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Statement of Reasons

Complaint ref: 11007085

Council: South Oxfordshire District Council

Date: 1 December 2011

The complaint

1. Mrs S complained that the Council failed to properly handle a complaint about her to its Standards Committee because:
 - a) It failed to consider or deal with the issue of anonymous complainants and the reasons given for them in accordance with published guidance;
 - b) Its assessment of the motivation for the complaint was flawed because easily available information was not provided to assessment panel members;
 - c) Information relating to an earlier complaint that had been dismissed was resubmitted as part of the complaint and was investigated;
 - d) It failed to provide her with the page concerning the un-named complainants on page eight of the complaint form at the outset.
2. Mrs S says she suffered as a result of the Council's actions because the actions of her colleagues were not fair in taking the complaint at face value and appeared to accept that she was capable of reprisals against other parish council members. She was distressed by receiving the two decision notices. During the nine months before the investigator found the complaint to be unfounded answer Mrs S found continuing in her role as parish councillor and as a member of the Council's standards committee untenable as the accusations were public and in the press yet she did not know who had complained against her. She says she had extra distress caused by the Council's refusal to provide the anonymous complaint page and reasons for anonymity until she had appealed the Council's refusal to provide the information in response a Freedom of Information Act request. She says she needed legal representation and dealing with the complaint cost her time and money.

The role of the Ombudsman

3. The Ombudsman's role to consider complaints of service failure and maladministration causing injustice. The Ombudsman must consider whether the council has acted reasonably in accordance with the law, its own policies and generally accepted standards of local administration. Where a council has acted with maladministration, the Ombudsman considers whether injustice has arisen, and any appropriate remedy for that injustice.

Legal and Administrative Background

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4. The Council's procedures, Standards Committee procedures for assessment and review of code of conducts complaints sets out the actions the Council's Monitoring Officer, MO, assessment panel and review panel will take when allegations about member conduct are made. The procedures make clear that Standards for England guidance and advice apply. These procedures are also reflected in the Council's guide to making a complaint about councillor conduct.
 - Paragraph 8 says that when the complainant has requested confidentiality the name of the complainant will not be disclosed (to the complainant) until such time that an assessment panel has met and decided whether to grant confidentiality.
 - Paragraph 16 indicates that new allegations (by a vexatious or persistent complainant) will be considered as they may contain a complaint that requires some action. Malicious or tit for tat complaints are unlikely to be investigated unless they raise serious matters.
 - Paragraph 22 says that in advance of a meeting the Monitoring Officer will send a report to the assessment panel containing specified details. The MO will provide further information obtained to assist the assessment which may include for example minutes of meetings and other easily obtainable documents.
 - Paragraph 23 says that the MO will limit pre-assessment enquiries so that assessment does not amount to investigation.
 - Paragraph 27 explains that the assessment committee aims to determine whether a member may have failed to comply with the code of conduct, but it makes no finding of fact.
 - Paragraph 30 says that if the assessment panel is satisfied that the code of conduct applies it must consider, amongst other things, whether the complaint appears to be malicious, relatively minor, politically motivated or a tit for tat complaint. It must also consider whether the complaint has already been investigated.
 - Paragraph 34 says that if the assessment panel refers the complaint to Standards for England and the allegation involves a parish councillor the Council will send the decision notice to the parish clerk within five working days of the panel meeting.
 - Paragraphs 47 to 51 deal with confidentiality requests by complainants. The assessment panel must consider such requests when considering the complaint. In the interests of fairness and natural justice, the subject member should know who has complained about them but confidentiality may be granted by the panel if satisfied the complainant has reasonable grounds to believe they will be at risk of harm, victimisation or harassment. The panel must also consider whether the complainant's participation would be required if the complaint were referred for investigation.
5. The Council has procedures which apply if a complaint has been referred for investigation. The MO must refer the investigation report to the Standards Committee. The Council provides the investigation report to the subject member and invites a response to the report

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and gives some options concerning the pre-hearing and hearing process. The MO considers what witnesses if any are needed, prepares a report to the standards committee setting out specific details and sends it to certain people. The hearing process is set out.

Investigation

6. As part of the investigation, I have:
- considered the complaint and the documents provided by the complainant
 - made enquiries of the Council and considered the comments and documents the Council provided
 - discussed the issues with the complainant.

Key facts

7. In 2007 the Council's standards committee appointed Mrs S as the parish council representative for South Oxfordshire. Part of the role of the standards committee is to consider complaints of breaches of the Code of Conduct by members where a Code has been adopted by the parish or district council. Another parish councillor, J, had applied for the position but was unsuccessful. In 2008 a complaint had been made about Mrs S's conduct which involved evidence of a conflict with J. This complaint was dismissed by the Standards Board (predecessor to Standards for England).

8. Mrs S emailed the MO on 25 November 2009 attaching two emails from J (about a recent complaint against her by Mrs S's stepson). Mrs S sought a meeting with the MO to discuss her concerns about them. She says she was unaware of an impending complaint by J. On 11 December 2009 Mrs S was referred to the complaint process for code of conduct complaints. Mrs S says that when she received this response she was reluctant to complain as she felt it could have been considered a tit for tat complaint. Mrs S has provided a parish council related email suggesting that complaints about councillors should only be made in relation to serious matters.

9. On 1 December 2009 Mrs S was advised by the Council that a further complaint had been made against her by J alleging breaches of the parish council Code of Conduct. The Council sent Mrs S a copy of its guide to making a complaint (about councillors) to explain the process. The MO had received this on 27 November 2009. On 15 December 2009 an assessment panel of the standards committee considered a complaint by J "and others unnamed". The complaint related to some emails Mrs S had written, her alleged harassment of Council officers and members, and her conduct at a parish council meeting in November 2009 at which she was alleged to have failed to declare interests and had to be coerced to leave the meeting.

10. The assessment panel decided an investigation was justified for various reasons and, as Mrs S was a member of the standards committee of the Council the panel considered the matter should be referred to Standards for England as a perceived conflict of interest would arise if the investigation was carried out locally. The decision notice sent

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to Standards for England stated that the complaint was not tit for tat nor was it politically motivated. It appears that Standards for England were informed about the anonymity of some of the complainants. Mrs S was notified of the Council's decision.

11. On 23 December 2009 Standards for England replied that as the complaint related to parish council business rather than Mrs S's actions as a member of the standards committee the Council could investigate the matter. Mrs S was informed on this on 12 January 2010. Mrs S says she told the Council straight away that part of the evidence against her had been included in evidence to a previous Standards Board complaint. The Council said it was not privy to the Standards Board file for that complaint and was not aware the particular email had been included.

12. On 28 January 2010 a second assessment panel of the standards committee undertook a further assessment of the complaint and sent the allegations for independent investigation. The Council has confirmed that the MO did not provide a further report. On 29 January 2010 Mrs S asked for a copy of the complaint against her and the details of the un-named complainants. She was advised to make a Freedom of Information request which she did on 4 February 2010. Mrs S was sent a copy of the complaint against her on 12 February 2010 and told what was happening, but she was not sent page 8, the page containing details of who had made the complaint and a request for anonymity of the other complainants on the grounds that this might result in reprisals by Mrs S.

13. In March 2010 Mrs S then sought a full copy of the complaint against her as she wished to establish who had made the complaint. She was initially refused and the Council suggested she could use the Freedom of Information Act. Mrs S made a Freedom of Information Act request which the Council refused citing Freedom of Information Act grounds. Mrs S explained why she considered this refusal to be wrong in her appeal. The Council conceded that she was entitled to page 8 and provided it on 7 April 2010.

14. The investigation took place with the un-named complainants remaining anonymous. Mrs S was interviewed in late May 2010 and the draft investigative report produced in June 2010. In September 2010 the standards committee accepted the investigator's report and concluded that Mrs S had not breached any part of the code of conduct. Mrs S was informed. The final decision notice referred to complainants, without the Council having established who they were. Mrs S believes that it was not simply J that complained.

15. On 11 October 2010 Mrs S wrote to the Council's head of legal and democratic services (who was also the Council's MO) with some questions. These focussed on the consideration given at the assessment stage to the fact that some alleged complainants were anonymous, what the panel knew of other complaints by and about J and her failed application for the standards committee, and whether the minutes of the parish council meeting at which Mrs S was alleged to have acted improperly had been available to the assessment panel. She also asked why the investigator had not been supplied with the anonymity request related to the complainants and the reasons for it.

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16. On 28 October 2010 the head of legal and democratic services replied that as one complainant was named she concluded it fell within the remit of the standards committee so she referred it to the assessment panel. She said that she could not amplify reasons for the assessment panel decisions, and that the panel was unaware of other circumstances surrounding J. She said that the parish council minutes were not available to panel members because this would have required a third party to be alerted to the complaint to acquire them which the Council could not have done. (Mrs S says that by the second assessment in January 2010 the clerk had been informed about the complaint.) She said the investigator had been given the full complaint document.

17. In March 2011 Mrs S complained to the chief executive:

- a) She considered the Council had wrongly failed to establish the identity of other alleged complainants (described in the complaint as other members of the parish council) that were seeking anonymity at the outset because this ignored her right to know and the need to establish if there was a real possibility of intimidation of the complainants or witnesses in accordance with the Council's guidance. Mrs S considered the lack of verification meant that the allegation that she could carry out reprisals was left "on the record" unanswered. She considered there were further possible consequences from this, namely that the investigator needed to know in order to be aware if the witnesses (parish council members) he interviewed were "hostile" in order to assess their evidence, it meant that the assessment panel had not assessed whether the anonymous complainants had acted from malice or political motivation; it could have resulted in further breaches of the Code if anonymous members had been involved in the Standards Committee reaching the final decision, and there was a lack of appreciation of the practical difficulties Mrs S would face continuing her council duties with peers that may have complained about her.
- b) She had the complainant details withheld from her wrongly and had to challenge an FOI refusal to provide the details. This caused her additional stress at a difficult time.
- c) The MO had failed to inform members of the assessment panel of an email Mrs S had sent her in November 2009 which showed J had acted in a "tit for tat" manner in making the complaint despite this being an easily available document and therefore one the panel should have seen.
- d) The MO and others in the legal department had been informed by Mrs S over a period of the personal attacks J had made about her because she was a member of the Standards Committee. Mrs S said that this information was easily available and should have been given to the assessment panel as it indicated political motivation by J.
- e) The MO should have ensured that where the complaint referred to earlier matters that had been investigated previously members of the assessment panel and the investigator were aware they could not be investigated again. Here they featured in the investigation report.

18. In May 2011 the strategic director replied on behalf of the chief executive. She considered mediation could have assisted had it been pursued. She explained that when a complaint was received officers carried out a desk exercise sufficient only to inform the assessment panel and that she did not consider it appropriate for them to have gathered further information in case they inadvertently mislead the panel. She agreed Mrs S should

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not have had to seek the complainant information through the FOI approach. She considered that even if there had been an upfront assessment of anonymity and previous history it would not have removed the need for investigation, an investigation by the Council being supported by Standards for England. She said that the assessment panel had to consider each complaint on its own merits and should not have been aware of the previous complaint against Mrs S as this could have been seen as prejudging the outcome. She considered that the investigator's approach of interviewing all members of the parish council established their position and that most supported Mrs S's version of events. She commented that the panel process could have been more supportive but as the standards committee was being abolished next year it would not be fruitful to try to improve things at this point. She concluded that the correct process had been followed.

19. In June 2011 Mrs S replied. She clarified the faults she considered had occurred in the complaint handling process and confirmed she did not find fault with the investigation itself. She said she was not treated fairly and as a result suffered distress, she found her working relationship with members and officers undermined and her ability to function properly as a parish councillor untenable.

20. On 14 July 2011 Mrs S complained to the Ombudsman as summarised at paragraph 1. She explained that if her complaint was upheld she would like the Council's standards committee to be informed of the failings in the omissions in the assessment process, the handling of the anonymity issue and the withholding of the identity and reasons. She wanted her name cleared in relation to the record that she could have been capable of reprisals. She sought a detailed public apology, compensation and costs.

21. On 3 August 2011 Mrs S gave me more details as to how she considered she had been affected. She considered that if the assessment panel had been able to consider the email evidence she submitted of tit for tat etc had seen the relevant parish council minutes and addressed the issue of anonymity she would have been satisfied a decision to proceed to an investigation was properly considered and that the investigator could get to the truth in his enquiries.

22. On 24 August 2011 the Council replied to my enquiries. The Council said of the email to the MO in November 2009 that Mrs S had been informed then that she could make a complaint regarding her concerns about J's emails if she wished. It considers that it would have been inappropriate to submit the email to the assessment panel. The Council considered that the complaint was not anonymous so did not warrant consideration as such. It said the information from 2007 may have been put to a previous complaint investigation but that was not carried out by the Council but by Standards for England. It had already apologised for failing to provide part of the complaint to Mrs S when she requested it and was willing to do so again.

23. On 6 September 2011 Mrs S commented on what the Council had said. She explained the timing of early complaint events and why she did not consider the disclosure of the other complaint events referred to in her November 2009 email would have been prejudicial to the complaint investigation. Mrs S said she agreed that it would not have

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been appropriate to disclose her email to the assessment panel but that the attached emails were appropriate as evidence of tit for tat. She considers that the response by the MO that she could use the complaint process was inappropriate as it would be likely to be considered tit for tat had she complained. She considers that the Council has not responded to her complaint that J's complaint was tit for tat and that the MO's view that it was not an anonymous complaint was unfair especially as later the standards committee referred to complainants rather than a single complainant. Mrs S said the Council should have resolved the anonymity issue before the complaint was considered further. Mrs S said she considered the MO should have checked the 2007 email with the Standards Board before the second assessment, and it was inappropriate for the investigator to reach a finding about it once he established it had been previously considered. Mrs S clarified that she was complaining about the way her complaint was assessed and Council actions during the assessment period.

24. The Council has provided further comments in response to my initial view. It says that the MO did not have easy access to the parish council minutes from November 2009 as these were not published on the parish council website until 12 February 2010. The MO could have contacted the parish clerk to obtain them but the Council considers this was inappropriate because the clerk could have been a complainant and was a potential witness in the case, so such contact could have prejudiced an investigation if one was considered necessary. It says that the email that had been included in the earlier complaint to the Standards Board was one of many issues referred to in the complaint and that it was the role of the assessment panel to decide whether in the round there was a case to answer that merited investigation. It says that on investigation the investigator highlighted that J had used this matter as an example of ongoing behaviour rather than there being a fresh investigation of the same complaint. It says that the MO discussed this approach with the investigator at draft report stage. The Council does not consider failure to provide page 8 of the complaint when Mrs S requested it to amount to administrative fault, but a matter where appeal processes appropriately led to a different conclusion about disclosure. The Council said that if I considered there remained administrative fault following its comments that it would accept the remedy proposed in full, but it was in any event happy to review procedures regarding partly anonymised complaints.

Analysis

Complaint a): Whether the Council failed to consider or deal with the issue of anonymous complainants and the reasons given for them in accordance with published guidance.

25. Mrs S considers that the assessment panel should have established whether it was justified for complainants to remain anonymised, although here J was named. The Council's view is that the complaint was not entirely anonymous in these circumstances. Certainly the Council could proceed to look at J's complaint. The purpose of knowing who complained was to establish whether it might affect a subsequent investigation. The grounds for remaining anonymous also had implications for the way others could perceive the character of Mrs S. The assessment panel was required to consider this aspect for an anonymous complaint, but it was not advised to do so by the MO and did not do so to do itself.

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26. The Council's procedures are silent as to what should happen in circumstances where un-named complainants are represented by one named complainant. The Council's MO here treated the situation as one that was not anonymous, and it seems to me that position is not utterly unreasonable in the circumstances. But in view of the potential consequences and the requirements for anonymous complaints being alleged it seems to me that an amendment to the procedures to clarify the treatment of such complaints and notification to the relevant parties would be beneficial for the future. I shall ask the Council to consider such an amendment.
27. I have considered the impact of the Council failing to establish the un-named complainants. The investigator found no faults in Mrs S's conduct and did not uphold the complaints, even though he may not have known who the un-named complainants were. (Individuals contacted may have divulged to the investigator that they were an un-named complainant.) So Mrs S had no potentially biased or unfair complaint upheld against her. Mrs S has indicated that she is not complaining about the investigation itself.
28. Mrs S has been personally affected believing others could believe her capable of intimidation etc. But the allegation was made by J not the Council, and I have seen no evidence that the Council provided a copy of it except as needed to progress the complaint.

Complaint b): that the Council's assessment of the motivation for the complaint was flawed because easily available information was not provided to assessment panel members.

29. It was a matter of professional judgement for the MO to decide whether it was appropriate to provide with her report the email of 29 November 2009 and / or its attachments and the minutes of the parish council meeting concerned. The MO thought it was not appropriate to provide the email or attachments to the assessment panel. Mrs S could have raised a complaint about the matter contained in the email in November 2009 but did not do so. The MO may have taken a different view regarding tit for tat had she done so, however the MO could not simply provide copy emails where the substance had not been verified. I do not consider her decision regarding the email or its attachments therefore unreasonable.
30. To obtain the parish council minutes would have resulted in publication of the complaint if these had been sought for the first assessment panel but as Mrs S correctly says the parish council knew of the complaint by the time the second assessment was carried out. The Council says the MO considered it inappropriate to seek the minutes specifically, and these had not been generally published at the time. Mrs S says these minutes would have shown that the meeting was not suspended and that therefore there was no requirement for her to be coerced to leave the room contrary to the complaint. I have considered the use made of the minutes and the need for interviews by the investigator subsequently. Although the MO could have provided the minutes to the second assessment panel I do not consider that

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sight of them would necessarily have prevented the need for an investigation of the issues raised about them.

Complaint c): Information relating to an earlier complaint that had been dismissed was resubmitted as part of the complaint and was investigated.

31. The email from May 2007 that J sent to support her complaint related to a complaint which had previously been considered by Standards for England in 2008 and which it had decided not to investigate. The Council says it did not have direct involvement with the 2008 preliminary investigation by Standards for England as to whether to proceed but was sent Standard's for England's decision. In these circumstances it would not be unreasonable for the MO not to inform the first assessment panel that the issues raised in the email may have been looked into previously. Before the second assessment panel Mrs S informed the MO that it had previously been considered. The MO was on notice that the email had been considered as part of a Standards Board investigation so it would have been reasonable for her to make a simple enquiry to establish this and to inform the second assessment panel, if it had been established, especially given the relatively short time frame involved. Mrs S says she could have shown the MO the email was from the earlier complaint file. However I do not consider it would have been appropriate for the MO to ask her in the circumstances. Although it would have been appropriate for the MO to have made further enquiries in relation to the email it is not possible to say whether an answer could have been easily obtained. I note what the Council says about the purpose of the assessment panel, But it remains a matter of natural justice and the Council's procedural intention that matters should not be investigated twice so the MO should have made some effort to ensure an assessment panel was not being asked to reconsider such matters.
32. It would have been reasonable to give some guidance to the investigator as to what he should do if the issue was found to have been already investigated. To do this at draft report stage was too late because a second investigation of the merits of the email had occurred whether or not J intended this.
33. The investigator appears to have established in his report that the email could have been considered previously during an investigation. He could have determined that in view of this it was inappropriate to reach a view about it. Instead he stated clearly in his conclusions that the email did not show any breach of the code of conduct by Mrs S. Whether or not the investigator acted with administrative fault in his role for the Council, Mrs S did not suffer injustice in view of the finding which was also publicised. But she did suffer for having the same issue investigated or considered for investigation twice.

Complaint d): that the Council failed to provide her with the page concerning the un-named complainants on page eight of the complaint form at the outset.

34. The Council has apologised for this and is willing to do so again. It acknowledges it should have let Mrs S have the page at the outset and not after over four months had elapsed since the complaint was made. I have considered what Mrs S said she was seeking as detailed in paragraph 20. The Council does not see this as administrative fault but a matter

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resolved through the appeal process. It is a matter of natural justice that a person is entitled to know the complaint against them and the Ombudsman has said as much in earlier decisions. For Mrs S the complaint was made more serious by the allegations as to what she was capable of contained on page 8. I do not consider the Council can say whether or not Mrs S may have been capable of reprisals. That would have been for it to consider with evidence from the un-named individuals and I do not consider it would be appropriate to ask the Council to try to establish who they were now.

35. Mrs S explained to me that she had difficulty getting legal representation initially but that this was subsequently resolved. As a member of a Council there is always a risk that complaints will be made and that time and effort will be spent resolving issues raised. Although Mrs S thinks it was possible if all she had wished had occurred at the assessment stage that the matter need not have proceeded to investigation, I agree with the Council that this seem unlikely as it would have required the assessment panel to consider that the issues were without merit. I have considered the injustice in terms of money and costs Mrs S seeks to be remedied carefully and I do not consider that these were the direct result of the Council failing to send her page 8 sooner than it did.

Response to provisional view

36. Mrs S wrote to me on 28 November 2011 in response to my provisional view. She provided some new evidence. Where appropriate I have amended the text above to take account of this. Mrs S made a number of key points. She considered:
- a) The MO's statement to her on 11 December 2009, that she could complain about J, was seriously flawed. But even if Mrs S's view is correct, which I have not investigated, Mrs S did not complain so she suffered no significant injustice as a result.
 - b) The MO failed to draft a comprehensive pre-assessment report which covered such areas as whether the complaint by J was tit for tat. But the MO's report for 15 December 2009 summarised the complaint broke it down into the areas of the code that could be breached, set out the relevant parts of the code, set out key questions for the assessment panel and the decisions it could reach, described what conditions were required for a referral to Standards for England, The MO did not provide a further report for the second assessment panel. It appears the MO's report met the requirements for the Council's procedures. It was factual and did not offer an opinion about the merits of the evidence.
 - c) The draft minutes of the parish council meeting of 9 November 2009 were available and Mrs S told the MO this in an email of 11 January 2010. Mrs S also said that the Council could have been reasonably expected to request a copy of the minutes by post from the parish clerk without divulging complaint detail. But the Council did not consider the draft minutes adequate nor such a request appropriate. Its view is not utterly unreasonable since the procedures describe the collation of easily available information and the MO could not rely on draft minutes which could be subsequently significantly changed.

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- d) That in relation to complaint b) that the Council should not be partially absolved because the investigation outcome was in her favour as she suffered before this was known. I have amended my decision for complaint b) as there was no administrative fault. Where fault arises the Ombudsman assesses injustice by considering how the Council's maladministration has altered the complainant's position. In doing this, he distinguishes between the effect on the complainant of the Council's administrative fault, and the effect on the complainant of decisions or actions the Council has taken properly. I have considered that for complaint c).
- e) That I did not address the issue that the decision notices issued by the assessment panels stated the complaints were not tit for tat, malicious or political, without giving reasons for this. But I considered these issues, describing them as J's motivation for the complaint in paragraphs 29 and 30 in terms of the evidence Mrs S considered should have been put to members. The MO's report set out the questions members had to consider which included whether the complaint was made with these motives. The assessment panel meetings are not minuted but the decision is recorded. I have seen no evidence to suggest the panel members failed to consider the information before them or that they did not reach the decision in the negative that was recorded.
- f) That the MO should have verified the emails Mrs S had sent her by talking to J about them and that the MO should have treated those emails as prima facie evidence in the same way that the emails J had attached to her formal complaint had been. But the MO did not consider it appropriate to provide to members the emails Mrs S had sent, and to verify them would have required the MO to investigate further. Council procedures do not require this. The assessment panel treats a complaint and the information supporting it at face value, as verification can be achieved through investigation.
- g) That the MO should have informed the assessment panel that the last case on the register of complaints about councillors was "S against J", as this was valid evidence of a tit for tat complaint. But Mrs S does not have a copy of the complaint register to support her view. Mrs S has also explained that in the earlier complaint, "S" was her stepson and not herself, so the MO did not omit to inform the assessment panel of a relevant complaint because the parties were different.
- h) I had provided new evidence about the parish clerk's involvement and Mrs S asked me a number of questions. These questions were as a result of my typing omission which suggested the Council had indicated the parish clerk was one of the un-named complainants. The Council did not indicate this so I have not taken Mrs S's questions further. I apologise for my omission.
- i) Mrs S made a number of comments about what the Council had said concerning the previously considered email from 2007. Mrs S provided a copy of part of her evidence to the investigator and a copy of the Standards Board decision which refers to the circumstances of the email but does not list its details. Mrs S says that her interview about it in May 2010 was distressing and preventable by the MO. I recognised Mrs S suffered for

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having the email considered again at paragraph 33 and considered this injustice when suggesting a remedy.

- j) That it was unfair she was not provided with page 8 of the complaint form until after the matter was sent to the investigator and after she had provided her written submission to the investigator. But the investigator was not investigating whether Mrs S was capable of the actions alleged on page 8.
- k) That she needed to know who the un-named complainants were in the interest of fairness. I appreciate Mrs S's view but the Council did not need to establish the names to investigate the complaint and has explained that it did not consider the complaint anonymous. My view remains that its decision not to require the un-named complainants to identify themselves was not utterly unreasonable.
- l) Mrs S questions whether the Ombudsman considers an award of damages in addition to the consideration of money and costs. Damages are awarded by the courts. The Ombudsman considers stress and anxiety caused by the Council's fault but awards for this are usually low. Although I described the financial remedy as being for Mrs S's time and trouble in bringing her complaint, I had also considered Mrs S's stress and anxiety and her justifiable outrage so I have amended the wording of the recommendation accordingly.

Final Decision

37. I conclude that:
- a) There was no administrative fault by the Council for complaint a), but I have urged the Council to clarify its procedures for the situation where un-named complainants complaint with a named complainant.
 - b) For complaint b), the parish council minutes could have been sought for the second assessment panel but the MO exercised professional judgement as to whether this was appropriate. In the circumstances this was not unreasonable or administrative fault.
 - c) For complaint c) there was administrative fault by the Council because the MO failed to make enquiries in respect of the email previously considered by the Standards Board for the second assessment panel, and the investigator was given no guidance as to what he should do should this be confirmed, before he investigated it. Mrs S suffered justifiable outrage at the breach of natural justice, although this injustice is limited because the outcome of the investigation was favourable as Mrs S expected and I have weighed the benefit of a public declaration to this effect against the effects of no investigation at all when considering her distress relating to the email.
 - d) For complaint d) the Council has already acknowledged a delay in giving the information which I consider amounted to administrative fault, and it has apologised for it. It also put right the fault once this was established. It seems to me that this is a reasonable remedy for this aspect of the complaint.

Remedy

38. To remedy the injustice, I recommended and the Council has agreed to:

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- a) Apologise to Mrs S for the shortcomings I have identified,
- b) Pay her £100 for her justifiable outrage, stress and anxiety, and her time and trouble in progressing her complaints,
- c) Review and amend its procedures where un-named complainants arise in circumstances such as these.

Mrs F Walker

On behalf of the Local Government Ombudsman