

A meeting of the **REFERRALS (ASSESSMENT) SUB COMMITTEE** will be held in **ROOM CVS0 1A, CIVIC SUITE, PATHFINDER HOUSE, ST MARY'S TREET, HUNTINGDON, PE29 3TN** on **TUESDAY, 21 DECEMBER 2010** at **10:00 AM** and you are requested to attend for the transaction of the following business:-

APOLOGIES

1. MINUTES (Pages 1 - 10)

To approve as a correct record the Minutes of the meeting held on 22nd October 2010.

2. MEMBERS' INTERESTS

To receive from Members declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any Agenda Item. Please see Notes 1 and 2 below.

3. GUIDANCE TO ASSIST ASSESSMENT OF CASES (Pages 11 - 14)

- ◆ Local Assessment Case Handling Chart; and
- ◆ Guidance received from the "Standards for England" on the conduct of an assessment.

4. EXCLUSION OF PRESS AND PUBLIC

To resolve:-

that the public be excluded from the meeting because the business to be transacted contains exempt information under paragraph 7 (c) relating to the deliberations of a Sub-Committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000.

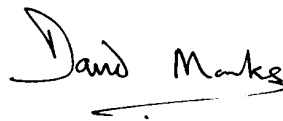
5. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 38 (Pages 15 - 42)

Enclosed pre-assessment report by the Monitoring Officer to which is attached various other correspondence/information to assist Members in assessing the case.

6. INITIAL ASSESSMENT - CASE NO. 38 (Pages 43 - 54)

Enclosed pre-assessment report by the Monitoring Officer to which is attached various other correspondence/information to assist Members in assessing the case.

Dated this 14th day of October 2011



Chief Executive

Notes

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*
 - (a) *the well-being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;*
 - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
 - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or*
 - (d) *the Councillor's registerable financial and other interests.*
2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

Please contact Ms C Deller, Democratic Services Manager, Tel No 01480 388007/e-mail: Christine.Deller@huntsdc.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Sub-Committee.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (under *Councils and Democracy*).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the REFERRALS (ASSESSMENT) SUB COMMITTEE held in Room CVSO 1a, Civic Suite, Pathfinder House, St. Mary's Street, Huntingdon, Cambs, PE29 3TN on Friday, 22 October 2010.

PRESENT: Mr M Lynch – Chairman.

Councillor G S E Thorpe and Mr J B Alexander.

13. MINUTES

The Minutes of the meetings of the Sub-Committee held on 28th July and 10th September 2010 were approved as a correct record and signed by the Chairman.

14. MEMBERS' INTERESTS

No interests were declared.

15. GUIDANCE TO ASSIST ASSESSMENT OF CASE

The guidance produced by Standards for England and collated by the Monitoring Officer to assist the Sub-Committee in their assessment of the cases submitted was received and noted.

16. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contained exempt information under paragraph 7 (c) relating to the deliberations of the Sub-Committee of the Standards Committee established under the provisions of Part III of the Local Government Act 2000.

17. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 35

The Sub-Committee considered the following documents collated by the Monitoring Officer (copies of which are appended in the Minute Book) to assist their deliberations in respect of a complaint received against a Councillor serving on Huntingdonshire District Council -

- ◆ original complaint form and associated documents collated by the complainant; and
- ◆ Register of interests form - Councillor K J Churchill.

18. INITIAL ASSESSMENT - CASE 35

Having considered the allegations made in the case of Councillor K J Churchill of Huntingdonshire District Council seeking the advice of the Monitoring Officer as appropriate, it was

RESOLVED

that no further action be taken in respect of the allegation against Councillor K J Churchill for the reasons set out in the 'Decision Notice - No Further Action' appended to these Minutes as no potential breach of the Code of Conduct was disclosed by the complaint.

19. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 36

Having regard to the content of the original complaint and the following documents collated by the Monitoring Officer (copies of which are appended in the Minute Book), the Sub-Committee considered the details of a case presented against a Councillor serving on Holywell-cum-Needingworth Parish Council -

- ◆ original complaint form;
- ◆ e-mail from Clerk, Holywell-cum-Needingworth Parish Council; and
- ◆ Register of interests form - Councillor J Precious.

20. INITIAL ASSESSMENT - CASE NO. 36

Members considered the allegation made in the case of Councillor J Precious of Holywell-cum-Needingworth Parish Council seeking the advice of the Monitoring Officer as necessary and, it was

RESOLVED

that no further action be taken in respect of the allegation against Councillor J Precious for the reasons set out in the 'Decision Notice - No Further Action' appended to these Minutes as no potential breach of the Code of Conduct was disclosed by the complaint.

21. PRE ASSESSMENT REPORT AND ENQUIRIES - CASE NO 37

The Sub-Committee considered the pre-assessment report by the Monitoring Officer to which was attached the following correspondence/information (a copy of which is appended in the Minute Book) to assist Members in assessing the case -

- ◆ original letter of complaint and enclosed associated documents;
- ◆ letter from Fenstanton Parish Council to Inspector S Poppitt, Sector Commander dated 15th September and his reply of 21st September 2010;
- ◆ Minutes of the meeting of Fenstanton Parish Council - 9th September 2010; and
- ◆ Register of interests form - Councillor Mrs G Dartford.

22. INITIAL ASSESSMENT - CASE NO. 37

Further to the allegation made in case of Councillor Mrs G Dartford of Fenstanton Parish Council and having regard to the evidence presented and the advice of the Monitoring Officer, it was

RESOLVED

that no further action be taken in respect of the allegation against Councillor Mrs G Dartford for the reasons set out in the 'Decision Notice - No Further Action' appended to these Minutes as no potential breach of the Code of Conduct was disclosed by the complaint.

Chairman

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DECISION NOTICE: NO FURTHER ACTION

Reference: Case No. 35

The Referrals (Assessment) Sub-Committee appointed by Huntingdonshire District Council resolved to exclude the public from the Sub-Committee's proceedings under paragraph 7 (c) of Schedule 12A to the Local Government Act 1972 and paragraph 8 (b) of the Standards Committee (England) Regulations 2008. In these circumstances, parties associated with the complaint are requested to exercise caution when discussing or passing on information that is in the notice or about the notice.

Complaint

On 22nd October 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Messrs M Lynch (Chairman) and J Alexander and Councillor G S E Thorpe considered a complaint from Councillor S M van de Kerkhove concerning the conduct of Councillor K J Churchill, a Member of Huntingdonshire District Council.

The complaint alleged that Councillor K Churchill had breached paragraphs 3 (2) (b), 6 (a) and 6 (a) (i) and (ii) of the District Council's Code of Conduct which states that –

- 3 (2) (b) You must not bully any person;
- 6 (a) You must not use or attempt to use your position improperly to confer or secure for yourself or any other person an advantage or disadvantage; and
- 6 (a) (i) and (ii) You must, when using or authorising the use by others of the resources of your authority act in accordance with your authority's reasonable requirements and ensure that such resources are not used improperly for political purposes (including party political purposes).

The case related to an earlier complaint submitted by Councillor Churchill which alleged that the action taken by Councillor Churchill under the procedure for considering breaches of the Code of Conduct amounted to 'bullying, intimidating and malicious' behaviour, that Councillor Churchill had used his position as an Executive Councillor and Member of the Cabinet to pursue enquiries to the disadvantage of the complainant and in so doing had used the authority's resources improperly for political purposes.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referrals (Assessment) Sub-Committee of the Standards Committee decided that no further action should be taken on the allegations.

Reasons for Decision

In reaching their conclusion, the Sub-Committee was of the view that Councillor Churchill was legally entitled to pursue, what he might have considered to be a potential breach of the Code of Conduct, in accordance with the process established for that purpose. Such action could not be considered to constitute either misuse of the Council's resources or bullying or intimidation. Indeed, no evidence had been submitted to substantiate the allegation that the procedure had been invoked for reasons other than those for which it had been established. In terms of the suggestion that Councillor Churchill had used his position of Executive Councillor improperly to the disadvantage of the complainant, the Sub-Committee considered that the questions asked of District Council Officers about arrangements for the event at St Neots Riverside Park on 1st August 2010 were legitimate and indicated a concern for the health and safety of those in attendance.

In general, the Sub-Committee also was mindful that the original complaint submitted by Councillor Churchill, whilst not pursued, had given rise to concerns being expressed regarding the apparent failure to follow Council procedures for organising a public event on its land.

This Decision Notice is sent to the person making the allegation.

Right of Review

At the written request of the complainant, the authority can review and change a decision not to refer an allegation for investigation or other action. A different sub-committee to that involved in the original decision will undertake the review.

We must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will deal with it within a maximum of three months of receipt.

Terms of Reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that Members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of local authority Members and the requirements for dealing with this.

The Regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by Members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

Signed:

.....
Mr M Lynch
Chairman of Sub-Committee

Date:

8/11/10

DECISION NOTICE: NO FURTHER ACTION

Reference: Case No. 36

The Referrals (Assessment) Sub-Committee appointed by Huntingdonshire District Council resolved to exclude the public from the Sub-Committee's proceedings under paragraph 7(c) of Schedule 12A to the Local Government Act 1972 and paragraph 8(b) of the Standards Committee (England) Regulations 2008. In these circumstances, parties associated with the complaint are requested to exercise caution when discussing or passing on information that is in the notice or about the notice.

Complaint

On 22nd October 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Messrs M Lynch (Chairman) and J Alexander and Councillor G S E Thorpe considered a complaint from Mr S Clarke concerning the conduct of Councillor J Precious

The complaint alleged that Councillor J Precious of Holywell cum Needingworth Parish Council had breached paragraphs 3 (1) and 5 of the Parish Council's Code of Conduct which states that –

- 3 (1) you must treat others with respect; and
- 5 you must not bring your office or authority into disrepute while acting in your official capacity as a Member.

It was alleged that Councillor Precious had failed to treat the complainant with respect at a meeting of Holywell cum Needingworth Parish Council held on 7th September 2010 when he suggested in remarks addressed directly towards Mr Clarke that "he had had enough of me" thus also bringing his office as Councillor and the Parish Council into disrepute.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referrals (Assessment) Sub-Committee of the Standards Committee decided that no further action should be taken on the allegation.

Reasons for Decision

In reaching their conclusion and whilst not condoning Councillor Precious' behaviour, the Sub-Committee noted that Mr Clarke had already been given an opportunity to speak on the matter in the public forum and exceptionally had been allowed a further opportunity to speak during the main meeting itself. However, the Sub-Committee did consider that the language allegedly used by Councillor Precious was inappropriate, that he should exercise greater care in the future when addressing the public in his capacity as Parish Councillor and that it should be the role of the Chairman and not an individual Councillor to control the meeting, to close a debate and direct public speakers, should it be necessary to do so in accordance with the Parish Council's Standing Orders. On balance, the Sub-Committee considered that it would not be expedient or prudent use of resources to request the Monitoring Officer to further pursue the complaint.

This Decision Notice is sent to the person making the allegation, to the Member against whom the allegation was made and to the Clerk to Holywell Cum Needingworth Parish Council.

Right of Review

At the written request of the complainant, the authority can review and change a decision not to refer an allegation for investigation or other action. A different sub-committee to that involved in the original decision will undertake the review.

We must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will deal with it within a maximum of three months of receipt.

Terms of Reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that Members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of local authority Members and the requirements for dealing with this.

The Regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by Members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

Signed: *M. Lynch* **Date:** *8/11/60*

Mr M Lynch
Chairman of Sub-Committee

DECISION NOTICE: NO FURTHER ACTION

Reference: Case No. 37

The Referrals (Assessment) Sub-Committee appointed by Huntingdonshire District Council resolved to exclude the public from the Sub-Committee's proceedings under paragraph 7 (c) of Schedule 12A to the Local Government Act 1972 and paragraph 8 (b) of the Standards Committee (England) Regulations 2008. In these circumstances, parties associated with the complaint are requested to exercise caution when discussing or passing on information that is in the notice or about the notice.

Complaint

On 22nd October 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Messrs M Lynch (Chairman) and Mr J Alexander and Councillor G S E Thorpe considered a complaint from Mr C M Saunderson concerning the conduct of Councillor Mrs G Dartford of Fenstanton Parish Council.

The complaint alleged that Councillor Mrs G Dartford had breached paragraphs 3 (1), 3 (2) (b) and 6 (a) of the Parish Council's Code of Conduct which states that –

- 3 (1) you must treat others with respect;
- 3 (2) (b) you must not bully any person; and
- 6 (a) you must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

The complaint alleged that Councillor Mrs Dartford had, through communication with the complainant at a meeting of Fenstanton Parish Council and through Spectrum, the parish magazine failed to treat Mr Saunderson with respect, had engaged in bullying behaviour towards the complainant and used her position as a Member improperly to secure an advantage for herself. The matters concerned Mr Saunderson's involvement in a local speedwatch team.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referrals (Assessment) Sub-Committee of the Standards Committee decided that no further action should be taken on the allegation.

Reasons for Decision

In terms of the documents presented, the Sub-Committee was of the view that Councillor Mrs Dartford appeared only to question the degree of Mr Saunderson's involvement in speedwatch, that there did not appear to be any suggestion in the article published in the parish magazine 'Spectrum' that the report had been prompted by Councillor Mrs Dartford and that the Minutes were the responsibility of the Parish Clerk and not an individual Councillor and should have been challenged at the subsequent meeting of the Council if considered to be incorrect. The Sub-Committee also noted that the review of the incident by

the Police appeared to suggest that Mr Saunderson had taken steps which were 'ill advised' and had emphasised the need for a 'professional' and 'neutral' stance from volunteers. Overall, the Sub-Committee considered that there was insufficient evidence to substantiate the allegation that Councillor Mrs Dartford had breached the Code of Conduct by failing to treat the complainant with respect, by bullying Mr Saunderson or by using her position on a parish councillor to secure an advantage for herself.

This Decision Notice is sent to the person making the allegation, the member against whom the allegation was made and the Clerk to Fenstanton Parish Council.

Right of Review

At the written request of the complainant, the authority can review and change a decision not to refer an allegation for investigation or other action. A different sub-committee to that involved in the original decision will undertake the review.

We must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will deal with it within a maximum of three months of receipt.

Terms of Reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that Members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of local authority Members and the requirements for dealing with this.

The Regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by Members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

Signed: *M. Lynch* Date: *8/11/10*
Mr M Lynch
Chairman of Sub-Committee

GUIDANCE TO ASSIST ASSESSMENT OF CASE

EARLY GUIDANCE RECEIVED FROM THE STANDARDS BOARD ON THE CONDUCT OF AN ASSESSMENT

Which complaints will we refer for investigation?

We decide that a matter should be investigated when we believe that it meets one of the following criteria:-

- It is serious enough, if proven, to justify the range of sanctions available to the Adjudication Panel for England or local Standards Committees;
- It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it, short of investigation;
- In considering this, we will take into account the time that has passed since the alleged conduct has occurred.

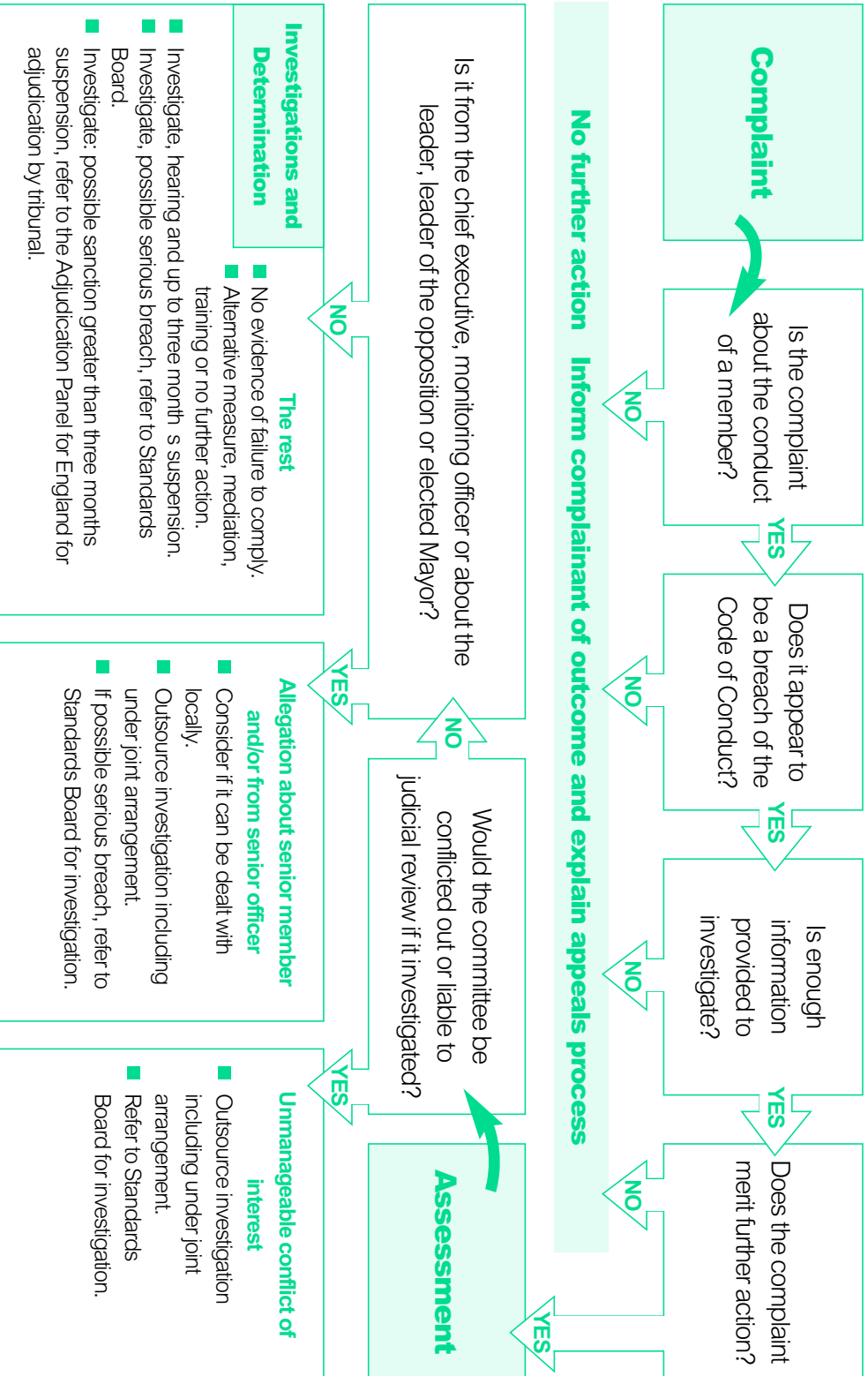
Which complaints are we unlikely to refer for investigation?

We are unlikely to decide that a complaint should be investigated if it falls into any of the following categories:-

- We believe it to be malicious, relatively minor or tit-for-tat;
- The same, or substantially similar, complaint has already been the subject of an investigation or enquiry and there is nothing further to be gained by seeking the sanctions available to the Adjudication Panel or the local Standards Committee;
- The complaint concerns acts carried out in the Members' private life when they are not carrying out the work of the Authority or have not misused their position as a Member;
- It appears that the complaint is really about dissatisfaction with a Council decision;
- There is not enough information currently available to justify a decision to refer the matter for investigation.

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Local assessment complaint handling chart



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Agenda Item 5

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Agenda Item 6

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