's Regeneration Scrutiny Committee on 7 July 2009, Councillor Simmonds was disruptive, ignored her advice and would not allow Mr. Clive Campbell, the Council's Transportation Engineering Manager to introduce a report ("Complaint 1"). A copy of the allegation is attached at Appendix 1.

2. On 28 September 2009 I received an allegation from Mrs T MacMahon that Councillor Simmonds had failed to observe the code of conduct for members of the Council. It was alleged that during a meeting of the Cefn Fforest Community Partnership on 9 July 2009, Councillor Simmonds was aggressive and disruptive, refused to agree the Partnership accounts without giving any reason and prevented the meeting from progressing ("Complaint 2"). A copy of the allegation is attached at Appendix 2.

LEGAL BACKGROUND

3. As required by Part III of the Local Government Act 2000 (the Act), Caerphilly County Borough Council has adopted a code of conduct for

members which incorporates the provisions of a model code contained in an order made by the Welsh Ministers. A copy of that code is at Appendix 3. Council members are required to sign an undertaking that, in performing their functions, they will observe the Council's code of conduct. Councillor Simmonds gave such an undertaking on 6 May 2008. A copy of that declaration is attached at Appendix 4.

4. Section 69 of the Act provides the authority for my investigations and the production of this report.

MY INVESTIGATIONS

5. Having considered the allegations as made to me, I concluded that it was appropriate to investigate whether Councillor Simmonds had failed to comply with any of the following provisions of the Code of Conduct:

Paragraph 2(1)

Save where paragraph 3(a) applies, you must observe this code of conduct-

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

Paragraph 4

You must –

- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person;

Paragraph 6(1)

You must –

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. Councillor Simmonds was accordingly informed of my intended investigations on 26 August 2009 (complaint 1) and 13 October 2009 (complaint 2). Copies of those letters have been reproduced in full at Appendix 5.

7. During my investigation I have obtained copies of minutes and other documents from the Council. Copies of all statements and documents referred to in this report are attached. I have put the evidence found by my investigation to Councillor Simmonds, enabling him to review that evidence before responding to the questions which I put to him. I have also given Councillor Simmonds the opportunity to comment on a draft of this report which included my provisional views and finding.

RELEVANT DOCUMENTS

8. I issued guidance for members of local authorities in Wales on the Model code of conduct in April 2010 ("my guidance").

9. I consider the issues of treating others with respect and consideration and the use of bullying or harassing behaviour in my guidance at pages 12-14. The paragraphs of the Code relating to acting with respect and consideration and not using bullying behaviour are intended to safeguard the principles of equality and respect. They are intended to ensure that members carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people and show respect and consideration for others.

10. In my guidance I draw a distinction between criticism of ideas and robust political debate and bullying or failing to treat someone with respect. Whilst it is legitimate to scrutinise whether members who hold executive offices can offer the leadership or stewardship demanded by their roles, such debate should be confined to material issues, and avoid personal

attacks and offensive behaviour. This particularly applies to members' dealings with officers and members of the public.

11. Whilst in my guidance, I accept that on occasion during highly charged debates, members may make remarks which overstep the guidelines, I will take into account the context within which the remarks were made. I will also take into account whether the member subsequently apologised for their behaviour.

12. In my guidance I define bullying as offensive, intimidating, malicious, insulting or humiliating behaviour. This behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom the member has some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

13. I also refer in my guidance to my consideration of allegations of bullying being from the perspective of the alleged victim. Members must ensure that their behaviour does not cross the line between being forceful and bullying and I will take into account the seniority of the officer, if appropriate, in determining whether a members' behaviour has been inappropriate. I recognise that very senior officers can be better placed than more junior officers to be involved in robust discussion with members and to put their point of view across forcefully.

14. I have also said in my guidance that members must ensure that any expression of concern about an officer is dealt with in an appropriate forum. Raising criticism within a meeting with others present, especially if they are from outside bodies or are members of the public, is not acceptable.

15. The Council's Constitution ("the Constitution") - this document is available on the Council's website¹ and includes at Part 5 a protocol on member/officer relationships, which states:

"2.2 Members and Officers share a responsibility to work together to achieve decisions in the interests of the Council and the area it serves. Officers serve the Council as a whole and they act in a politically neutral way in giving professional advice and general support to all Members.

2.3 Irrespective of size, all political groups are entitled to equal treatment by Officers. All political groups and Members not in political groups are entitled to have access to information from Officers through the Council's established channels to the same extent and are entitled to call on the support of Officers to assist them. These channels are set out later in the protocol.

2.4 All dealings between Members and Officers should seek to observe reasonable standards of courtesy and neither party should seek to take advantage of their position. On occasions, Members may have reason to complain about the conduct or performance of an Officer. All such complaints should be made personally to the relevant Head of Service, or the Chief Executive. It is important that complaints are made in this way, and details are noted.

2.5 If an Officer is concerned about a Member's conduct it should be brought to the attention of the Chief Executive and the Leader of the Council. In the absence of the Leader, the Deputy Leaders should be approached. If appropriate, matters of concern will be referred to the Council's Monitoring Officer and Standards Committee.

¹ www.caerphilly.gov.uk

2.6 The partnership of Members and Officers depends on mutual trust, respect and understanding of respective roles and responsibilities. **Care should be taken to ensure that dealings with an individual Member or Officer cannot be open to accusations of bias, favouritism or political partiality.** (Council's emphasis). (Appendix 6)".

16. Minutes of the Cefn Fforest Communities First Partnership dated 22 January, 23 April and 5 March 2009 (Appendix 49). These documents were provided to me by Ms. Rachael Clarke, Communities First Coordinator for Mid Valleys East. Ms. Clarke confirmed that the minutes were sent to Councillor Simmonds as ward member at his home address.

17. The minutes contain reference to Councillor Simmonds as 'Graham Simmonds CCBC' (22 January 2009) and list him as being in attendance in his capacity as a member of the Council (23 April and 5 March 2009).

EVENTS LEADING TO THE ALLEGATIONS AS ESTABLISHED BY MY INVESTIGATIONS

18. On 7 July 2009, Caerphilly County Borough Council held a meeting of its Regeneration Scrutiny Committee. The meeting minutes note that Councillor Simmonds was in attendance as a member of the committee (Appendix 7). Along with a number of other matters, the meeting was held to consider a report to members of the findings of the Blackwood Traffic Study which was due to be presented by the Council's Transportation Engineering Manager, Mr. Clive Campbell.

19. Councillor Simmonds has said he was concerned that there were no traffic generation figures included for any of the local housing developments in the report presented by Mr. Campbell. He said that he

was concerned that his ward had been badly affected by traffic from six major housing developments and as a result he wanted to see information from Road Traffic Impact Assessments included in the report.

20. It is alleged that on a number of occasions during Mr. Campbell's presentation of the report, Councillor Simmonds was asked by the complainant, who was the Chair of the meeting, to stop interrupting the officer.

21. It is also alleged that at one point, the Chair asked Councillor Simmonds to leave the meeting although he did not do so. The entry in the hand written minutes at this point sets out, "Chair – Sim pls leave – not done". There is also an entry in the minutes which reads, "G Sim – 6 June 08 – where info reqt? Waited 13 mths, can't scrutinise". It is further alleged that Councillor Simmonds was informed by officers present at the meeting that he must respect the Chair. Another entry reads, "AOS [Anthony O'Sullivan] code of conduct 2 mbrs as well".

22. On 9 July 2009, the Cefn Fforest Community Partnership held a special meeting to agree its annual accounts in the Cefn Fforest Community Centre. Councillor Simmonds is listed in the meeting minutes as being present as a representative of the Council (Appendix 8). The Council has confirmed that it did not nominate Councillor Simmonds to the Cefn Fforest Community Partnership.

23. It is alleged that at the meeting, Councillor Simmonds refused to agree the Partnership accounts and refused to clarify his reasons for this. It is also alleged that during the course of discussions at the meeting concerning the accounts, Councillor Simmonds became increasingly aggressive and disruptive and prevented the meeting from moving forwards.

WHAT THE WITNESSES HAVE SAID

Complaint 1

Councillor Jenkins

24. In her complaint, Councillor Jenkins stated that during the Regeneration Scrutiny Committee meeting when she had invited Mr. Clive Campbell to present the report on the traffic study, Councillor Simmonds immediately interrupted stating that this was not what he had requested. Councillor Jenkins referred to her position as Chair of the Regeneration Scrutiny Committee and said that she asked Councillor Simmonds to allow the officer to introduce the report. She said that Councillor Simmonds “repeatedly ignored” her request and continued to disrupt the meeting.

25. Councillor Jenkins said that she then suggested a way forward in that Councillor Simmonds could contact the officer outside the meeting to explain what he would like to see included in any future committee report, however this was to no avail and Councillor Simmonds’s interruptions continued. Councillor Jenkins added that she also reminded Councillor Simmonds that the responsibility to consider the report which had been tabled lay with the committee.

26. Councillor Jenkins said that she made a final attempt to progress the meeting by asking Councillor Simmonds to leave the meeting room. She said that whilst Councillor Simmonds ignored her request, he did become calmer and his interruptions stopped. Councillor Jenkins then referred to an “intervention” by an officer which she described as helping to calm the situation, at the point at which she was about to abandon the meeting. Councillor Jenkins later clarified in correspondence to my office that the officer who had intervened was Mr Anthony O’Sullivan, the Council’s then Director of the Environment.

27. Councillor Jenkins said that she regretted having to make a formal complaint but believed she had been left with no alternative. She drew my attention to what she described as Councillor Simmonds's "belligerent behaviour" which she wanted to assure me is, "more aggressive and threatening than normal expression of political views or criticism of political opponents". Councillor Jenkins also said that she felt Councillor Simmonds's behaviour at the meeting could damage the Council's reputation as a member of the public had been in attendance.

28. Finally, Councillor Jenkins attached a copy of a letter she had written to Councillor Simmonds regarding his previous behaviour at a meeting of the Regeneration Scrutiny Committee on 16 September 2008 which she considered to be unacceptable (Appendix 1).

Mr. Anthony O'Sullivan

29. Mr O'Sullivan was the Council's Director of the Environment at the time of the meeting. He attended the meeting of the Regeneration Scrutiny Committee on 7 July 2009. He said that Councillor Simmonds had interrupted Mr Clive Campbell's presentation by asking a number of questions and making a series of comments. He recalled that Councillor Jenkins, as Chair of the meeting, repeatedly asked Councillor Simmonds not to interrupt and to allow the officer to speak however Councillor Simmonds continued to interrupt and Councillor Jenkins asked him to leave the meeting. He said that Councillor Simmonds ignored the request made for him to leave but did stop interrupting.

30. Mr. O'Sullivan went on to say that following Mr Campbell's presentation of the report, Councillor Simmonds asked him a number of questions. He said that on a number of occasions, Councillor Simmonds asked a question but did not permit Mr. Campbell sufficient time to respond before asking another question. Mr. O'Sullivan said that Councillor Jenkins

asked Councillor Simmonds to allow Mr. Campbell to respond however her requests were ignored.

31. Mr. O'Sullivan confirmed that he had intervened at the meeting as he had felt the need to do so. He said that he had reminded Councillor Simmonds that Councillor Jenkins had asked him on five occasions to allow Mr. Campbell to speak. He said that he asked Councillor Simmonds to "observe respect" for Councillor Jenkins both as Chair of the committee and a fellow member.

32. Mr. O'Sullivan concluded by saying that he considered Councillor Simmonds's behaviour at the meeting to be, "completely unacceptable and well below the standards that should be observed by Members". (Appendix 9).

Mr. Jonathan Jones

33. Mr. Jones is the Council's Scrutiny and Members' Services Manager. He attended the meeting of the Regeneration Scrutiny Committee on 7 July 2009. He said that he recalled Councillor Jenkins inviting Mr. Clive Campbell to introduce the report on the Blackwood Traffic Study to the committee. Mr. Jones said that Councillor Simmonds interrupted Mr. Campbell by asking a number of questions and making a series of comments. He said that Councillor Simmonds was asked to stop interrupting Mr. Campbell by Councillor Jenkins however he continued to do so and, as a result, was then asked by Councillor Jenkins to leave the meeting.

34. Mr. Jones said that when Mr. Campbell had introduced the report, Councillor Simmonds asked him a number of questions. He said that on a number of occasions, Councillor Simmonds did not allow Mr. Campbell time to finish answering his last question before asking another question. Mr. Jones recalled that Mr. O'Sullivan then reminded Councillor Simmonds

of the principles of the code of conduct. Mr. Jones said that later in the meeting, Councillor Simmonds asked him to confirm how many times a member may contribute to a debate. Mr. Jones said that in response to Councillor Simmonds he reminded the committee of their constitution and, “the importance of observing polite conduct during meetings”.

35. Mr. Jones said that a day after the Regeneration Scrutiny Committee meeting he was invited to a meeting between Councillor Simmonds and the Monitoring Officer, Mr. Perkins. Mr. Jones said that Councillor Simmonds complained to the Monitoring Officer that the report presented to the committee was not the report that he had requested. Mr. Jones said that at the meeting he offered his opinion that Councillor Simmonds’s behaviour at the meeting had been unacceptable as he had, “continually disrupted the meeting by ignoring the chair and interrupting Mr. Campbell”. (Appendix 10).

Mr. Daniel Perkins

36. Mr. Perkins is the Council’s Monitoring Officer. Whilst he did not attend the Regeneration Scrutiny Committee meeting on 7 July 2009, Mr. Perkins said that Councillor Simmonds attended his office on 8 July in order to complain about a report which had been presented at the meeting. Mr. Perkins said that Councillor Simmonds’s concerns were about the considerable delay he felt there had been from the date of his request for the report until the date that the report was tabled and that the report did not deal with all of the issues he had requested it dealt with.

37. Mr. Perkins said that he invited Mr. Jonathan Jones, the Council’s Scrutiny and Member Services Manager to his meeting with Councillor Simmonds as he himself had not attended the Regeneration Scrutiny Committee meeting and was not involved in the preparation of the committee report. At the meeting, Mr. Perkins said that Mr. Jones

explained to Councillor Simmonds how he may be able to obtain the information he had requested. Mr. Perkins said that, “Councillor Simmonds appeared extremely frustrated by the way in which he felt the Scrutiny process had failed him”.

38. At this stage Mr. Jones explained to Councillor Simmonds that regardless of any concerns he may have about the scrutiny process that did not excuse his behaviour at the meeting. Mr. Perkins added that he understood that Mr. Jones’ concerns about Councillor Simmonds’s behaviour at the meeting related to his alleged disruption of the meeting by ignoring the Chair and “adopting a hostile approach” towards Mr. Campbell. (Appendix 11)

Mr. Clive Campbell

39. Mr. Campbell is the Council’s Transportation Engineering Manager. He attended the Regeneration Scrutiny Committee meeting on 7 July 2009 in order to present a number of reports to the committee.

40. Mr. Campbell said that he was asked by Councillor Jenkins as Chair of the meeting to present the report on the Blackwood traffic study. Before he was able to do so, he said Councillor Simmonds, “interjected and said that the report had not addressed the issues he had requested the report for”, Mr. Campbell said.

41. Mr. Campbell said that Councillor Simmonds went on to set out a number of issues about development in the Blackwood area that he had raised previously to the Regeneration Scrutiny Committee and elsewhere. Mr. Campbell said that Councillor Simmonds has had numerous responses regarding the issues that he raised at the meeting however he has never been satisfied with these responses. He said that the Chair of the meeting then attempted to bring Councillor Simmonds to order to allow him to present the report.

42. Mr. Campbell said that despite several attempts by Councillor Jenkins, Councillor Simmonds persisted and in the end Mr. Anthony O'Sullivan had to "forcefully request" that Councillor Simmonds showed respect for the Chair. He said, "when at last [Councillor Simmonds] ceased his interruptions I then presented the report".

43. Mr. Campbell outlined his view that Councillor Simmonds was "most disrespectful" to Councillor Jenkins and her position as Chair. He added that Councillor Simmonds's behaviour was "particularly disappointing" as Councillor Jenkins had then recently suffered a bereavement and only attended the meeting as the Vice Chair was not available. He said that this view was echoed by other members of the committee during the meeting. (Appendix 12).

Councillor Ken James

44. Councillor James was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. He said that he was aware that Councillor Simmonds spoke about the Blackwood traffic study at the meeting and that he had disagreed with the opinion of Council officers on the issue. Councillor James could not however recall what Councillor Simmonds actually said during the meeting. (Appendix 13).

Councillor R T Davies

45. Councillor Davies was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. Councillor Davies recalled that Councillor Simmonds was "very persistent" at the meeting regarding the Blackwood traffic study and "demanded specific answers to specific questions". However, he said that he "cannot think of anything that stands out with regard to that particular meeting whereby Councillor Graham Simmonds breached the Code of Conduct".

Councillor Davies added that it is acknowledged that Councillor Jenkins, the Chair of the meeting, “does get exasperated by the persistent questioning by Mr. Simmonds”.

46. Councillor Davies went on to say that he could not recall any occasion during the last 15 years when Councillor Simmonds was abusive to any officer or member during committee or Council debates. Councillor Davies concluded his comments by saying, “As far as I am concerned Mr. Simmonds is only doing his job in scrutinising the work of the executive and the policies of the county council”. (Appendix 14).

Councillor Katherine Baker

47. Councillor Baker was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. Councillor Baker said that due to the passage of time, she was unable to recall any other details of the meeting other than what had been set out in the minutes. (Appendix 15).

Councillor Michael Davies

48. Councillor Davies was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. He said that he remembered the meeting and that, “on occasions Councillor Simmonds muttered under his breath” although he could not specify what Councillor Simmonds was saying. Councillor Davies added, “I am aware that Councillor Simmonds has done this on other scrutiny meetings and I suppose I have got used to it”. (Appendix 16).

Councillor Malcolm Parker

49. Councillor Parker was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. He described the meeting as being similar to many others on the basis that

Councillor Simmonds failed to show respect for the Chair. Councillor Parker said that he felt Councillor Simmonds sought to bully Councillor Jenkins due to her inexperience as the meeting was the first scrutiny committee she had chaired. Councillor Parker said that Councillor Simmonds constantly refused to stop talking when requested by the Chair to do so.

50. Councillor Parker described Councillor Simmonds's behaviour as being,

"so bad that I, as a councillor of over 30 years experience, have felt it necessary on many occasions to intervene by using the Council's Standing Orders to protect the chair from his aggressive approach and total lack of respect for the authority of the chair".

51. Finally, Councillor Parker said that,

"From my experience as a member of three authorities, I have never known any other member to display such lack of manners, respect for the chair of committee or for officers". (Appendix 17).

Councillor Janet Jones

52. Councillor Jones was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. She said that she could not recall any specific remarks which may have been made by Councillor Simmonds due to the passage of time since the meeting.(Appendix 18).

Councillor D T Davies

53. Councillor Davies was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. Councillor Davies said that due to the passage of time, he could not recall any discussion between Councillors Jenkins and Simmonds at the meeting. (Appendix 19).

Councillor David Rees

54. Councillor Rees was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. Councillor Rees said that in view of the passage of time since the meeting, he could not, “confidently and fairly remember without prejudice the true events of that evening”. (Appendix 20).

Councillor Colin Elsbury

55. Councillor Elsbury was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. He said that he left the meeting half way through in order to attend an appointment with his family. He said that he could not comment on the allegation as he was not present at the meeting at the relevant time. (Appendix 21).

Councillor Elizabeth Aldworth

56. Councillor Aldworth was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. She said that she, “could not recall any particular incident at that meeting”. (Appendix 22).

Councillor Tom Williams

57. Councillor Williams was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. Councillor Williams said that he recalled Councillor Simmonds challenging the Chair of the meeting about allowing a Councillor to speak twice during a debate. He also said that Councillor Simmonds “continually interrupted” officers who were presenting information relating to the Blackwood traffic study. Councillor Williams said that Councillor Simmonds was told not to interrupt officers and members at the meeting and that the Chair was entitled to allow members to speak more than once.

58. Councillor Williams said that Councillor Simmonds was warned regarding his behaviour and attitude towards members and officers at the meeting. He said that Councillor Simmonds did not adhere to the warnings and was asked to leave the meeting, although he refused.

59. Councillor Williams said that in his opinion, Councillor Simmonds “was disrespectful throughout, disrespectful to the Chair and officers”. (Appendix 23).

Councillor Stephen Kent

60. Councillor Kent was present at the Regeneration Scrutiny Committee meeting on 7 July 2009 as a member of the committee. Councillor Kent said that he could not remember whether Councillor Simmonds spoke or participated at the meeting. (Appendix 24).

Complaint 2

Mrs. T MacMahon

61. In her complaint, Mrs. MacMahon stated that during a meeting of the Cefn Fforest Communities First Partnership on 9 July 2009, she felt that Councillor Simmonds’s behaviour was in breach of paragraphs 4(b), 4(c) and 6(1)(a) of the Council’s code of conduct.

62. Mrs. MacMahon said that as part of the meeting, the Partnership’s annual accounts were presented for endorsement. She said that the accounts had been audited by the Assistant Director of the Gwent Association of Voluntary Organisations (GAVO) and all members were presented with a copy of the accounts by Mr. Hawker, the Partnership Treasurer, in accordance with the Partnership’s constitution. Mrs. MacMahon said that Councillor Simmonds refused to agree the accounts and refused to clarify his reasons for not doing so. She added that, “several attempts were made to move the meeting forwards but Cllr. G. Simmonds repeatedly prevented this”.

63. Mrs. MacMahon stated that there was then a suggestion that the Partnership accounts be adopted with members submitting any questions they had for the next meeting. She said that Councillor Simmonds however did not agree to this. Mrs. MacMahon said that during the course of these discussions, Councillor Simmonds became “increasingly aggressive and disruptive”. She added that, at this point, the Police Inspector who was in attendance at the meeting expressed his concerns about the behaviour exhibited.

64. Mrs. MacMahon stated that the meeting subsequently deteriorated and she felt she had no alternative other than to withdraw her staff from, “an inappropriate and hostile environment”. The Chair of the meeting, having taken advice, then brought the meeting to a close, she said.

65. Mrs. MacMahon said that she felt that Councillor Simmonds’s behaviour damaged the reputation of the Council due to the attendance at Partnership meetings of members of the public.

66. Mrs. MacMahon said that she had previously witnessed bullying and aggressive behaviour on the part of Councillor Simmonds. She said that following a Partnership meeting on 28 May 2009, Councillor Simmonds acted in this manner towards a junior member of staff and she felt it necessary to intervene.

67. Mrs. MacMahon added that she considered she had no alternative to making the complaint she made to my office regarding Councillor Simmonds’s behaviour during the meeting on 9 July 2009, “particularly in light of the fact that I have previously expressed concerns over Cllr. G. Simmonds’s behaviour on numerous occasions”. (Appendix 2).

Ms. Gail Williams

68. Ms. Williams is the Council's Principal Solicitor and Corporate/Deputy Monitoring Officer. Ms. Williams said that Councillor Simmonds undertook training on the Code of Conduct on 19 September 2008.

69. In relation to Councillor Simmonds's attendance at the Cefn Fforest Communities First meeting on 9 July 2009, Ms. Williams confirmed that the Council had not nominated him to the Communities First Group. Ms. Williams said that she was not clear as to Councillor Simmonds's role on the Communities First Board although he has often signed as attending those meetings as Councillor Simmonds (Appendix 53).

Mrs. M Edwards

70. Mrs. Edwards was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a local resident and member of the Partnership. Mrs. Edwards said that at the meeting, members were asked to approve the accounts and whilst one member said that the accounts should be accepted, Councillor Simmonds said that in view of the length of the document, members would first need time to consider it. Mrs. Edwards said that Mr. Hawker then became aggressive and said that he was not trusted as did the wife of the Chairman, Mrs. E Williams. Mrs. Edwards said that Councillor Simmonds said that this was not the case and asked Mr. Hawker to retract his statement however he had to ask him to do so on three occasions before the statement was retracted.

71. Mrs. Edwards recalled that Mr. Gough had said that accounts can be presented at meetings rather than being sent out beforehand however Councillor Simmonds said that it is done differently at other meetings. She said that when Mr R Edwards asked to put forward a motion that the accounts be taken away for members to look at them and return them to

the next meeting, the Chairman, Councillor T Williams, became very aggressive.

72. Finally, Mrs. Edwards said that she felt “Councillor Simmonds conducted himself in a proper manner throughout the meeting” and saw no reason for a complaint to have been made against him. She however added that the actions and bad language used by the Chair of the meeting and “the threats made by Mrs MacMahon to withdraw her staff were not helpful and totally unjustified”. (Appendix 25).

Mr. R T Edwards

73. Mr. Edwards was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a representative of the community centre and a member of the Partnership. He said that several of those in attendance displayed unacceptable behaviour, including the Chair of the meeting, Councillor T Williams. Mr. Edwards said that he recalled a “lot of aggression displayed by certain people [at the meeting] but certainly not by Councillor Simmonds”.

74. Mr. Edwards said that he could only recall a few occasions at the meeting when Councillor Simmonds had spoken. He said that Councillor Simmonds asked Mr. Hawker on three occasions to withdraw a comment he had made about not being trusted. He also said that Councillor Simmonds spoke after Mr. Gough had spoken about the accounts and said that “he thought it was done differently at other meetings”.

75. Mr. Edwards concluded that there was “certainly nothing in the way [Councillor Simmonds] spoke or acted that would justify a complaint being made against him”. (Appendix 26).

Mr. Colin L Thomas

76. Mr. Thomas was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a local resident and the Partnership secretary. He said that he felt, “the complaint [against Councillor Simmonds] is completely unfounded” and questioned why the complaint had been made.

77. Mr. Thomas described the meeting as “unruly because of the lack of control by the Chairman”. He added that, “the most vociferous individual at the meeting was the Treasurer [Mr. Hawker] who appeared uneasy about responding to questions regarding his accounts”.

78. In respect of Councillor Simmonds’s behaviour, Mr. Thomas said that he behaved at the meeting as a “concerned and responsible individual” and that he did not raise his voice, ask any inappropriate questions or make any inappropriate requests. (Appendix 27).

Ms. Meryl Thomas

79. Ms. Thomas was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a representative of Sunnybank Health Centre. She described the meeting as being “farcical” and said that “the procedure was very heated with many of the parties not being brought to order by the Chairman [Councillor T Williams]”.

80. Ms. Thomas said that copies of the Partnership accounts were distributed to members and concerns were expressed that members had not had sufficient time to look at the accounts prior to the meeting. Ms. Thomas said that her understanding was that members should have been given the accounts 5-7 days before the meeting to enable them to be considered and so members could subsequently raise questions.

81. Ms. Thomas said that it was written on the accounts that they had been audited but were not signed and “no one seemed to take ownership

of them". She added that she thought it would have been helpful for Mr. Mike Bridgeman (an officer of GAVO) to have attended the meeting to answer queries about the accounts and did not recall that anyone had disagreed with this suggestion at the meeting.

82. In relation to Councillor Simmonds's attendance at the meeting, Ms. Thomas said that she thought he attended as a resident rather than in his capacity as a member of the Council. She said that she did not consider Councillor Simmonds's behaviour to be "out of order" and did not think a complaint should be made against him on the basis that he did not attend the meeting in his official capacity. (Appendix 28).

Ms. Susan Falconer

83. Ms. Falconer is a Police Community Support Officer for Gwent Police and attended the meeting of the Cefn Fforest Community Partnership on 9 July 2009 in this capacity alongside Inspector Childs, also of Gwent Police.

84. Ms. Falconer recalled that at the meeting there was a discussion about the Partnership's annual accounts. She said that during this discussion, Councillor Simmonds and others present were questioning discrepancies in the accounts and refused to endorse them. She said that she could not recall exactly what was said during the discussion and shortly after the discussion began, she and Inspector Childs left the meeting. (Appendix 29).

Mrs. E Williams

85. Mrs. Williams was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a local resident. She said that Councillor Simmonds complained at the meeting that he was not given the accounts before the start of the meeting. She recalled that he said on a number of occasions that members needed time to consider the accounts.

As a result of this, Mrs. Williams said that Councillor Simmonds and others at the meeting repeatedly refused to accept any discussion about the accounts and wanted an opportunity for the accounts to be taken home for consideration by Partnership members.

86. Mrs. Williams recalled that Councillor Simmonds became insistent regarding his refusal to accept discussion of the accounts and then demanded an apology when the treasurer suggested that his actions implied a lack of trust in the auditor. He also demanded an apology and kept saying, "I want that remark withdrawn". Mrs. Williams said that Councillor Simmonds "maintained this incessant demand, which was repetitive and aggressive, for about 10 minutes until the Treasurer [Mr. Hawker] apologised in order to move the meeting on".

87. Mrs. Williams said that progress in the meeting was prevented as a result of the attitude of Councillors Simmonds and others and their repeated refusals. Mrs. Williams said that this was so much so that the Police Inspector who was waiting to speak at the meeting declined to speak saying that "their attitude was very unbecoming and they were not acting in the interests of the community". Councillor Simmonds then refused to withdraw his 'seconding' of the amendment to reject the accounts as he said it was not his amendment.

88. Mrs. MacMahon then said she would withdraw her staff if the conduct and lack of progress at the meeting continued, Mrs. Williams recalled. Mrs. Williams said that it did continue and due to this and the "repeated conduct and attitude" of Councillor Simmonds, the meeting was suspended.

89. Finally, Mrs. Williams said that,

“Throughout the entire meeting Mr Simmonds acted in a demeaning and insulting manner toward both officers and staff. I would add that it became obvious from the outset, that Mr Simmonds and his colleagues were determined to be purposely disruptive of this Partnership meeting”. (Appendix 30).

Councillor T Williams

90. Councillor Williams was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as the Partnership Chairman. He said that he opened the meeting by asking that the accounts be accepted in order that they could be discussed. Councillor Williams said that Councillor Simmonds would not accept the accounts because he said that he had not had time to study them. He said that it was evident that Councillor Simmonds and his colleagues would not accept the accounts during the meeting and he therefore suggested the accounts be taken home and that the meeting be reconvened with the attendance of the auditor.

91. Councillor Williams said that Councillor Simmonds and his colleagues “uncompromisingly refused to accept [his] offer” to take the accounts home. Councillor Williams said that throughout the meeting, he found Councillor Simmonds to be “belligerent and aggressive”.

92. Councillor Williams added that Inspector Childs said that he had been “absolutely appalled” by the conduct of Councillor Simmonds and his colleagues and that such an expression of views was unprecedented. He also said that a motion was moved for the accounts to be accepted, following which an amendment was proposed not to accept them and this was seconded by Councillor Simmonds. Councillor Williams said that he asked Councillor Simmonds to withdraw his seconding of the proposal but was not surprised when he refused. Councillor Williams recalled that Mrs. MacMahon then said she would withdraw her staff from the meeting should it continue in this way.

93. Councillor Williams described the attitude and conduct of Councillor Simmonds as “very aggressive to say the least” and as bringing the Partnership into disrepute. (Appendix 31).

Mr. Daryl Harries

94. Mr. Harries is a Learning and Development Officer for Community Learning and Development in Hengoed and was in attendance at the Cefn Fforest Community Partnership meeting on 9 July 2009. Mr. Davies said that as he was, at the time, a new employee of Community Learning and Development, he did not know any of those in attendance at the meeting. He said that he is therefore unable to comment as to which of the attendees made comments at the meeting.

95. However and in relation to the meeting in general, Mr. Harries said that it was a “very fraught and heated affair with some allegations made as to the timing of the presentation of Partnership accounts before the meeting”. He said that the meeting did not make notable progress before Inspector Childs addressed the meeting. Following this, the meeting broke down irretrievably and Mr. Harries noted that the meeting had been brought to an end without any progress being made as to the accounts issue. (Appendix 32).

Inspector Kevin Childs

96. Inspector Childs is a Police Inspector employed by Gwent Police responsible for Neighbourhood Policing in Blackwood and Ystrad Mynach. He was present at the Cefn Fforest Community Partnership meeting on 9 July 2009.

97. Inspector Childs recalled that a short while after the meeting had started, the treasurer of the Partnership, Mr. Hawker, presented the accounts for agreement. He said that he then noticed Councillor

Simmonds was present at the meeting, having previously met him. He said that whilst he did not recall what Councillor Simmonds said, he recalled that Councillor Simmonds repeatedly obstructed attempts to clarify the situation with the accounts. He said that Councillor Simmonds persisted in repeating his objection without explaining his reasons. He said that he particularly recalled his amazement at the fact that Councillor Simmonds would not accept what appeared to be very reasonable requests. Inspector Childs said that, “as the ‘arguing’ continued, Councillor Simmonds became even more agitated” and “was so persistent that I would even go so far as to describe it as aggressive”.

98. Inspector Childs said that the meeting deteriorated to the point where he considered it to be out of control and he addressed the meeting, outlining his disappointment in the behaviour he had witnessed. He said that he told the Partnership his reasons for attending the meeting and that he considered they had missed an opportunity to ask questions about the local policing team. Inspector Childs said that the behaviour he witnessed at the meeting did not assist the Partnership or the local community; he described it as “unhelpful and poor”. (Appendix 33).

Mr. Delwyn Davies

99. Mr. Davies was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a local resident. Mr. Davies said that he was concerned about Councillor Simmonds’s behaviour towards the Chair of the meeting. He recalled that Mrs. MacMahon had said that she would withdraw from the meeting along with her staff. Mr. Davies also recalled that the Chair brought the meeting to a close. Mr. Davies said that he would have done the same. (Appendix 34).

Mrs. D Simmonds

100. Mrs. Simmonds was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a local resident. She said that the

meeting was confrontational from the outset and that the treasurer, Mr. Hawker, distributed the accounts minutes before the Partnership was asked to approve them, which she considered strange.

101. Mrs. Simmonds described the questioning of the accounts as “fraught” with each question seeming to her to be a source of irritation to the treasurer and the paid advisors. She said that Mr. P Dury led the questioning regarding the accounts, following which an amendment to the movement to accept the accounts was proposed by Mr. R Edwards. Mrs. Simmonds said that at this point the treasurer and advisors became “very agitated” and the treasurer shouted, “you are calling Mr Mike Bridgeman a liar if you don’t accept these accounts, are you calling him a liar?” She said that Councillor Simmonds asked the treasurer to withdraw his remark however he refused. Mrs. Simmonds went on to say that in all, she thought Councillor Simmonds had to ask five or six times for the treasurer to withdraw the remark, finally asking the Chairman to instruct him to do so.

102. Mrs. Simmonds said that, “Mrs Tina MacMahon in a determined and threatening manner intervened to claim “if you don’t accept the accounts now, I shall withdraw my staff”. Mrs. Simmonds described her reaction to this as being aghast and said that she felt she was being “bullied and threatened into accepting a set of sketchy accounts, by a council official”. She said that a complaint was subsequently made about the comments made by the Police Inspector that he would like to handcuff Partnership members and march them to the station and that he had later apologised.

103. Mrs. Simmonds made reference to the minutes of the meeting which she said had not been approved and were “much massaged”. She said they did not contain any reference to the “thuggish” behaviour of the Chair and treasurer and the “unprofessional and intimidating behaviour of the paid advisors”. Mrs. Simmonds confirmed that Councillor Simmonds had asked questions at the meeting although he was not abusive. She added

that the amendment that the Partnership should have more time to consider the accounts was proposed by Mr. R Edwards.

104. Finally, Mrs. Simmonds said that she was shocked by the “quite shameful behaviour and bad language of the chair of the meeting [Councillor T Williams]”. She said that she felt restraint was shown at the meeting in spite of “determined intimidation, from paid advisors to the partnership, they were awful”. (Appendix 35).

Mr. Rob Gough

105. Mr. Gough was in attendance at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a representative of Gwent Association of Voluntary Organisations (GAVO). Mr. Gough said that the meeting on 9 July was a Special General Meeting of the Partnership which was convened solely to accept and agree the accounts for 2008/2009.

106. Mr. Gough said that the tone of the meeting changed when the Partnership members were given a copy of the audited accounts. He said that there was discussion around the accounts being presented on the night of the meeting and whether this was normal practice in Local Government and the voluntary sector. He said that Councillor Simmonds’s attitude and body language became “very aggressive and belligerent” at this point and that he made critical comments of Councillor Williams, Mr. Hawker and Mr. Mike Bridgeman.

107. Mr. Gough said that the Chairman, Councillor Williams, in an attempt at calming down the meeting suggested an adjournment for members to consider the accounts before questions could be asked. He said that Councillor Simmonds and members of the Community Centre Management Committee refused this proposal and the meeting became more aggressive with suggestions of impropriety with the accounts.

108. Mr. Gough said that Inspector Childs and the Police Officer left the meeting when it seemed that no progress would be made. He said that when they returned to the meeting, Inspector Childs expressed his concerns about the meeting saying that he had never witnessed such behaviour in all his years of policing. Following this, Mr. Gough said that the meeting deteriorated further and Mrs. MacMahon said that she would remove her staff from the meeting should the behaviour continue.

109. Mr. Gough went on to say that he advised Councillor Williams that the meeting should be adjourned and he then advised members that the accounts would be collected and redistributed seven days before the new meeting. Mr. Gough said that this proposal was accepted.

110. Mr. Gough said that he has been working with the Communities First Programme since 2000 as has attended many meetings. Mr. Gough said that he has never before witnessed behaviour or an atmosphere such as that he saw during the 9 July meeting. He was concerned that two new residents were in attendance during the meeting with a view to joining the Partnership however due to the behaviour they witnessed, the residents left the meeting saying that they would never attend again. (Appendix 36).

Mr. Paul Booth

111. Mr. Booth was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as Chair of the Cefn Fforest Community Centre. Mr. Booth said that he intended to attend the meeting in order to ask questions in relation to the accounts and to familiarise himself with the running of the Partnership. He said that from the start of the meeting, he noticed the “animosity and ferocity” of Councillor Williams and Mr. Hawker towards Councillor Simmonds.

112. Mr. Booth said that following the point in the meeting at which Mr. Gough had insisted that the accounts should be passed, Mr. Hawker said

to Councillor Simmonds “are you calling Mike Bridgeman (the auditor of the accounts) a liar?” Mr. Booth said that Councillor Simmonds asked on five occasions for this remark to be withdrawn in a calm manner. He also said that due to the refusal to accept the accounts, the Council officers present attempted to “pressure members into accepting the accounts”. He said that Councillor Williams failed to call Mr. Hawker to order when he was continuing to say that Councillor Simmonds did not trust the auditor.

113. Mr. Booth said that Mrs. MacMahon then said that she would withdraw her staff from the meeting and that, “we should be proud to have such a good set of accounts”. He said that Councillor Williams brought the meeting to a close when no agreement could be reached regarding the accounts. He said that whilst he did not witness Councillor Simmonds behaving inappropriately, he heard Councillor Williams say, “you and your f**king cronies did this” to the Partnership secretary, Mr. Colin Thomas.

114. Mr. Booth said that,
“It is a great disappointment to myself and the public that officers who are failing to get their own way will stoop to such levels as to report representatives for something that did not occur”. (Appendix 37).

Ms. Linda Parry

115. Ms. Parry was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a local resident. She said that she does not understand why the complaint of a breach of the code of conduct has been made against Councillor Simmonds.

116. Ms. Parry said that she sat next to Councillor Simmonds during the meeting. She said that she could only recall Councillor Simmonds speaking during the meeting when he asked Councillor Williams to ask Mr.

Hawker to withdraw a remark he had made regarding the committee not trusting the auditor. Ms. Parry recalled that Councillor Simmonds had to ask for the remark to be withdrawn five times, “because the Chairman [Councillor Williams] was not prepared to listen”.

117. Ms. Parry went on to say that members of the committee were not happy that they had not been able to read the accounts prior to the meeting and that whilst in previous meetings, accounts were accepted on this basis, members were not prepared to accept the accounts without further consideration.

118. Ms. Parry said that it was at this stage of the meeting that the Chairman and treasurer, Councillor Williams and Mr. Hawker, became frustrated and the meeting became heated. Inspector Childs stood up and said that he had never witnessed such behaviour and spoke to members of the Partnership as if they were children, in her view. Ms. Parry said that Inspector Childs then left the meeting and Mrs. MacMahon said that she would withdraw her staff from any further meetings should they not be conducted in an appropriate manner.

119. Ms. Parry said that Councillor Simmonds had still not made any comment at this stage of the meeting. She said that this was even when Mr. Gough said, “we all know where this came from Graham Simmonds”. Ms. Parry said that she thought Mr. Gough’s comments meant he considered Councillor Simmonds had “schooled the [Partnership] members” but she said that this was not the case. Ms. Parry added that after the suspension of the meeting, she heard some very bad language spoken by Councillor Williams to Mr. Colin Thomas which she said “was in very bad taste and reeked of “sour grapes” which was uncalled for”.

120. Ms. Parry said that she felt Councillor Simmonds, “acted with diplomacy and decorum and was unfairly blamed for some of the issues brought up at the meeting for which he had no input”. (Appendix 38).

Ms. Rachael Clarke

121. Ms. Clarke is a Communities First Coordinator for the Council in respect of the Mid Valleys East area and she attended the Cefn Fforest Community Partnership meeting on 9 July 2009 in that capacity.

122. Whilst Ms. Clarke said that she was unable to recall specific remarks made by Councillor Simmonds, she remembered that there was “unrest” on the part of some of the members of the Partnership because the accounts had been presented on the night of the meeting rather than them having an opportunity to consider the accounts in advance. She said that there were several attempts to agree a way forward at the meeting however several members did not have regard for this information and the meeting became “increasingly inhospitable”.

123. Ms. Clarke said that several of the members became quite aggressive and she thought that Councillor Simmonds had been one of these members. She also recalled that Councillor Simmonds and Mr. Hawker had disagreed over a comment made at the meeting regarding the accounts and that Councillor Simmonds asked him to withdraw his comment on a number of occasions.

124. Finally, Ms. Clarke said that,
“The Partnership is made up of voluntary, statutory and community members and this behaviour damages the Community Partnership and its membership. Both the former Head Teacher [Mr. Pickard] and Inspector for Blackwood Police Station [Inspector Childs] commented on the conduct of the meeting being inappropriate”. (Appendix 39).

Mrs. Gaynor Roper

125. Mrs. Roper is a Communities First officer for the Council and she attended the Cefn Fforest Community Partnership meeting on 9 July 2009 in that capacity.

126. Mrs. Roper described her recollection of the meeting as “very vague” although she could recall there being two opposing sides to the dispute. She confirmed that any other comments that were made during the meeting would have been noted in the minutes. (Appendix 40).

Mr. C J Hawker

127. Mr. Hawker was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as the Partnership treasurer and a representative of Cefn Fforest AFC.

128. Mr. Hawker said that he remembered there was disruption at the meeting which he said was caused by Councillor Simmonds and members of the Community Centre. He agreed with the comment made by Inspector Childs that this was uncalled for behaviour. Mr. Hawker said that as a result of this behaviour, Mrs. MacMahon said that she would withdraw her staff to protect them from verbal abuse. He added that Councillor Simmonds then told Mrs. MacMahon that “she was out of order” in an “obnoxious manner”.

129. Mr. Hawker said that he fully supports Mrs. MacMahon in, “taking a stand on the attitude of Councillor G Simmonds”. (Appendix 41).

Mr. Paul Dury

130. Mr. Dury was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a representative of Cefn Fforest Community Centre.

131. Mr. Dury recalled that the treasurer of the Partnership had made a remark that some of the members may have been implying a lack of trust in the external auditor. Mr. Dury described the remark as being “totally incorrect and not the issue”. He said that Councillor Simmonds asked that the remark was withdrawn some three or four times before it was withdrawn and said that had Councillor Williams been more responsive, the situation would not have arisen. Mr. Dury added that he was also of the opinion that the accounts should not be accepted although he had no concerns about the auditor.

132. Mr. Dury said that Mrs. MacMahon acted improperly in threatening to withdraw her staff from the meeting. He said that, in his view, Mrs. MacMahon should instead have asked the Chairman to determine any issue she was unhappy with. He added that the difficulties that exist with the Partnership generally are mainly due to the “attitudes of the Executive and some of their associates” (Mr. Dury’s emphasis).

133. Finally, Mr. Dury said that at the meeting there was, “no swearing, no threats, no abuse, no insults took place, just a simple request that a remark be withdrawn”. (Appendix 42).

Mr. Mike Pickard

134. Mr. Pickard was in attendance at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a representative of Blackwood Comprehensive School.

135. Mr. Pickard said that he was unable to make any specific comments about any contribution made to the meeting by Councillor Simmonds or any other person present. He did however recall there being heated exchanges between those present. (Appendix 43).

Mrs. Amy Mason nee Jones

136. Mrs. Mason is a Communities First officer for the Council and she attended the Cefn Fforest Community Partnership meeting on 9 July 2009 in that capacity. Mrs. Mason said that there was a meeting before the regular Partnership meeting to agree the annual accounts. She recalled some “very heated discussion” during this meeting, the end result of which was Inspector Childs “addressing the partnership in a stern manner”. She said that whilst Inspector Childs’ comments seemed to be directed towards all those engaging in the discussion, Councillor Simmonds was amongst them. Mrs. Mason recalled Inspector Childs saying that he had made arrests for less serious behaviour.

137. Mrs. Mason said that in her view, a Councillor supporting a Communities First Partnership should be impartial however Councillor Simmonds did not act in this manner during the meeting and instead ‘stirred up’ the meeting and contributed towards the split in the Partnership. Mrs. Mason said that she did not consider Councillor Simmonds’s behaviour during the meeting to be appropriate given his position as a member. (Appendix 44).

Ms. P J Patterson

138. Ms. Patterson was a Communities First officer for the Council at the time of the meeting and she attended the Cefn Fforest Community Partnership meeting on 9 July 2009 in that capacity.

139. Ms. Patterson said that whilst she did not recall a great deal of what happened at the meeting, the minutes were an accurate account of events. She said however that the minutes did not reflect, “the rudeness and aggressive manner displayed by Councillor Simmonds to other members of the partnership” and that “there was clearly much animosity between certain partnership members”. (Appendix 45).

Mr. Don Jones

140. Mr. Jones was present at the Cefn Fforest Community Partnership meeting on 9 July 2009 as a representative of Phoenix Community Transport.

141. Mr. Jones said that he could not recall Councillor Simmonds making any remarks at the meeting. (Appendix 46).

WHAT COUNCILLOR SIMMONDS SAID IN RESPONSE TO THE ALLEGATION

Complaint 1

142. In response to the evidence submitted and questions posed by my Investigator on 14 June 2010, Councillor Simmonds responded in the first instance by letter dated 22 July 2010 (Appendix 47). Councillor Simmonds attached to his written response to the complaint several letters which he said evidenced that his request for the Blackwood traffic report was made on 8 May 2008. He said that the report was brought to the Regeneration Scrutiny Committee meeting on 7 July 2009 which amounted to a delay of fourteen months from the date of his request.

143. Councillor Simmonds said that he had made a request for the Road Traffic Impact Assessments for the major planning developments in the Blackwood area. He added that Mr. Clive Campbell had commented that there were serious problems with traffic congestion in Blackwood during a scrutiny meeting on 1 April 2008 but despite this, none of the Road Traffic Impact Assessments were ever included within any planning application made by the Council in respect of the area. He also said that as a result of development arising from planning consents, there has been an increase in traffic movement of 35% in his ward.

144. Councillor Simmonds said that he met with Mr. Campbell to discuss the report on several occasions however he had been told that every Road Traffic Impact Assessment had been lost. Councillor Simmonds said that at a cost of £50,000 for each assessment, this beggared belief.

145. Councillor Simmonds said that the Road Traffic Impact Assessments remained lost for fourteen months. He said that this was despite the fact that when he had read every Road Traffic Impact Assessment alongside the planning officer who was previously responsible for the Mid Valleys East Team, the Assessments were held in the Council's archives.

146. Councillor Simmonds said that during the Regeneration Scrutiny Committee meeting on 7 July, Councillor Jenkins refused to allow him the opportunity to put the question to Mr. Campbell that the report was not what he had requested. Councillor Simmonds said that, "no traffic generation figures were included for any development, let alone all of the developments I had requested" which he described as "a clear failing to work within the ethical code" for officers. He added that he felt Councillor Jenkins as Chair of the meeting denied him the right to scrutinise Mr. Campbell and to represent his ward, "which has been buried under the all too predictable traffic from six major developments".

147. Councillor Simmonds said that he considered the Regeneration Scrutiny Committee meeting on 7 July consisted of appalling levels of scrutiny and professionalism and demonstrated a determination to prevent officers being held to account; ultimately he felt this meant that scrutiny had failed. Councillor Simmonds said that, "What had been serious traffic congestion as stated by Mr. Campbell on 1st April 2008 in scrutiny became a chance to evade, prevaricate, and delay for **FOURTEEN** months" (Councillor Simmonds's emphasis).

148. Councillor Simmonds said that on 12 August 2009, he received a letter from Mr. T Stephens, the Council's Development Control Manager. He said that only five weeks after "the shame" of the Council's highways officers not being able to present the Road Traffic Impact Assessments, Mr. Stephens had found them and said that they could be viewed. Councillor Simmonds said that he was unable to take them back to scrutiny because the matter had been dealt with in their absence. He said that this meant that scrutiny had been bypassed.

149. Councillor Simmonds said that he has been advised that he is unable to bring a complaint against Mr. Campbell under the Ethical Code of Conduct for Qualifying Officers as he is an elected member. Councillor Simmonds said that despite this, officers are permitted to refuse to bring reports which have been requested to scrutiny.

150. Councillor Simmonds responded to the specific questions posed by my Investigator by letter dated 19 July 2010 and received by my office on 25 August 2010 (Appendix 48). Councillor Simmonds said that he became an elected member of the Council in 1999 (Appendix 51) and attended training on the Code of Conduct in September 2008. My Investigator then asked Councillor Simmonds about his understanding of paragraphs 4(b) and (c) and 6(1)(a) of the Code of Conduct. Councillor Simmonds said that he had a brief understanding of these paragraphs.

151. In relation to the Council's Regeneration Scrutiny Committee meeting on 7 July 2009, Councillor Simmonds confirmed that he was a member of the committee and attended the meeting in that capacity. He said that he had instigated the report on traffic congestion and spoke at the meeting about the failure to provide any of the information he had requested in the report. He added that none of the Road Traffic Impact Assessments or the traffic counts were included in the report.

152. Councillor Simmonds said that during the meeting he “tried on several occasions to make the point that scrutiny was being thwarted by the quite silly report that had taken **fourteen** months to prepare and contained none of the requested information” (Councillor Simmonds’s emphasis). He said that he also tried to make the point that Mr. Campbell had “quite wilfully” refused to comply with the Ethical Code of Conduct for Qualifying Officers and Councillor Jenkins had refused to address that point.

153. My Investigator then asked Councillor Simmonds to respond to the allegation that he was asked not to disrupt the meeting and to allow the officer to introduce the report on the Blackwood Traffic Study. Councillor Simmonds said that,

“The chair of the meeting Cllr Jenkins refused to address the simple point that the report presented was not the report requested. Any link between the report presented and traffic congestion in Blackwood was by pure accident”.

154. Councillor Simmonds repeated his response to that question when asked to comment upon the allegation that he had repeatedly ignored the Chair’s request and continued to disrupt the meeting. He added that when called to order by the Chair, he complied. When presented with an extract of the minutes of the meeting which stated that he had been asked to leave the meeting by the Chair, Councillor Simmonds said that he was not asked to leave and again said that when called to order he complied.

155. Councillor Simmonds commented on the entry in the minutes, “G Sim – 6 June 08 – where info reqt? Waited 13 mths, can’t scrutinise”. He said that he had waited fourteen months for the traffic report yet the report brought to the meeting was not the report he had requested. He said that this, together with the Council’s refusal to carry out TRICS or White Young and Green traffic assessments made it “impossible” to hold the executive

to account. He added that he found it “strange how the RTIA’s (Road Traffic Impact Assessments) were found, just weeks later, when they were of no use”.

156. Councillor Simmonds said that he could not recall any interventions from officers during the presentation of the traffic report at the meeting and repeated his concerns that the traffic impact assessments had been lost by the Council for fourteen months.

157. When questioned by my Investigator about the allegation that he had failed to allow Mr. Campbell an opportunity to finish responding to one question before he began asking another, Councillor Simmonds said that he only asked Mr. Campbell one question but on several occasions; “where is the information I requested”. Councillor Simmonds said that Mr. Campbell refused to answer his question and Councillor Jenkins did not direct him to answer.

158. Councillor Simmonds confirmed that he met with the Monitoring Officer to express his “total dissatisfaction of the scrutiny process in Caerphilly” although he was not sure of the date of their meeting. He said that he asked about the Ethical Code of Conduct for Qualifying Officers and made the point about officers being held to account for their decisions. He said that there was no outcome from the meeting.

159. In response to Councillor Jenkins’ concerns about Councillor Simmonds previously exhibiting unacceptable behaviour at a meeting of the Regeneration Scrutiny Committee on 16 September 2008, Councillor Simmonds said that,
“There is a political motive driving these complaints, if anyone makes the claim I have threatened them, it is the first I have heard of it”. He went on to repeat his concerns that he waited fourteen months for the report to be presented at scrutiny and to be told that the traffic impact assessments

had been lost. Councillor Simmonds included a copy of his response to Councillor Jenkins' letter dated 16 September 2008 (Appendix 48). He added that despite sending several copies of his letter to Councillor Jenkins and to the scrutiny committee, Councillor Jenkins has refused to reply.

160. Finally, Councillor Simmonds said that he does not feel he has breached any of the paragraphs of the code of conduct. He repeated his concerns that the report took fourteen months to be presented to the Regeneration Scrutiny Committee and that despite the failures by Mr. Campbell, as Chair of the meeting, Councillor Jenkins failed to hold him to account. Councillor Simmonds added that, "such is the state of scrutiny in Caerphilly, I have come off the regeneration scrutiny committee". Councillor Simmonds also said that he has removed himself from all but one of the committees he used to sit on.

Complaint 2

161. Councillor Simmonds responded to the specific questions posed by my Investigator by letter dated 19 July 2010 which was received by my office on 23 July 2010 (Appendix 50). Attached to his response was a letter addressed to Mr. R Gough which appears to have been dated 17 June 2010 concerning the Cefn Fforest Community Partnership's accounts.

162. Councillor Simmonds said that he became an elected member of the Council in 1999 and attended training on the code of conduct in September 2008. He said that he had a brief understanding of paragraphs 4(b) and (c) and 6(1)(a) of the code of conduct.

163. In relation to the meeting of the Cefn Fforest Communities First Partnership on 9 July 2009, Councillor Simmonds confirmed that he was a member of the Partnership and said that he attended the meeting as a representative of the community centre.

164. Councillor Simmonds said that the meeting, which was the Annual General meeting of the Partnership, “became very fractious from the outset”. He said that Mrs. M Taylor, the treasurer of the Community Centre and a member of the Partnership asked the treasurer of the Partnership, Mr. Hawker, about a cheque she had paid to the Partnership which had been cashed but was not visible in the accounts. Councillor Simmonds said that Mr. Hawker was then forced to admit he had opened a second unauthorised bank account which volunteers had not been told about. He said that following this, the treasurer and paid advisors became very vocal and insisted that the Partnership accepted the accounts. Councillor Simmonds said that he subsequently made a request under the Freedom of Information Act. This had revealed information that Mr. Mike Bridgeman of the Gwent Association of Voluntary Organisations (GAVO) was not aware of the second bank account because Mr. Hawker had not advised him of it.

165. Councillor Simmonds said that there were a number of questions raised during the meeting, the answers to which were vague. He said that at every opportunity he had to do so, the Chair of the meeting tried to have the accounts accepted and to “stifle” questions raised. The paid advisors were also interfering in the questioning and were becoming agitated, Councillor Simmonds said.

166. In response to a question from my Investigator, Councillor Simmonds said that he did not refuse to accept the accounts. He said that an amendment was proposed by Mr. Roy Edwards asking that the Partnership should have more time to consider the accounts. He added that he did however fully support Mr. Edwards as he felt that the discovery of the second, unauthorised bank account meant that the accounts presented at the meeting were inaccurate.

167. Councillor Simmonds also said that as questions about the accounts were listed on the agenda following acceptance of the accounts, that the “clear intention” was for the accounts to be accepted before any questions were raised. Councillor Simmonds said that he has discussed this with professional accountants who consider this practice, “either inappropriate or nonsense”.

168. Councillor Simmonds went on to set out seven questions that he said he has asked on five separate occasions regarding the accounts but that Councillor Williams, Councillor Robert Gough and Mrs. Tina MacMahon have refused to answer. Councillor Simmonds added that Councillor Gough and Mrs. MacMahon have also failed to release the minutes of three meetings which have been held regarding the accounts which he said contain errors and have not been accepted by the Partnership.

169. Councillor Simmonds referred to asking Councillor Robert Gough for information about who was responsible for auditing the accounts at the Welsh Assembly Government. He said that he was firstly told by Councillor Gough that he did not know and was then given the name of someone who said that she had reviewed the accounts but had not in fact audited them. Councillor Simmonds said that he does not know whether this person was given information relating to the second bank account of the Partnership when reviewing the accounts. In his response, Councillor Simmonds also set out three questions which he said he has asked Councillor Gough in writing on four occasions.

170. In response to a question from my Investigator, Councillor Simmonds said that he rejected any suggestion of his behaviour being aggressive or disruptive. He instead described the behaviour of Councillor Williams, Mrs. MacMahon and Mr. Hawker as intimidating and threatening. He gave an example of Mrs. MacMahon’s behaviour as her having

shouted in a determined and threatening manner, “if you don’t accept the accounts right now, I shall withdraw my staff”. Councillor Simmonds said that he was “speechless” as a result of this comment.

171. In relation to the behaviour of the Partnership treasurer, Mr. Hawker, Councillor Simmonds said that he “lost all composure” and “appeared to be shocked that [Partnership members] asked questions he could not answer”. He said that the disclosure of the second unauthorised account shook up Mr. Hawker and he repeated on a number of occasions that if the Partnership did not accept the accounts they were calling Mr. Mike Bridgeman, the auditor of the accounts, a liar. Councillor Simmonds said that he asked Mr. Hawker on five occasions to withdraw his comment and Councillor Williams, as Chair, did not bring Mr. Hawker to order.

172. Councillor Simmonds said that Councillor Williams did not take responsibility for the meeting and that he joined the treasurer in interrupting the meeting and making muffled remarks. He said that at the end of the meeting, Councillor Williams turned to the secretary of the Partnership and said loudly, “this is your fxxxing fault, you and your fxxxing cronies”.

173. In response to a question from my Investigator about the allegation that Mrs. MacMahon had previously raised concerns about his behaviour, Councillor Simmonds said that he was unaware of this. He added, “I believe this is a crude yet determined attempt to continue the threatening, intimidation and bullying tactics, these people are so adept and addicted to using”.

174. Councillor Simmonds said that he did not consider he had breached any of the paragraphs of the code of conduct. Councillor Simmonds however said that he has received threats and has been bullied and intimidated by Councillor Williams, Mr. Hawker and Mrs MacMahon.

175. Finally, Councillor Simmonds said,

“I believe this is a continuation of the crude attempts to browbeat, threaten, intimidate and bully. The accounts were not acceptable to the vast majority of the partnership, I have been made aware the Welsh Assembly Government is now to commence a full audit of the accounts of Cefn Fforest, such is the level of concern”.

UNDISPUTED FACTS

- Councillor Simmonds has been a member of Caerphilly County Borough Council since 1999. (Appendix 51).
- Councillor Simmonds most recently signed the members Code of Conduct for Caerphilly County Borough Council on 6 May 2008. (Appendix 4).
- Councillor Simmonds attended training on the Code of Conduct in September 2008. (Appendix 52).

Complaint 1

- Councillor Simmonds attended a meeting of the Council's Regeneration Scrutiny Committee on 7 July 2009 in his capacity as committee member.
- At the meeting, the Council's Transportation Engineering Manager, Mr. Clive Campbell, presented a report on the Blackwood Traffic Study.
- During Mr. Campbell's presentation of the report, Councillor Simmonds spoke and said that the information in the report was not what he had requested. Councillor Simmonds questioned Mr. Campbell on this point on several occasions.

- Councillor Simmonds was called to order by the Chair of the meeting, Councillor Vera Jenkins.
- Following the meeting Councillor Simmonds met with the Council's Monitoring Officer, Mr. Daniel Perkins. At the meeting, Councillor Simmonds expressed his concerns about the Council's scrutiny process.
- Prior to the meeting on 7 July 2009 and with reference to a meeting of the Regeneration Scrutiny Committee on 16 September 2008, Councillor Vera Jenkins wrote to Councillor Simmonds about what she considered to be his "unacceptable behaviour" at that meeting.

Complaint 2

- Councillor Simmonds attended a meeting of the Cefn Fforest Communities First Partnership on 9 July 2009.
- At the meeting, the members of the Partnership were presented with the annual accounts of the Cefn Fforest Communities First Partnership for endorsement.
- During a discussion regarding the Partnership accounts Mr. Hawker, the Treasurer of the Partnership, made a comment that as the Partnership would not accept the accounts without inspection, this implied a lack of trust in the auditor of the accounts.
- Councillor Simmonds asked Mr. Hawker to withdraw this remark.
- Mrs. MacMahon said that she would withdraw her (Communities First) staff from the meeting.
- The Partnership members, including Councillor Simmonds, did not agree to endorse the accounts at the meeting.

DISPUTED FACTS

Complaint 1

- At the meeting of the Council's Regeneration Scrutiny Committee on 7 July 2009, did Councillor Simmonds interrupt the Transportation Engineering Manager whilst he was presenting his report?
- Did Councillor Simmonds fail to cease his interruptions when called to order by the Chair of the meeting?
- Did Council officers interject in the meeting and advise Councillor Simmonds to show respect to the Chair?
- Was Councillor Simmonds asked to leave the meeting as a result of his behaviour? If so, what was Councillor Simmonds's response to this request?

Complaint 2

- Did Councillor Simmonds attend the meeting of the Communities First Partnership on 9 July 2009 in his capacity as a member of the Council or as a representative of the Community Centre?
- Was Councillor Simmonds aggressive and disruptive at the meeting?

ANALYSIS OF EVIDENCE

Complaint 1

176. *At the meeting of the Council's Regeneration Scrutiny Committee on 7 July 2009, did Councillor Simmonds interrupt the Transportation Engineering Manager whilst he was presenting his report?*

177. Councillor Simmonds has said that at the Regeneration Scrutiny meeting on 7 July 2009, he addressed the meeting and spoke of the lack of information he had requested in the report on the Blackwood Traffic

Study. Councillor Simmonds also said that he, “tried on several occasions to make the point that scrutiny was being thwarted by the quite silly report that had taken **fourteen** months to prepare” (Councillor Simmonds’s emphasis).

178. Councillor Simmonds also referred to what he described as wilful refusal on the part of both Councillor Jenkins and Mr. Campbell at the meeting; Councillor Jenkins to ensure Mr. Campbell explained why the report presented was not what he had requested and Mr. Campbell to comply with the Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001. Councillor Simmonds said that he only posed one question to Mr. Campbell during the meeting, although he asked the question on several occasions; “where is the information I requested”.

179. Councillor Ray Davies said that he recalled Councillor Simmonds being “very persistent” in relation to the Blackwood Traffic Study and that he had “demanded specific answers to specific questions”. Councillor Davies however said that he could not recall any behaviour on the part of Councillor Simmonds which would have breached the code of conduct.

180. Evidence obtained from Councillor Tom Williams is that Councillor Simmonds “continually interrupted officers who were providing the meeting with all the information about the Blackwood traffic study”.

181. Evidence obtained from Council officers in attendance at the meeting suggests that Councillor Simmonds interrupted Mr. Campbell’s presentation of the report on the Blackwood Traffic Study on a number of occasions. This is outlined in the statements of Mr. Campbell, Mr. Anthony O’Sullivan and Mr. Jonathan Jones. Both Mr. O’Sullivan and Mr. Jones also say that Councillor Simmonds asked Mr. Campbell a number of questions following his presentation of the report and that Councillor

Simmonds did not allow him sufficient time to answer the question he had posed before moving on to the next.

182. Did Councillor Simmonds fail to cease his interruptions when called to order by the Chair of the meeting?

Councillor Simmonds set out on two occasions in his response to questions from my Investigator that when, during the meeting he was called to order by the Chair, he complied.

183. Councillor Malcolm Parker has said in his evidence that Councillor Simmonds constantly refused to stop talking when requested by the Chair. He added that Councillor Simmonds showed no respect for the Chair and was aggressive during the meeting. Councillor Tom Williams has said that Councillor Simmonds was told not to interrupt officers and members at the meeting and paid no attention to warnings given to him about his behaviour.

184. Mr. Clive Campbell refers to attempts that were made by Councillor Jenkins to bring Councillor Simmonds to order being to no avail as Councillor Simmonds continued with his statements and ignored her. Mr. O'Sullivan and Mr. Jones said that Councillor Jenkins made repeated attempts to bring Councillor Simmonds to order so that Mr. Campbell would be able to address the meeting, however Councillor Simmonds continued his interruptions.

185. Did Council officers interject in the meeting and advise Councillor Simmonds to show respect to the Chair?

186. Councillor Simmonds has said in his response to a question from my Investigator that he could not recall any such interventions, adding, "the report was very, very amateurish, but the determination not to be

scrutinised on the all too predictable traffic generation post the development in and around Blackwood was absolute”.

187. Mr. Campbell said that Mr. Anthony O’Sullivan had to “forcefully request Cllr. Simmonds to respect the person and position of Chair”, adding “when at last he ceased his interruptions I then presented the report”. This statement is endorsed by Mr. O’Sullivan and Mr. Jones.

188. Mr. O’Sullivan confirmed that he personally felt the need to intervene during the meeting and in doing so he reminded Councillor Simmonds that the Chair had asked him to allow Mr. Campbell to speak on five occasions. He added that he asked Councillor Simmonds to respect the Chair, both in that capacity and as a fellow member. The hand written minutes of the meeting support Mr. O’Sullivan’s statement and read, “AOS [Anthony O’Sullivan] code of conduct 2 mbrs as well”.

189. Was Councillor Simmonds asked to leave the meeting as a result of his behaviour? If so, what was Councillor Simmonds’s response to this request?

190. In putting questions on the complaint to Councillor Simmonds, my Investigator drew Councillor Simmonds’s attention to the section in the hand-written minutes of the meeting of 7 July 2009 under item 5(4), “Chair – Sim pls leave – not done”.

191. In response, Councillor Simmonds said, “I simply was not asked to leave, when called to order I complied”.

192. Evidence from Councillor Tom Williams, Mr. Anthony O’Sullivan and Mr. Jonathan Jones supports the complaint that Councillor Simmonds was asked to leave the meeting by the Chair although he refused this request.

Complaint 2

193. Did Councillor Simmonds attend the meeting of the Communities First Partnership on 9 July 2009 in his capacity as a member of the Council or as a representative of the Community Centre?

194. In response to a question from my Investigator, Councillor Simmonds said that he attended the meeting in his capacity as both a member of the Cefn Fforest Communities First Partnership and a representative of the Community Centre. Councillor Simmonds subsequently reiterated this in his letter dated 5 October 2010 to my Investigator. He said that he failed to understand why he was under investigation from my office. Councillor Simmonds expanded upon his comment to say he had been advised by Council officers that Councillor Gough could not be referred to my office regarding his behaviour at meetings of the Cefn Fforest Communities First Partnership because he attends those meetings as a representative of the Gwent Association of Voluntary Organisations (GAVO), rather than as a member of the Council.

195. Ms. Meryl Thomas said in her evidence that her understanding was that Councillor Simmonds attended the meeting in his capacity as a resident and not as a member of the Council. She said that a complaint should not have been made against Councillor Simmonds in her view on the basis that she did not believe he attended the meeting under his official title. Ms. Thomas drew a comparison between Councillor Simmonds and Mr. Gough, whom she said continually makes statements that he is not in attendance as Councillor Gough but as Mr. Gough of the Gwent Association of Voluntary Organisations.

196. This view was echoed by Ms. Linda Parry who said that Councillor Simmonds was in attendance as a member of the committee and a local resident rather than as a member of the Council.

197. In evidence submitted both by Partnership members and those in attendance at the meeting, Councillor Simmonds is referred to sometimes as Councillor Simmonds and sometimes as Mr. Simmonds. The Deputy Monitoring Officer said that Councillor Simmonds's role on the board of the Cefn Fforest Communities First Partnership is unclear.

198. There is evidence to suggest that the Council has not nominated Councillor Simmonds to the Cefn Fforest Communities First Partnership (Appendix 53). However, and whilst I note the comments of some members of the Partnership that the minutes of the meeting on 9 July 2009 have not been approved, they refer to Councillor Simmonds as G Simmonds of CCBC (the Council). Councillor Simmonds is also referred to with his official title in the body of the minutes. This section of the minutes of the 9 July 2009 meeting reads, "Cllr Simmonds asked the Treasurer [Mr. Hawker] to withdraw this comment, which he did".

199. My Investigator was also provided with a copy of the minutes of the previous three meetings of the Partnership by Ms. Rachael Clarke, whose evidence can be found at Appendix 39. I note that the minutes of the meetings dated 23 April and 5 March 2009 list Councillor Simmonds as being in attendance in his capacity as a member of the Council. The minutes of the third meeting which was dated 22 January 2009 list Councillor Simmonds as being present as 'Graham Simmonds CCBC' i.e. there is reference to his position as a member of the Council. The Council's officers who are responsible for sending copies of the minutes out to Partnership members confirmed that, in respect of Councillor Simmonds, the minutes are addressed to him as Councillor Simmonds as local ward member at his home address.

200. *Was Councillor Simmonds aggressive and disruptive at the meeting?*

201. Councillor Simmonds has said that he rejects any suggestion that he behaved in an aggressive or disruptive manner at the meeting. He said that those acting in an intimidating and threatening manner at the meeting were Councillor T Williams, Mrs. MacMahon and Mr. Hawker. Councillor Simmonds went on to say that Mrs. MacMahon shouted in a “determined and threatening manner”, “if you don’t accept the accounts right now, I shall withdraw my staff”. Councillor Simmonds added that he was speechless in reaction to this behaviour.

202. In relation to Mr. Hawker, Councillor Simmonds said that he lost his composure and appeared to be shocked that Partnership members had asked questions about the accounts he was unable to answer. He referred to Mr. Hawker’s statement that if the accounts were not accepted they must be calling Mr. Mike Bridgeman a liar. Councillor Simmonds however referred to the “most serious incident” by far being Councillor T Williams’ abdication of responsibility at the meeting. He said that Councillor Williams interrupted the meeting making muffled comments and then said to the secretary of the meeting, “this is your fxxxing fault, you and your fxxxing cronies”.

203. Mr. Paul Dury’s evidence supports Councillor Simmonds’s comments about the chairing of the meeting. Mr. Dury said that Councillor Williams should have been more responsive which would have avoided the situation which arose. Mr. Dury also said in relation to Councillor Simmonds’s behaviour at the meeting, “no swearing, no threats, no abuse, no insults took place, just a simple request that a remark be withdrawn”.

204. Ms. Patterson described Councillor Simmonds’s behaviour at the meeting as being rude and aggressive towards other Partnership

members. Mrs. Amy Mason said that Councillor Simmonds “let his personal feelings show”, was involved in the heated discussion that took place between members and added to the split in the Partnership. Mr. Hawker said that Councillor Simmonds’s behaviour and that of members of the Community Centre, was disruptive.

205. Inspector Childs said that Councillor Simmonds repeatedly obstructed the meeting and would not accept what appeared to be reasonable requests. Inspector Childs said that Councillor Simmonds became progressively more agitated and that Councillor Simmonds was so persistent, he would go as far as to say that his behaviour was aggressive.

CONCLUSIONS

There are two elements to consider in this matter:

- Does the conduct alleged in both complaints, if proven, amount to a breach of the code of conduct that is of sufficient seriousness to warrant a sanction being imposed on the Councillor; and
- Does the evidence support the complaints?

Complaint 1

206. It is clear that Councillor Simmonds considers that matters which should have been included in the report on the Blackwood Traffic Study were not and that he has strong feelings about this. It is also reasonable to conclude on the basis of the evidence obtained during my investigation that Councillor Simmonds’s feelings about the matter were displayed at the Regeneration Scrutiny Committee meeting on 7 July 2009. In particular, the evidence suggests that Councillor Simmonds interrupted the officer presenting the report and refused to be called to order by the Chair of the meeting. Whilst Councillor Simmonds’s demonstrable concern for his ward and constituents is commendable, it is not an excuse for his apparent conduct at the meeting.

207. Persistently interrupting the meeting and not allowing the agenda to proceed is rude and disrespectful. Additionally, the evidence suggests that Councillor Simmonds ignored the numerous warnings about his behaviour given by the Chair and a senior Council officer. The evidence also suggests that Councillor Simmonds ignored the request of the Chair for him to leave the meeting. In so doing, Councillor Simmonds's behaviour went beyond criticism of ideas and robust political debate as he failed to show respect to the Chair and undermined her authority at the meeting. My view is therefore that Councillor Simmonds may have failed to show respect and consideration to both Mr. Campbell and Councillor Jenkins at the meeting.

208. I also take the view that Councillor Simmonds's behaviour at the meeting could reasonably be regarded as conduct which brings the office of member into disrepute. The context of Councillor Simmonds's evidenced behaviour is that it took place at a meeting attended by members and officers and was open to members of the public. It was clearly inappropriate for Councillor Simmonds to raise concerns about the conduct of Mr. Campbell and Councillor Jenkins in such a context, particularly when an alternative method of raising concerns was open to him, as set out in the Council's protocol on member/officer relationships.

209. The Council's constitution and protocol on member/officer relationships sets out at paragraph 2.4 that complaints made by members about officers, "should be made personally to the relevant Head of Service, or the Chief Executive. It is important that complaints are made in this way, and details are noted". Councillor Simmonds has referred to the Ethical Code of Conduct for Qualifying Officers in his response to my office and has said that he was advised that he was unable to bring a complaint against Mr. Clive Campbell under the Ethical Code. It also appears that, during his meeting with the Monitoring Officer, Councillor Simmonds raised concerns about the Council's scrutiny process. Within the course of

my investigation, I have not however seen evidence that Councillor Simmonds raised the concerns he voiced at the meeting with the Chief Executive which would have not only been appropriate, but would have been expected and is specifically set out in the protocol on member/officer relationships embodied in the Council's constitution.

210. Turning now to whether Councillor Simmonds used bullying behaviour at the meeting, I will consider all allegations of this nature from the perspective of the alleged victim and the seniority of the officer involved, if relevant. In this case, I have noted that the officer presenting the report, Mr. Clive Campbell, is the Council's Transportation Engineering Manager; a senior officer. I have also noted that in Mr. Campbell's evidence, he did not feel it necessary to detail the effect of Councillor Simmonds's behaviour on him personally but did outline his concerns about the effect on Councillor Jenkins. I therefore take the view that as Mr. Campbell apparently did not consider himself to have been bullied by Councillor Simmonds, albeit that he was involved in robust discussion with him regarding the report, that it would not be reasonable to reach the view that Mr. Campbell was bullied by Councillor Simmonds.

211. I do however take the view that Councillor Simmonds could be considered to have bullied Councillor Jenkins. The evidence suggests that Councillor Simmonds attempted to undermine Councillor Jenkins' position as Chair of the meeting by his repeated challenges to Mr. Campbell's report and his failure to be called to order and leave the meeting. The evidence also suggests to me that Councillor Simmonds's behaviour went beyond legitimate challenge and amounted to bullying when directed towards Councillor Jenkins.

212. My comments above are supported by the evidence of Mr. Anthony O'Sullivan, whom I noted stated that he needed to intervene and ask Councillor Simmonds to respect Councillor Jenkins' position, both as

Chair. This, and the evidence supporting the claim that Councillor Simmonds did not leave the meeting when requested by the Chair, further suggests to me that he may have felt he had some influence over Councillor Jenkins' position as Chair of the meeting. As it is also evident to me that Councillor Simmonds's challenges were repetitive and persistent, I take the view that he could be considered to have used bullying behaviour towards Councillor Jenkins.

213. With respect to the second element of the test, a number of members who attended the meeting told my Investigator that they are unable to recall events at the meeting. However, evidence from two members supports the complaint made by Councillor Jenkins as does the evidence gathered from three, all relatively senior officers. I also note that the handwritten minutes of the meeting reflect the evidence gathered that Councillor Simmonds was asked to leave the meeting by the Chair but that he did not in fact comply with her request. The minutes also reflect the request by Mr. Anthony O'Sullivan for Councillor Simmonds to show respect to Councillor Jenkins.

214. On the balance of probabilities and the evidence before me, I consider it reasonable to conclude that Councillor Simmonds did act in the manner described in the complaint, that he did not comply when being called to order by the Chair and did not leave the meeting following a request to do so.

Complaint 2

215. It is clear from the evidence gathered by my investigation that the meeting on 9 July 2009 regarding the annual accounts of the Communities First Partnership was heated and that it concluded without resolution of the accounts issue. I am also of the view that it was an entirely unreasonable expectation that the annual accounts be agreed by the Partnership at the meeting without prior scrutiny. Indeed, the motion which

was proposed to defer consideration of the accounts was reason enough for the matter to have been postponed, in my opinion.

216. In relation to Councillor Simmonds' behaviour at the meeting, there is evidence that it was obstructive and unreasonable. I particularly note the view of a senior Police Officer in attendance, that Councillor Simmonds's behaviour went beyond unreasonable and went as far as to be described as aggressive. I also take the view that Councillor Simmonds's behaviour contributed to the general tension at the meeting, albeit that the clear attempts to 'railroad' through the set of accounts at the meeting were quite inappropriate.

217. In relation to Councillor Simmonds's capacity at the meeting of the Communities First Partnership on 9 July 2009, some attendees at the meeting said they believed Councillor Simmonds was in attendance in his personal capacity as a local resident and Community Centre representative. Councillor Simmonds has himself said that he was present in this capacity.

218. Minutes of the Partnership meetings consistently list Councillor Simmonds as being in attendance in his capacity as a member of the Council and I have been advised that minutes are also sent to him in this capacity. My investigation has not found any evidence that Councillor Simmonds has objected to the manner in which his attendance at Communities First meetings is described.

219. Ultimately, I must conclude that the evidence on this point is contradictory. However, even if Councillor Simmonds is considered not to have attended the meeting on 9 July 2009 in his official capacity, the evidence in support of his disreputable behaviour could leave him open to the conclusion that his conduct brought the Council into disrepute, particularly in view of the 'anytime' provision contained in paragraph

6(1)(a) of the Code and the attendance at the meeting of members of the public.

220. Should it be determined that Councillor Simmonds was in attendance at the meeting as a member of the Council, I take the view on the basis of the available evidence that his behaviour was disrespectful and bullying and particularly note the evidence of his repeated demands for Mr. Hawker's comment to be withdrawn. I also take the view that Councillor Simmonds's conduct brought his office and his authority into disrepute. However, even if it could be successfully argued that Councillor Simmonds was in attendance as a representative of the Community Centre, paragraph 6(1)(a) of the Code is engaged. In my opinion, there is evidence of a breach of this paragraph on the part of Councillor Simmonds by way of his unreasonable and obstructive behaviour during the meeting.

221. On the basis that Councillor Simmonds's behaviour at the meeting of the Cefn Fforest Communities First Partnership on 9 July followed his behaviour at the meeting detailed in Councillor Jenkins' complaint, I also take the view that this amounts to evidence of a pattern of disrespectful and bullying behaviour which brings Councillor Simmonds's office and the Council into disrepute.

222. That I should have cause to reach such a view within the course of investigations about a member with over ten years' experience, is of concern. It is also concerning that Councillor Simmonds has shown no remorse for his behaviour at the Regeneration Scrutiny Committee or Communities First meeting, either at the meetings or subsequently. It would seem that Councillor Simmonds continues to be of the view that his behaviour was justified on the basis, firstly that the report to the scrutiny committee did not detail the information he had requested and secondly, that he was not satisfied to accept the accounts presented at the Communities First meeting. This is despite the contrary views of others

expressed during the meetings in question and within the course of my investigation and my own view that such behaviour on the part of an elected member cannot be justified

223. It is also apparent to me as a result of the evidence gathered by my investigations, that Councillor Simmonds failed to raise his concerns about an officer's conduct within the appropriate forum. This is despite Councillor Simmonds's meeting with the Monitoring Officer and having raised the matter during his correspondence with this office. This is concerning, particularly in view of the detailed procedure set out in the Council's Constitution by way of the protocol on member/officer relationships. I also note that Councillor Simmonds says he was told he could not make the complaint in the manner in which he appears to have initially envisaged – under the Ethical Code of Conduct for Qualifying Officers – yet he failed to pursue the matter further.

224. In my guidance, I set out my view on the importance of members attending training on the code of conduct. This is on the basis that members must ensure that they are fully aware of the provisions of the code they have agreed to abide by and its interpretation. In response to a direct question from my Investigator, Councillor Simmonds did not provide an explanation of his understanding of the relevant provisions of the Code, despite undertaking training on the code in September 2008. This is of concern, especially given Councillor Simmonds's considerable experience as a Councillor. The behaviour on the part of Councillor Simmonds which the evidence obtained by my investigation supports is also disappointing on the part of a Councillor who, at the time of the events in question, had attended training less than a year earlier.

FINDING

225. My finding under section 69 of the Local Government Act 2000 is that my report on these investigations should be referred to the Monitoring Officer of Caerphilly County Borough Council, for consideration by the Council's Standards Committee.

PETER TYNDALL
Ombudsman

18 November 2010