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## BRECKLAND COUNCIL

### At a Meeting of the GOVERNANCE & AUDIT HEARING PANEL

Held on Tuesday, 21 March 2017 at 2.00 pm in  
Dereham Room, Elizabeth House, Walpole Loke, Dereham, NR19 1EE

#### PRESENT

Mr W.P. Borrett  
Mr M J Nairn

Mr P S Wilkinson

#### Also Present

Mr D Fairchild

#### In Attendance

Rory Ringer	- Democratic Services Manager
Teresa Smith	- Democratic Services Team Leader
Mark Stinson	- Executive Manager Governance (Deputy Monitoring Officer BDC)
Sarah Wolstenholme-Smy	- Interim Legal Services Manager
Tony Wicks	- Independent Person

#### **1/17 DECLARATION OF INTEREST**

None.

#### **2/17 PROCEDURES**

The procedures were explained.

#### **3/17 EXCLUSION OF PRESS & PUBLIC**

**RESOLVED** that under Section 100(A) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act.

#### **4/17 CONSIDERATION OF COMPLAINT AGAINST A COUNCILLOR UNDER THE LOCALISM ACT 2011**

The Investigating Officer presented her report by telephone, and added no further comment to the report that had already been submitted.

The Panel heard from the Complainant who presented his statement to the Panel. The Chairman invited the Panel to question the complainant.

The Subject Member could not be present, however had submitted written representation which was read by the Panel and the Complainant, who was invited to comment on those comments. The Complainant responded by objecting to some of the statements.

The Independent Person was invited to present his views on the complaint.

The Panel retired to consider their findings (which are set out in the Decision

notice attached).

The meeting was then opened to the public, and the complainant invited back into the meeting, before announcing their decision.

**DECISION NOTICE**  
Reference Number: BDC 048

Name of complainant	Mr David Fairchild
Name of Subject Member	Councillor M Caplin
Authority	Weasenham Parish Council
Summary of Complaint	Councillor Caplin breached the Weasenham Parish Council code of conduct by making offensive remarks to Mr Fairchild at a meeting of Weasenham Parish Council on 23 November 2015 as detailed in the Investigators report.
Hearing Panel Decision Reached	Councillor Caplin had breached the Code of Conduct. This decision notice will be published on Breckland Council website, and the Parish Clerk will be notified, but no further sanctions shall be recommended to the Parish Council.
Reason for Decision	<p>It was clear that the comment made by Councillor Caplin to Mr Fairchild was made whilst Councillor Caplin was acting in her capacity as a Parish Councillor, and whilst she was conducting the business of the office to which she was elected. The Weasenham Parish Code of Conduct therefore applies.</p> <p>The Weasenham Parish Council code of conduct states that during the course of acting as a Councillor a Member shall 'behave in such a way that a reasonable person would regard as respectful'.</p> <p>Whilst there is a dispute as to the precise words used, there is no dispute as to the sentiment behind the words used. The sentiment conveyed was disrespectful and therefore there has been a breach of the code of conduct.</p> <p>The Panel considered that there were historical and deep-seated issues between the complainant and more than one elected member of the parish council. The Panel further considered that, whilst there had been a breach, there had been a substantial degree of provocation and that this should be reflected when determining sanctions.</p> <p>The Panel noted that the Independent Person, Tony Wicks, supported the views of the Panel on both the issue of breach and the issue of sanctions.</p>

Signed: **Signed electronically by Councillor W Borrett** .....

Chairman, Governance & Audit Committee, Breckland Council

Date of Decision: 23 March 2017 .....