



East Devon District Council
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**Standards Committee
 DECISION NOTICE**

Complaint Reference: MO-C003
 HEARING FINDINGS

| | |
|--|---|
| Date of Hearing | 3 July 2013 |
| Subject Member | Councillor Eileen Wragg, East Devon District Council |
| Complainant | Mr Richard Cohen Deputy Chief Executive |
| Investigating Officer | Tim Darsley |
| Membership of Standards Sub Committee | Cllr Frances Newth (Chairman) Cllr Peter Bowden Cllr Douglas Hull <u>Non-voting</u> Cllr Courtney Richards – Parish/Town Member Tim Swarbrick – Independent Member |
| Independent Person | Alison Willan |
| Monitoring Officer | Denise Lyon |
| Legal Advisor to Sub Committee | Henry Gordon Lennox, Principal Solicitor |
| Democratic Services Officer | Hannah Whitfield |
| Summary of complaint | In her letter to the Exmouth Journal, published on 12 July 2012, Councillor Eileen Wragg made critical personal comments about the Deputy Chief Executive, Richard Cohen. |
| Any declarations of interest | Cllr Douglas Hull declared that he was Chairman and Deputy Leader of the Liberal Democrats. The subject member was a member of the Liberal Democrat party. |
| Hearing in public/availability of relevant documents for public inspection | The Hearing was held in public and agenda papers were made available. |

Standards Sub Committee decision on whether or not there has been a failure to comply with the Code of Conduct and reasons for their decision:

The Sub Committee reached their decision after carefully considering the relevant material evidence and all the representations made at the Hearing.

The Sub Committee agreed with the findings of fact set out in the Investigating Officer's report to which no disagreement had been made by Councillor Eileen Wragg, other than Paragraph 5.15.

In respect of the Investigating Officer's findings of fact which Councillor Wragg disagreed with (Paragraph 5.15), the Sub Committee agreed with the Investigating Officer that:

The final sentence of the penultimate paragraph of Councillor Wragg's letter was referring to Richard Cohen, and
In it Councillor Wragg questions Richard Cohen's competency.

The Sub Committee agreed with the Investigating Officer that there were 2 critical elements of Councillor Wragg's letter which referred to Richard Cohen personally, these were:

The description of his comments as arrogant; and
Her questioning of his competency

The Sub Committee's decisions on whether Councillor Wragg breached the Code of Conduct were as follows:

The Sub Committee agreed with the Investigating Officer's reasoning as set out in Paragraphs 6.3-6.5 where the description of 'arrogant' was considered discourteous but not sufficiently disrespectful to have breached the Code of Conduct – and therefore found that she did not breach the Code in this respect.

However, the Sub Committee found that Councillor Wragg's questioning of Richard Cohen's competence was disrespectful and that she therefore failed to follow Paragraph 4(a) of the Code of Conduct for the reasons given in 6.6-6.11 of the Investigating Officer's report; and

Councillor Wragg made significant personal criticism of Richard Cohen in her letter. The criticism was made in public and not well founded. She had not taken up her concerns with Richard Cohen privately in the first instance, as set out in the protocol for relationships between Members and Officers. The Sub Committee concluded that Cllr Wragg therefore failed to follow Paragraph 123 of the protocol for relationships between Members and Officers.

Any mitigating circumstances taken into account

Councillor Wragg was given the opportunity to address the committee with any mitigating circumstances and notwithstanding that no proper mitigating circumstances were put forward at that time, the Sub Committee did take into account the mitigation referred to in the Investigator's report at paragraphs 6.18 – 6.25.

Sanctions imposed

The Sub Committee had heard representations from the Investigating Officer, Monitoring Officer and Cllr Wragg on whether a sanction should be imposed and if so, what form it should take.

The Sub Committee considered the representations and imposed the following sanctions:

1. Censure - Councillor Wragg was unwilling to accept the finding of the Sub Committee and advised that she would take the same action again in similar circumstances. The Sub-Committee accepted Councillor Wragg's right to challenge alternative views but this needed to be done in an appropriate way.

2. Reporting - The findings of the Standards Hearing Sub- Committee to be reported to the Standards Committee and published through the Council's press office. The Press Release should include details of the legal advice, and subsequent correction, given to the Hearing regarding the complaint procedure. The Sub-Committee wished to make it clear that the correction to the legal advice was a technicality and did not affect the Sub- Committee's findings that Councillor Wragg had breached the Code of Conduct and had failed to follow the Protocol on Relationships between Members and Officers.

The Sub-Committee also made the following recommendations to the District Council:

1. All councillors to receive training on the protocol on Relationships between Members and Officers.
2. To review and raise awareness of current Council procedures for Officers publishing letters/articles in the Press.

Signed:

Cllr Frances Newth

Chairman of the Standards Sub Committee

Date: 11/07/13

C O N F I D E N T I A L

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

F i n a l

**Report of an investigation by Tim Darsley,
appointed by the Monitoring Officer
of East Devon District Council
into allegations concerning Councillor Eileen Wragg
of East Devon District Council.**

Case Reference: MO-C003

7 O c t o b e r 2 0 1 2

C o n t e n t s

- 1. Introduction**
- 2. Councillor Wragg's official details**
- 3. Relevant Codes and Protocols**
- 4. The evidence gathered**
- 5. Findings of fact**
- 6. Reasoning as to whether there has been a failure to comply with the Code or the Protocol**
- 7. Responses to the Draft Report**
- 8. Findings**
- 9. Schedule of evidence taken into account**

Appendices:

Documents 1 to 4

1. Introduction

- 1.1 A complaint concerning the conduct of Councillor Eileen Wragg of East Devon District Council was received by East Devon District Council on 17 July 2012. The complainant was Richard Cohen, a Deputy Chief Executive of East Devon District Council.
- 1.2 After consultation with the Independent Person, the Monitoring Officer decided that the complaint should be investigated.
- 1.3 I understand that the Monitoring Officers of the District Council and the County Council discussed the complaint and agreed that it was appropriate for it to be investigated by the District Council.
- 1.4 The Monitoring Officer appointed me to investigate the complaint on 14 September 2012.
- 1.5 Mr Cohen's complaint was not submitted in writing but by means of a conversation with the Monitoring Officer on 17 July 2012.
- 1.6 His complaint is that: In her letter to the Exmouth Journal, published on 12 July 2012, Councillor Wragg made critical personal comments about him

2. Councillor Wragg's official details

- 2.1 Councillor Wragg was last elected to East Devon District Council in May 2011. She is also a member of Devon County Council and Exmouth Town Council.
- 2.2 As part of her declaration of acceptance of office, signed on 6 May 2011, Councillor Wragg undertook to be guided by the District Council's Code of Conduct.
- 2.3 Councillor Wragg has received training on standards arrangements under the Localism Act and has ready access to the Council's new Code of Conduct. She also has ready access to the Council's Constitution.
- 2.4 Councillor Wragg is a member of the District Council's Overview and Scrutiny Committee.

3. Relevant Codes and Protocols

3.1 The Monitoring Officer considered that Councillor Wragg's conduct should be investigated against the District Council's Code of Conduct and the Council's Protocol for Relationships between Members and Officers.

3.2 The Council's Code of Conduct, adopted on 1 August 2012, states that:

Paragraph 4(a)

You must treat others with courtesy and respect

.

3.3 The Protocol for Relationships between Members and Officers is contained within the Council's Constitution. It provides guidance to both members and officers on relationships between them. The relevant section states:

Paragraph 123

A member who is unhappy about the actions taken by, or conduct of, an officer should:

avoid personal attacks on, or abuse of, the officer at all times,

ensure that any criticism is well founded and constructive,

never make a criticism in public, and

take up the concern with the officer privately.

4. The evidence gathered

Documentary evidence

4.1 I have taken into account the following information:

A letter of Richard Cohen, published in the Exmouth Journal on 28 June 2012.

A letter of Councillor Wragg, published in the Exmouth Journal on 12 July 2012.

The District Council's Code of Conduct, adopted on 1 August 2012

The District Council's Protocol for Relationships between Members and Officers, contained in the Council's Constitution, updated in May 2011.

Oral evidence

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

Richard Cohen, the complainant, and
Councillor Eileen Wragg, the subject member.

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

4.4 The accounts of the witnesses are shown at documents 3 and 4.

5. Findings of fact

5.1 The letters of Mr Cohen and Councillor Wragg to the Exmouth Journal are a matter of record.

5.2 The principal issue for factual determination is:

were any comments in Councillor Wragg's letter directed personally at Mr Cohen, and if so, what were they?

Councillor Wragg's letter was in response to Mr Cohen's letter of 28 June and should be seen in this context.

Undisputed facts

5.3 Elizabeth Hall is a public hall owned by East Devon District Council. The Council is in the process of selling the hall for redevelopment.

5.4 The sale of the hall has generated considerable public interest in Exmouth. Numerous letters have been published in the Exmouth Journal, some of which have been critical of the sale.

5.5 Richard Cohen is a Deputy Chief Executive at the District Council. He is responsible for development, regeneration and partnership and is the lead officer for the Elizabeth Hall project.

5.6 Mr Cohen wrote to the Exmouth Journal to respond to a number of letters about Elizabeth Hall that had been published in the newspaper. His letter was published in the edition of 28 June (document 1).

5.7 Councillor Wragg wrote to the Journal in response to Mr Cohen's letter. Her letter was published in the edition of 12 July (document 2).

Disputed facts

5.8 At interview, Richard Cohen said that Councillor Wragg's letter could be read as saying that he was acting for political reasons. In fact, Councillor Wragg's phrase is that, 'he is supported by Exmouth Conservative councillors' and I consider this is making a different point.

5.9 In the third paragraph of her letter, Councillor Wragg describes comments in Richard Cohen's letter as arrogant. At interview, Councillor Wragg said that it was the style of the letter that she was describing as arrogant, rather than Richard Cohen personally.

- 5.10 I accept that her comment was 'once removed' in this way. Nevertheless, I find that
- Councillor Wragg's use of the adjective 'arrogant' was attached to Mr Cohen.
- 5.11 The penultimate paragraph of Councillor Wragg's letter was of particular concern to Mr Cohen. This paragraph reads,
- He also states in his letter that if EDDC made millions, 'it would be re-invested in services that the residents of Exmouth expect and demand as council tax payers'. He should know that any proceeds from the sale of capital assets has to be re-invested into capital projects, and cannot be used to provide services and running costs. That is the law under the Local Government Act. Such statements must surely bring the question of competency to mind?
- 5.12 At interview, Councillor Wragg said she hadn't suggested that Mr Cohen was incompetent. She said that her reference to 'the question of competency' could have referred to the Council or to whoever gave him the running costs figure of £170,000.
- 5.13 However, the paragraph in question is not referring to the running costs of Elizabeth Hall. It is dealing with Mr Cohen's statement about any receipts from Elizabeth Hall being re-invested in services for the residents of Exmouth. It is this point that Councillor Wragg is contending.
- 5.14 When she writes, 'such statements must surely bring the question of competency to mind', she is clearly referring to Mr Cohen's statement on re-investing receipts from the sale of Elizabeth Hall.
- 5.15 I find therefore that;
- the final sentence of the penultimate paragraph of Councillor Wragg's letter was referring to Mr Cohen, and
- in it, Councillor Wragg questions Mr Cohen's competency.

6. Reasoning as to whether there has been a failure to comply with the Code or the Protocol

6.1 I found above that two of the critical elements of Councillor Wragg's letter referred to Richard Cohen personally. These were;

her description of his comments as arrogant, and her questioning his competency.

6.2 These findings can now be considered against the Council's Code of Conduct and the Protocol for Relationships between Members and Officers.

**Code of Conduct, Paragraph 4(a):
You must treat others with courtesy and respect**

6.3 Treating people with courtesy and respect involves having regard for them and their feelings and showing politeness towards them.

6.4 Councillor Wragg regarded her 'arrogant' description as factual and justified by the tone of Richard Cohen's letter and some particular phrases that he used. Whilst this can be debated, I accept that she genuinely held this belief and that it was not a casual insult.

6.5 Although the description was somewhat discourteous, I do not consider that, in the context of Mr Cohen's letter, this comment was sufficiently disrespectful to have breached the Code of Conduct.

6.6 I consider the questioning of Mr Cohen's competency to be more fundamental, however.

6.7 Although it is broadly correct that capital receipts cannot be used to provide revenue services, Councillor Wragg's suggestion of incompetence is based on a narrow interpretation of Mr Cohen's use of the word services.

6.8 Mr Cohen stated that he had used the word services in the sense of a range of things that could be done for the benefit of Exmouth people, including investing in capital projects. This would have been in line with the non-technical nature of his letter.

6.9 In any event, I do not consider that Councillor Wragg's narrow interpretation was justification for her suggestion of incompetence.

- 6.10 For a member to question or disagree with a statement by an officer is perfectly acceptable. Councillor Wragg had not just disagreed with Richard Cohen, however. She had questioned his competence in a very public forum. Mr Cohen had no opportunity to respond or defend himself at the time.
- 6.11 I consider that Councillor Wragg's questioning of Mr Cohen's competence was unjustified and disrespectful. Accordingly, I find that she failed to follow the Code of Conduct.

Protocol for Relationships between Members and Officers

- 6.12 Paragraph 123 of the Protocol states:

A member who is unhappy about the actions taken by, or conduct of, an officer should;

avoid personal attacks on, or abuse of, the officer at all times,
ensure that any criticism is well founded and constructive,
never make a criticism in public, and
take up the concern with the officer privately.

Avoid personal attacks on, or abuse of, the officer at all times

- 6.13 Whilst attack is a strong word, Councillor Wragg's letter is directed personally at Richard Cohen. Although the sale of Elizabeth Hall is the background issue, the letter is principally about Mr Cohen, with every paragraph referring critically to him.
- 6.14 I consider that Councillor Wragg's letter was a significant criticism of Mr Cohen which was personal in places. On balance, I find that she failed to follow this element of the Protocol.

Ensure that any criticism is well founded and constructive

- 6.15 I have found that Councillor Wragg's questioning of Mr Cohen's competence was not justified. It was based on a narrow interpretation of one of his comments which did not necessarily show that he was unaware of accounting regulations. I find therefore that Councillor Wragg failed to follow this element of the Protocol.

Never make a criticism in public

- 6.16 Councillor Wragg's criticisms of Mr Cohen, published in the local newspaper, were clearly made in public. I find therefore that she failed to follow this element of the Protocol.

Take up the concern with the officer privately

- 6.17 Councillor Wragg confirmed at interview that she had not spoken to Richard Cohen about her concerns before she wrote her letter to the newspaper. I find therefore that she failed to follow this element of the Protocol.

Mitigating factors

- 6.18 In defence of her actions, Councillor Wragg said that Richard Cohen's letter was a challenge for people to write in to the paper. She pointed to his phrase, 'so we'll look to set the record straight through this letters page and elsewhere'.
- 6.19 She said she had responded to the invitation because she too wanted to put the record straight. She said she had responded in kind to Mr Cohen's letter.
- 6.20 I consider there is some merit to this contention. Whilst the majority of his letter is explanatory, Mr Cohen does include some emotive phrases such as 'the crowd pleasing suggestion of your recent correspondent', 'unworthy of even vaguely intelligent debate' and 'wild statements'. This set a tone for any responses.
- 6.21 The Protocol does of course give guidance for officers as well as members. It warns that officers must be alert to issues which are likely to be contentious or politically sensitive and be aware of the implications for members, the media and the public.
- 6.22 On media relations, the Protocol requires that press statements made by officers should give factual information on Council policy.
- 6.23 By not limiting his letter to factual information, Mr Cohen ran the risk of being seen as part of the public argument over Elizabeth Hall rather than the officer charged with implementing Council policy.
- 6.24 On such a contentious issue, a Council press release or a letter from the relevant portfolio holder might have been a more appropriate course to take.
- 6.25 Whilst these factors do not excuse Councillor Wragg's failure to follow the Code and the Protocol, they do provide the context for her conduct.

7. Responses to the draft report

- 7.1 Councillor Wragg and Richard Cohen were sent copies of my draft report on 26 September 2012. I asked for any responses to be made to me by 3 October 2012.
- 7.2 Richard Cohen accepted the report's findings and acknowledged the comments made about his actions in paragraphs 6.23 and 6.24.
- 7.3 I had received no response from Councillor Wragg by 7 October.

8. Findings

- 8.1 In summary, I find that, through her letter to the Exmouth Journal of 12 July 2012;

Councillor Wragg was disrespectful to Richard Cohen and therefore failed to follow paragraph 4(a) of the Code of Conduct.

Councillor Wragg made significant personal criticism of Richard Cohen. The criticism was made in public and was not well-founded. She had not taken up her concerns with Mr Cohen privately. She therefore failed to follow paragraph 123 of the Protocol for Relationships between Members and Officers.

- 8.2 The reasoning for my findings is set out in section 6 above.
- 8.3 This is my final report. It will be dealt with by the Monitoring Officer in accordance with the District Council's Code of Conduct complaints procedure.

9. Schedule of evidence taken into account

| Document No. | Description |
|---------------------|---|
| 1 | Letter of Richard Cohen to the Exmouth Journal, published on 28 June 2012 |
| 2 | Letter of Councillor Wragg to the Exmouth Journal, published on 12 July 2012 |
| 3 | Record of telephone interview with Richard Cohen 14 September 2012 |
| 4 | Record of telephone interview with Councillor Eileen Wragg, 17 September 2012 |

**Document 1: Letter of Richard Cohen to the Exmouth Journal,
published on 28 June 2012**

JUST a few thoughts on the Elizabeth Hall site sale following the public meeting and some recent comments to the letters' page.

The Elizabeth Hall site is for sale on the open market. That means that anyone can bid for it – including community groups – and we are open to all suggestions as to what could be developed there.

Critically, though, all proposals will need to meet the clear requirements set out in the Masterplan. They must demonstrate how any re-development will act as a catalyst for new economic activity on the seafront and also promote greatly improved links between

Any bidder must meet the stated criteria

seafront and town. In short, it must look good, benefit the economy and add to the overall attraction of Exmouth.

It's not for us to rule any proposals in or out at this stage. But they will have to demonstrate clearly how these criteria would be met.

As a reminder, interested parties should lodge Expressions of Interest by July 6 but most importantly full tender proposals by September 3, 2012.

In this economic environment, it is very unlikely that EDDC would

'make millions' but if, we did, it would be re-invested in services that residents of Exmouth expect and demand as council taxpayers.

The crowd-pleasing suggestion - which your recent correspondent and others seem happy to repeat - that capital receipts derived from any sale help fund officers' salaries and pensions is unworthy of even vaguely intelligent debate.

As we have stated on numerous occasions, the hall was never given to the community by anyone. It was sold as a 'Gentlemen's Club'

to the Urban District Council. We have also taken time to explain the covenants situation so, to be clear once again, the amount of money paid (in 2010) was to Lord Clinton not just 'someone'. A copy of the release document explaining the extent of the seafront covenants is available should anyone wish to view it.

The agreement between any developer and the council will ensure that, on receipt of full planning consent, the developer will have a set time to finish the build, a

two-year timeframe would be normal. Wild statements claiming 'the seafront will be a building site for the next 15 years' are mischievous, unfounded - and wrong.

We look forward to continuing to provide as much information as we can to residents and others about the Exmouth Vision as it progresses.

Sometimes this gets distorted by those who choose to believe different versions of events, so we'll look to set the record straight through this letters page and elsewhere.

Richard Cohen
Deputy Chief Executive
East Devon District Council

**Document 2: Letter of Councillor Wragg to the Exmouth Journal,
published on 12 July 2012**



**Document 3: Record of telephone interview with Richard Cohen
14 September 2012**

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. You explained that you were leading the Elizabeth Hall project. You had been given the responsibility for implementing the master plan for Exmouth and that was one of the key projects within it.
3. You confirmed that you had not put your complaint in writing. You had explained your concerns to the Monitoring Officer.
4. I asked you to confirm the substance of your complaint.
5. You said you had written a letter to the Exmouth Journal in an attempt to correct comments that had been made in earlier letters to the paper by various local objectors. You had been aiming to give clear information about the process of the disposal of the Hall.
6. There had also been some references made by correspondents that the receipt from the sale was going to help fund officers' salaries and pensions. You wanted to challenge those insinuations.
7. The following week, a letter appeared from Councillor Wragg which criticised you personally, not just the content of your letter. Your letter hadn't named any individuals amongst those who had been criticising the Council.
8. You felt that her letter could be read as saying that you were acting for political reasons. Further into the letter, she questioned your competence. At that point you felt that the letter was not reasonable.
9. You weren't concerned that she was disagreeing with what you had said. It was that she had disagreed and questioned your competence in a public forum that you felt was unreasonable.
10. You did not have a clear view of what Councillor Wragg had breached but the Code of Conduct and the Member/Officer Protocol seemed appropriate.
11. You said that it was the penultimate paragraph of the letter that particularly concerned you. The last sentence of that was clearly questioning your competence. You had used the word services in the sense of a range of things that could be done for the benefit of Exmouth people, including investing in capital projects. You felt that Councillor Wragg had used very lightweight grounds to make a serious assertion.

12. Concerning your letter, the reference to 'some recent comments' was not in response to anything that Councillor Wragg had written. It was a collective response to a number of letters to the press over several weeks.
13. Your other reference to 'your recent correspondent' was also not referring to Councillor Wragg.
14. You told me that you had discussed writing your letter with the Communications Officer and other officers who were involved. The Council didn't respond to everything that appeared and, in the main, it was members who replied. You had picked this case up because of the suggestion about receipts funding salaries and pensions.
15. You hadn't been asked or encouraged by a member to write. You didn't consult with any member about the letter.
16. You said you had chosen to write a letter rather than issue a press release because it wasn't a single news item. It was a matter of writing back to the same place as where the criticisms had come from.
17. You said that Councillor Wragg had not raised her concern with you before writing her letter. You weren't aware that she had raised her concern with anyone else.
18. I asked you if you felt there was any justification for Councillor Wragg writing as she had. You said she wasn't justified in making it personal. The suggestion about your competence was particularly unjustified. You had not criticised her in the process.

| | |
|---|-------------------|
| Sent to witness for confirmation: | 18 September 2012 |
| Agreed by witness as an accurate record | |

**Document 4: Record of telephone interview with Councillor Eileen Wragg
17 September 2012**

At the time of confirming the accuracy of the record of our telephone interview, Councillor Wragg wished to add some additional comments, not made in the interview. I have included these in the boxes below.

1. I introduced myself and explained my appointment and role. I advised you that I would be recording the interview and you consented to this.
2. I confirmed to you the substance of Richard Cohen's complaint.
3. You told me that you had no particular role in relation to the Elizabeth Hall project. Your interest was as a District councillor. You agreed that you were an East Devon District Councillor for the Exmouth Town Ward, but said that you wrote as a Devon County Councillor for the County Division, as evidenced by your signature on that letter.
4. You told me you had signed your letter to the paper as a County Councillor because Richard Cohen's had spoken about Elizabeth Hall at the Littleham Residents' Association. Littleham was in your County Division but not your District Ward.

The Elizabeth Hall is also used by users in the wider areas of Exmouth, and I was exploring funding options for its retention and future uses, possibly applying for funding outside the District Council. Hence my reasons for signing as a County Councillor.

5. It was at the Littleham meeting that Richard Cohen had said that the Hall was costing £170,000 a year to run. You were incredulous about that. You were concerned that he was giving misleading information to the public. You said that a retired local businessman had questioned him about this and said that the hall could not have been losing over £3,000 a week. Richard Cohen left shortly afterwards.

The businessman's name is Bernard Greenaway and his contact details can be supplied if required. I have attached a copy of a letter to the Journal, published 26th July, from Marion Scott who was on the Elizabeth Hall Advisory Committee. She was also present at the Littleham Residents Association meeting on 25th April this year, when Richard Cohen gave a talk.

6. You said that you felt his letter to paper was quite insulting to the public. You pointed to the phrases 'crowd pleasing suggestions', 'unworthy of even vaguely intelligent debate' and 'this gets distorted by those who choose to believe different versions of events'. You thought that the letter writers didn't deserve an attack like that from a senior officer. You felt it was unprofessional.
7. I put it to you that Richard Cohen was addressing the suggestion that receipts from the sale of the Hall would be used to fund officers' salaries and pensions. You said you didn't know about that allegation.

His letter stated that "it is very unlikely that EDDC would 'make millions' but if, we did, it would be re-invested in services that residents of Exmouth expect and demand as council taxpayers". The inference was that this applied to existing services, i.e. revenue costs. The point I made was that monies from the sale of assets would have to be re-invested into capital projects.

8. You said that you hadn't spoken to Mr Cohen before writing your letter. You said that he had issued an invitation to get it sorted out through the letters page. It was a challenge to write to the paper— which is what you did. It wouldn't have put things right with the public if you had spoken to him.
9. You said you could have made a complaint against him but you hadn't thought about it at the time. You also said that when you made a complaint against a Councillor who had physically blocked your way in the Members' Area, preventing you from leaving the room, one in a series of incidents by that Member, you were informed by the Chairman of the Standards Committee that it was part of the rough and tumble of political life. Witnesses were not contacted. There seemed to be a lack of consistency where conduct was concerned. Also, when the public had been insulted, the perpetrator had been exonerated.
10. You said you had spoken to Councillor Diviani, the Leader, around the time of writing your letter. You said he also thought Mr Cohen's letter was 'tiggerish'.
11. You said that you wrote to the paper because he had done so and you wanted to put things straight. It was in the interests of accuracy and also because you were annoyed at the tone of the letter, which you thought was arrogant.
12. I put to you Richard Cohen's belief that your letter was not just about Elizabeth Hall but was personal about him. You said the letter was not meant to be personal. There was no intent on your part to be personal. You didn't make personal attacks. You rarely wrote to the press.

I consider that it is very important to have good working relationships with officers in order to achieve the best possible outcomes for the public, and my record since 1996 can prove this to be the case, at all levels of local government. This is why I am disappointed with the present complaint made against me. I could have pursued, and presumably still can pursue, complaints against an officer and a member, but chose not to, as it would do nothing to improve working relationships between us, or between the public and EDDC.

13. You said you hadn't suggested that Mr Cohen was incompetent. You said that your reference to 'the question of competency' could have referred to the Council or to whoever gave him the figure of £170,000. You said that he was obviously competent, as that was why he was brought in by the Council - to handle the business side. You said that you thought him quite able.

I think that I should add that I emailed Simon Davey, EDDC's Finance Director, asking him for a breakdown of the £170,000 alleged annual costs of running the Elizabeth Hall. He replied with the question as to who had quoted that sum. I replied that it was Richard Cohen. I heard nothing more from Simon Davey.

14. You said you stood by your mention of 'arrogant comments'. You thought that the way he was referring to the public was arrogant. It was the style of the letter that was arrogant. You had no animosity towards him. You also said that you thought that recent contact with him had been fairly good.
15. You didn't accept that your letter was personal. You felt you were justified in writing as you did.

If my letter had been personal, I would have sent it to him directly and not to the Journal.

16. You said you were aware of the District Council's new Code of Conduct. You thought the requirement to treat others with courtesy and respect applied to officers as well and there wasn't respect in his letter.
17. You considered that your letter was courteous and respectful. It was factual.
18. You said you weren't familiar with the Protocol on Relationships between Members and Officers. You said that you would have to read it again to refresh your memory.

I would like to add that I wanted to be certain, due to the new Code of Conduct. The relevant paragraphs were contained in Denise Lyon's email, so I had already read them and it's about applying basic common sense and courtesy, in my view, and have applied these over many years, as a matter of course. There has never been a complaint made against me in this respect.

19. I put to you the three relevant provisions of the Protocol. You said you didn't regard your letter as a personal attack. You said you had criticised in public no more than he had. All you had done was respond to his letter, which he had invited people to do. You were responding in kind. You accepted that you hadn't taken up your concern with him privately.
20. You said you were surprised that a complaint had been made at this time. You speculated whether this was because the tenders for the site for development may not have gone as was hoped for.

There have been three informal bids submitted which have been selected for further consideration

I would add that he had not taken up his complaint with me privately, and I was told by Denise Lyon on July 19th that Richard Cohen had not complained and that the impression I had from the way it was said, was that the Monitoring Officer and Independent Person were the people who were concerned. I have not been contacted by the Independent Person to date (two months had elapsed since the first call from Denise Lyon and the letter from her informing me of the complaint).

There is no record of a written complaint by Richard Cohen in any of the communications I have received.

21. In your view, the public would have read his letter. So it merited a public response to correct the misleading and erroneous information he had given in it and at the meeting.
22. In the interests of finding a resolution to the matter, I asked you if you were prepared to acknowledge that some aspects of the complaint were justified and apologise for them. You said you would not apologise.
23. I asked you whether, if Mr Cohen acknowledged that his letter had some failings, you would be prepared to acknowledge that points in your letter shouldn't have been put. You said no.

I responded to the letter he had written. Had he not written it, I would have not responded, therefore there would be no need for a request to apologise. It appears that he would be asked to make acknowledgements, but that I would be asked to make an apology. He should apologise to the public, not to me, for what he had written. He should apologise to me for accusing me of making a personal attack on him, which I have not done.

On Thursday September 27th, I was given a record of notes made by Denise Lyon following a request from me made the previous week. Contained in the notes is a reference to the Monitoring Officer at Devon County Council, which states 'Agreed with DCC MO that it is one for the District'. This suggests that DCC MO had been asked if they wanted to pursue a complaint. As I had written the letter to the Journal as a County Councillor, I believe that it would have been more appropriate for that Council to have made a complaint about me, which it did not do. Also stated is 'Met to discuss. DCC MO view that RC entered the fray when put the letter in the press.' This reinforces my view that DCC were not prepared to take any action against me.

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| Sent to witness for confirmation: | 18 September 2012 |
| Agreed by witness as an accurate record | 30 September 2012 |