

# DRAFT

Final Report

SBE Complaint Number: 2009-10/03

## 1. **Introduction**

- 1.1 This report has been commissioned by North Lincolnshire Council's Monitoring Officer following a decision by the Standards Committee's Assessment Sub Committee.
- 1.2 The Assessment Sub Committee, in accordance with Section 57A(2) of the Local Government Act 2000 as amended, decided to refer the allegation for investigation. The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000 which now provides for 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 authority members and the requirements for dealing with them.
- 1.3 The investigation was conducted pursuant to the provisions of the above regulations. The investigator had to determine which paragraphs of the Code were relevant during the course of the investigation. However, the Sub Committee had regards to paragraphs 3(1) (Treating others with Respect), and 5 (Disrepute).
- 1.4 This is the final report and will be sent to North Lincolnshire Council's Standards Committee for consideration.
- 1.5 In preparing this report I have been assisted by my colleagues, Lesley Barley, Lynne Kiddle and Dinah Hammond who have separately taken shorthand notes of some of the interviews undertaken.

## 2. **Nature of the Allegation**

- 2.1 On 15 October 2009, Mr Brian Charlton, through his solicitors Burton and Dyson, submitted a complaint to the Standards Committee via North Lincolnshire Council's Monitoring Officer alleging that Councillor Dr Paul Shore from West Butterwick Parish Council had made unsubstantiated and untrue defamatory comments about Mr Charlton in a public meeting of West Butterwick Parish Council. The alleged comments were -

"Mr Charlton states in his letter to the parish council that allegations were made some time ago that he had been accused of lying about The Croft and we all know he is a liar anyway."

- 2.2 The complaint was duly considered by the Standard Committee's Assessment Sub Committee who decided that the alleged breaches warranted investigation.

3. **Code of Conduct**

3.1 West Butterwick Parish Council had adopted the Model Code of Conduct for local authorities under the Local Authorities (Model Code of Conduct) Order 2007 on 10 September 2007.

3.2 The Assessment Sub Committee asked the investigator to determine which paragraphs of the Code were relevant during the investigation. However, the Sub Committee had regard to the following paragraphs:

**Paragraph 3(1) A member must treat others with respect.**

**Paragraph 5 A member must not conduct himself/herself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

4. **Methodology and Interviews Undertaken**

4.1 All interviews were undertaken at Pittwood House in my presence. My colleagues Lesley Barley, Lynne Kiddle and Dinah Hammond, all of whom took shorthand notes, attended one or more of the interviews separately. Such notes were subsequently produced into a written record of the interview, which was subsequently sent to each interviewee to check and sign as a true and accurate record of their interview with us. Each interviewee was afforded the opportunity to be accompanied at the interview.

4.2 In relation to the interviews with Mr Brian Charlton and Mrs Tina Moore, Mr Steven Hardy from Burton and Dyson Solicitors accompanied the two witnesses at their separate interviews. It should be noted that Burton and Dyson Solicitors were acting for Mr Charlton who is a Director and General Manager of Axgro Foods Limited and that Burton and Dyson Solicitors act for Axgro Foods generally.

4.3 I confined my offer of interview to those persons identified as being material to the investigation. Hearsay evidence has not been relied upon.

4.4 Accordingly, I offered interviews to the following people:

(a) Mr Brian Charlton, the complainant, on 17 February, 2010  
Signed interview record received on 8 June, 2010

(b) Mrs Katy Fowler, Clerk to West Butterwick Parish Council on 18 March, 2010.  
Signed interview record received on 30 May, 2010

(c) Mrs Tina Moore on 24 March, 2010. Mrs Moore had accompanied Mr Brian Charlton to the meeting of the Parish Council on 21 September 2009.  
Signed interview record received on 28 May, 2010

(d) Parish Councillor and Chairman of the Council, Mrs Florence Harris on 29 March, 2010.

Signed interview record received on 1 June, 2010

- (e) Parish Councillor Gerald Coggon on 16 April, 2010  
Signed interview record received on 23 May, 2010
- (f) Parish Councillor Mr Alan Jones on 16 April, 2010  
Signed interview record received on 28 May, 2010
- (g) Parish Councillor Dr Paul Shore on 24 June, 2010  
Signed interview record received on 19 July, 2010

4.5 In addition to undertaking the aforementioned interviews I have also considered the following documents (copies attached) -

- Letter of Complaint received on behalf of Mr Charlton from Burton and Dyson Solicitors, together with the decision of the Assessment Sub Committee.
- Statement received from Mr Charlton about the West Butterwick Parish Council meeting of 21 September, 2009.
- Copies of emails and other correspondence submitted by Mr Charlton, including a letter dated 21 August which is the letter referred to in the allegation.
- Copies of emails and correspondence from Mrs Katy Fowler, Clerk to West Butterwick Parish Council.
- Statement from Mrs Tina Moore in relation to the West Butterwick Parish Council meeting of 21 September, 2009.
- Copy of seating plan and overhead photograph of West Butterwick showing the various locations of Axgro Foods and other buildings, submitted by Mrs Florence Harris, Chairman of West Butterwick Parish Council.
- A copy of the agenda and minutes of the meeting of West Butterwick Parish Council held on 21 September, 2009.
- Copies of various documents including emails submitted by Councillor Dr Paul Shore.

## 5. **The Evidence**

Summarised below are what are considered to be the salient points arising from each interview.

### (a) **Mr Brian Charlton - Interviewed on 17 February, 2010**

- 5.1 Mr Charlton is a Director and General Manager of Axgro Foods Ltd, a company based in West Butterwick. The company has been in existence since the late 1970's and is based at four locations in West Butterwick. In 2009 the company had submitted a planning application to use on ex farm, building (owned by Godfreys who had moved their activities) in West Street, West Butterwick for storage purposes. The site was also occupied by two other tenants, one being a potato operation and the other used for sugar beet and cold storage with drying facilities, with access for vehicles, especially heavy goods vehicles.
- 5.2 The application had prompted a number of discussion with West Butterwick Parish Council. Following the granting of planning permission the council had raised a number of issues, some of which the company felt were not valid, including trying to deal with the problem of vehicle movements/car parking in West Butterwick generally, additional building by North Lincolnshire Homes and car parking issues by residents and contractors. In May, 2009 the Parish Council had suggested the need for the council to work with Axgro Foods. At a meeting of the Parish Council held on 11 May, 2009 an item appearing under "any other business" referred to building taking place and the application submitted by Axgro Foods going through. It seemed a good idea to see if something could be done about the issue of car parking in West Street.
- 5.3 For several months of the year that area was congested with car parking, it also being noted that there were no parking facilities for staff at the school. Staff had to park where they could in addition to parents cars in the morning and evening. These often caused a high level of congestion. This had prompted Mr Charlton to write a letter and e-mail the Parish Council. He had therefore made himself available to work with the Parish Council to offer any solutions, advice or comment to develop any proposals. There also appeared to be a number of misunderstandings around at the time, one of which was that the application did not mention movement of articulated lorries in and out of the site. Mr Charlton said that these had nothing to do with his company and that they belonged to other tenants on the site.
- 5.4 Mr Charlton then referred to an e-mail dated 20 September, 2009 asking for a meeting and suggesting a discussion about these issues. The matter was subsequently discussed at a meeting of the Parish Council on 21 September, 2009. Mr Charlton had attended that meeting along with a colleague Mrs Tina Moore to offer any advice or comments. The agenda for the meeting included an item about Axgro Foods and in particular the letter and e-mail from Mr Charlton referring to a range of issues and a further suggestion of a closer working relationship to deal with these. When the item was discussed the initial proposals to agree to a meeting between the Parish Council and Axgro Foods were questioned and eventually evolved into "its up to Axgro Foods to call a public meeting to discuss any issues they and the community may have." Mr Charlton said that Councillor Dr Paul Shore played a significant part in this proposal and prior to them being formally put forward had referred to Mr Charlton by name by saying -

"Mr Charlton states in his letter to the Parish Council that allegations were made sometime ago that he had been accused of lying about the Croft, and we all know he is a liar anyway".

- 5.5 Following these comments the meeting continued as normal and with the proposal agreed that the Clerk to the Council should write to Mr Charlton stating that it was Axgro's responsibility to call a public meeting and that the company's proposal for a specific meeting with the Parish Council had not been agreed. At the conclusion of the meeting Mr Charlton said that he spoke to Councillor Dr Shore asking him for an explanation behind his outburst of calling him a liar in a public meeting. According to Mr Charlton, Councillor Dr Shore was extremely agitated and offensive and when the question was repeated said "you know" and mentioned the Croft parking referred to my letter and the minutes of the meeting of the Parish Council held on 8 June, 2009. Mr Charlton then said he was not a liar and Councillor Dr Shore became more aggressive and said "nobody points at me" Mr Charlton then said "that it was not my intention but I need an explanation". He refused and stormed out of the meeting muttering what I thought were threats whilst I again demanded an apology.
- 5.6 After he had composed himself, Mr Charlton then said to the Chairman of the Council and the Clerk that Councillor Dr Shores behaviour was totally unacceptable and he expected a full apology or he would seek legal advice to protect his good name. The Chairman Councillor Mrs Harris confirmed that she and the Clerk would take advice and confirm before Thursday (am) what they proposed. Advice was subsequently received from the East Riding and Northern Lincolnshire Local Councils Association and sent to Mr Charlton. This is referred to in an e-mail to Mr Holmes on 23 March, 2010
- 5.7 Mr Charlton had hoped to begin a constructive dialogue with the Parish Council with a view to solving the perceived problems, many of which did not directly involve Axgro Foods, although he was very willing to assist. He also said that the Parish Council had to show some leadership in dealing with the issues which were impacting on their parish. Mr Hardy, who accompanied Mr Charlton as legal adviser, also stated that the company had been criticised for not making efforts to resolve these issues, many of which were not the company's responsibility but there was a need to work together. Mr Charlton had a great desire to work with the Parish Council in the same way that he had worked with Belton Parish Council when similar problems with vehicle movement had arisen. He and the company had worked with that Parish Council in an amicable and efficient way.
- 5.8 Finally Mr Charlton referred to the meeting of the Parish Council on 21 September. He said that the Parish Council knew he was in the meeting room but had not been asked for any points of clarification and felt quite humiliated. Mr Hardy also said that subsequent to the meeting he had written to Councillor Dr Shore on behalf of Mr Charlton asking for an explanation and apology. This had been rejected. Mr Hardy also said by way of clarification that in addition to being Mr Charlton's solicitor he also acted on behalf of Axgro Foods Ltd., and was also a director of that company.

**(b) Mrs Katy Fowler**

- 5.9 Mrs Fowler was aware of the nature of the complaint and the alleged comments made by Councillor Dr Shore about Mr Charlton at the meeting of the Parish Council on the 21 September 2009. Mrs Fowler confirmed that an item had been included on the agenda of the meeting entitled "Axgro Foods" to discuss the ongoing issue about car parking and vehicle movements in West Butterwick. Initially, the Chairman of the Parish Council Councillor Mrs Harris and Councillor Holt had suggested that a public meeting should be arranged to deal with these issues. However, other Councillors were against the idea and indicated that it was up to Axgro Foods to arrange a public meeting with members of the public to discuss these ongoing issues. Councillor Dr Shore agreed with this and had put forward a proposal to that effect. Mrs Fowler also described the seating arrangements at the meeting and how she had been distracted, in her role of Clerk, by Mr Charlton and Mrs Tina Moore talking. Both of these were sat at the side of the hall.
- 5.10 In response to a question about the alleged comments made by Councillor Shore, Mrs Fowler confirmed that Councillor Dr Shore had played the significant part in the proposal that Axgro Foods should arrange a public meeting and not the Parish Council. However, she said "I did not remember hearing him say he was a liar." The main thrust of what Councillor Dr Shore had said was about the need for Axgro Foods to arrange the public meeting. She then said that at the end of the meeting there had been a confrontation between Mr Charlton and Councillor Dr Shore and that everyone was looking at them. She had been asked outside after the meeting by the Chairman of the Parish Council, Councillor Mrs Harris "what is going on." Mrs Fowler had replied that she had no idea. Mrs Tina Moore had subsequently requested a copy of the minutes of the meeting. The following morning the Chairman had contacted her and asked if she had heard what had been said. She replied that she didn't hear what was said and it was then decided that I should contact Alan Barker of the East Riding and Northern Lincolnshire Local Councillors Association, (ERNLLCA) in my capacity of Clerk to the Council by e-mail to seek advice. Following advice from ERNLLCA she had forwarded a copy of the e-mail to Mr Charlton.
- 5.11 Mrs Fowler had subsequently sent Mr Holmes a copy of the minutes of the meeting in relation to attendance and the issues discussed and reiterated that she did not hear any comments made by Councillor Dr Shore alleging that Mr Charlton was a liar.

**(c) Mrs Tina Moore - interviewed on 24 March 2010**

- 5.12 Mrs Moore had outlined her version of the events of the meeting of the Parish Council held on 21 September 2009 when the alleged remarks had made by Councillor Dr Shore about Mr Charlton. Mrs Moore had provided a written statement of recollection of the events of the meeting. A copy of the statement is attached in the appendices to the report. However, the following is quoted from the statement -

"Councillor Dr Shore then said to my amazement, whilst referring to the Croft, why should anyone take notice of Brian Charlton because we all know he is a liar anyway. Both Brian and I were horrified that he was being called a liar in a public meeting by a Parish Councillor who was clearly fully aware we were

both there to discuss and participate in what we anticipated to be an improved working relationship and this was a deliberate attempt to humiliate Brian knowing full well that he could not retaliate. I had to tell Brian to be quiet as he was so outraged at the slur on his character.

- 5.13 Mrs Moore confirmed that she had heard the comments made by Councillor Dr Shore as set out above. She also indicated that she had attended the meeting with Mr Charlton in the hope that an improved working relationship could be forged between the Parish Council and Axgro Foods to deal with some of the issues about vehicle movements and car parking in West Butterwick, not all of which were caused by Axgro Foods or its employees. She also confirmed in her statement that since this incident the attitude towards the company by the Parish Council had now become even more bitter and the council were attacking Axgro Foods on "anything and everything". Mrs Moore had also commented in her statement about the events at the end of the meeting when Mr Charlton had gone over to Councillor Dr Shore who had then turned his back on Brian and proceeded to engage in conversation with others Councillors. Eventually he had turned to Mr Charlton who had then asked him why he had called him a liar. At this Councillor Dr Shore became extremely agitated and offensive towards Brian and refused to comment. He then stormed out of the meeting to the amazement of the Chairman, Parish Clerk and other Councillors who had all looked on in horror. Mr Charlton then spoke to the Chairman and Parish Clerk and indicated that he required a full apology about the alleged comments. If an apology was not forthcoming he would seek legal advice.

**(d) Councillor Mrs Florence Harris - interviewed on 29 March 2010**

- 5.14 Mrs Harris outlined her version of the events of the 21 September 2009 when the alleged remarks were made by Councillor Dr Shore about Mr Charlton. She confirmed that she had been Chairing the meeting that night and in her interview with Mr Holmes she had given him a copy of a plan showing the seating arrangements at the meeting. She had also given Mr Holmes an aerial photograph of West Butterwick showing the locations and the layout of Axgro Foods throughout the village. She said that Mr Charlton and Mrs Moore were sat at the back of the hall and she had noticed at one point that they were whispering to each other but she could not hear what they were saying. She referred to the discussions about Axgro Foods which had been included on the agenda for the meeting, particularly in relation to who should organise a public meeting to discuss the ongoing problems with regard to vehicle movements and car parking in the village. She confirmed that she did not hear the alleged words said by Councillor Dr Shore about Mr Charlton during the course of the discussions about who should arrange the meeting. She then said that at the end of the meeting Mr Charlton had spoken initially to Councillor Jones and then afterwards to Councillor Dr Shore and that there had been raised voices. They seemed angry with each other and then Councillor Dr Shore left the building. Mr Charlton had then spoken to her and demanded an apology for whatever had been said. She then asked the Clerk to the Parish Council, Katy Fowler, if she had heard any remarks and the answer was no and she thought the matter should be referred ERNLLCA for advice.

**(e) Councillor Gerald Coggon - interviewed on 16 April 2010**

5.15 Mr Coggon had been sat during the meeting adjacent to Councillor Dr Shore. When asked about the alleged comments made by Councillor Dr Shore about Mr Charlton, Mr Coggon said that the meeting had been discussing the Axgro Foods item particularly in relation to the ongoing vehicle movements and car parking in the village and that he did not hear any such comments made by Councillor Dr Shore during the course of the discussions. He was aware that at the end of the meeting Mr Charlton and Councillor Dr Shore had had a heated discussion and that Mr Charlton was quite aggressive towards Councillor Shore. He went on to explain that there had been numerous problems within the village since Axgro Foods had come into the area particularly regarding car parking etc. Axgro Foods was a major employer in the village and as a result this had created some of these issues.

**(f) Councillor Alan Jones - interviewed on 16 April 2010**

5.16 Referring to the meeting of the Parish Council held on 21 September 2009, and the alleged remarks made by Councillor Dr Shore, Mr Jones explained his version of the events of that meeting in particular in relation to the discussions about Axgro Foods and the potential public meeting. Mr Jones was sitting next to Councillor Dr Shore during the course of the meeting.

5.17 Mr Jones said that he could not remember the exact details of what was said because it was so far back and Axgro Foods were a regular item on the agenda. However, he did not recall hearing Councillor Dr Shore say the alleged remarks. There had been some dialogue regarding Axgro Foods but he could not recall Councillor Dr Shore referring to Mr Charlton as a liar. At the end of the meeting Mr Jones had spoken to Brian Charlton in the doorway to the room before Mr Charlton went back into the meeting room. When he had been speaking to Mr Charlton at the conclusion of the meeting it had been very amicable but then Mr Charlton had gone back into the meeting room and Mr Jones indicated that he did not know what went on inside. He then stated that West Butterwick was a small village with four locations occupied by Axgro Foods. The location of the school in the village and the corner coming out of Axgro Foods did cause problems in relation to vehicle movements and car parking and there had also been other issues in relation to these in different parts of the village. This was an ongoing problem particularly because Axgro Foods was a major employer within the village.

**(g) Councillor Doctor Paul Shore - interviewed on 24 June 2010**

5.18 Councillor Dr Shore explained in his own words what happened at the meeting of West Butterwick Parish Council on 21 September 2009. He stated that, in response to a letter received from Axgro Foods demanding that something should be done by the Parish Council to address vehicle movement/car parking issues in West Butterwick, an item had been included on the agenda for the meeting entitled "Axgro Foods". He was the last person to arrive at the meeting and he explained the seating arrangements. He said that he did not know Mr Charlton and Mrs Moore were in the meeting room as he did not know them and therefore could not identify them. There had been an ongoing discussion about this issue and he had proposed that the Parish Council did not get involved in organising a meeting with Axgro Foods. He stated that he was against the idea of the Parish Council organising the meeting and indicated

that it was up to Axgro Foods to arrange a meeting with members of the public.

- 5.19 At the end of the meeting Councillor Dr Shore indicated that he had been talking to Councillor Coggon when he was confronted by Mr Charlton. Mr Charlton was agitated and aggressive towards me and asked why I said "he was not telling the truth". Mr Charlton said to me "are you referring to the Croft", to which I replied "yes". At that point I suggested to Mr Charlton that if he had any other questions they should be addressed to the Clerk and I would respond in due course. I then left the meeting. As a consequence of Mr Charlton's threatening behaviour towards him, the following morning he had contacted the police regarding that behaviour. The police had advised him that it was a first incident and he needed to keep calm but if it continued they would look into it. I had therefore taken no further action or had meetings with Mr Charlton or Tina Moore. A letter had then been received by the Parish Council from Mr Hardy, Mr Charlton's solicitor. Councillor Dr Shore stated that he did not agree with the contents of that letter.
- 5.20 In referring to Mr Charlton's complaint and the alleged comments he had made about Mr Charlton, Councillor Dr Shore confirmed that he had played a significant part in the proposal that Axgro Foods should organise a public meeting. He also stated that at no point in his response in the meeting did he refer to the Croft and he categorically denied saying the words that he was alleged to have said about Mr Charlton being a liar. However, he did say that because of the many issues involving Axgro Foods in West Butterwick over the years he had referred to inconsistent statements and comments from that company. For example he referred to the minutes of previous meetings of the Parish Council when it was stated that Mr Charlton had claimed Axgro Foods had used the Croft for over thirty years, but minute 41/09 of the June meeting indicated that Mr Charlton at that stage had stated that they had been using that car park for only twelve years. These clearly showed inconsistencies. Councillor Dr Shore also stated that parking in West Butterwick was an ongoing problem and had been for many years. In response to a question from Mr Holmes about whether it was possible that Mr Charlton had misheard something that Councillor Dr Shore had said, Councillor Dr Shore replied that he did not think so "no, he just misinterpreted what I said and got very aggressive at the end. No way did I call Mr Charlton a liar and I did not mention the Croft". Councillor Dr Shore also stated that he was a professional person, a magistrate and under no circumstances would he call anyone a liar particularly in a public forum.

## 6. **Findings in relation to this matter**

- 6.1 Axgro Foods currently have a very strong presence in West Butterwick. They use four locations within the village for their various operations. They are clearly a significant employer within the area.
- 6.2 It is clear from the interviews with the complainant Mr Brian Charlton, Councillor Dr Paul Shore and the other witnesses that there have been, and continue to be, ongoing problems within the village in relation to car parking and vehicle movements. Not all of these can be attributed to Axgro Foods and are indeed compounded by the lack of car parking at the school, parking issues

in relation to the Croft - a residential area mainly comprising of bungalows and other general car parking and vehicular issues. There have been attempts over many years to deal with these issues including involving the local Member of Parliament.

- 6.3 As a result of correspondence between Mr Charlton and the Parish Council an item had been included on the agenda for the meeting of West Butterwick Parish Council on 21 September 2009 entitled "Axgro Foods". During the course of the discussion on that item there had been various suggestions about who should organise a public meeting to try and deal with the various problems referred to above. As is normal in discussions of this nature different points of view emerged but eventually the Parish Council agreed that Axgro Foods should arrange a public meeting to discuss the issues.
- 6.4 At the conclusion of the meeting there had then been a heated discussion between the complainant Mr Brian Charlton and Councillor Dr Shore who had been instrumental in proposing that the arrangements for a meeting should be made by Axgro Foods. The heated discussion was over alleged remarks or comments made by Councillor Dr Shore during the debate which Mr Charlton felt were defamatory and a slur on his character. Both Mr Charlton and Councillor Dr Shore were upset and stressed by this heated discussion and this had prompted Mr Charlton to ultimately make a complaint to the Standards Committee about the alleged comments made by Councillor Dr Shore. This had also prompted Councillor Dr Shore to contact the local police about Mr Charlton's behaviour.
- 6.5 There is clearly a difference of opinion about what was allegedly said by either party. Mr Charlton and a witness who had attended the meeting with him - Mrs Tina Moore were clear that the alleged remarks were made by Councillor Dr Shore during the meeting.
- 6.6 Councillor Dr Shore is equally clear that he made no such remarks but did in fact refer to inconsistencies in some of the statements and comments made by Axgro Foods over the years. In particular he referred to the claim that the company had used the Croft for car parking for thirty years, whereas minute 41/09 of the Parish Council referred to Mr Charlton indicating its use for only 12 years.
- 6.7 The Clerk to the Parish Council, the Chairman of the Parish Council and two other members of the Council who were sat next to Councillor Dr Shore did not hear the alleged remarks and all were very clear in that respect. However, none of these referred to the comments which Councillor Dr Shore says he made about inconsistencies in statements and comments made previously by Axgro Foods.
- 6.8 I have obtained a copy of the minutes of the meeting of the Parish Council held on 21 September 2009. Minute 67/09 deals with the item on Axgro Foods, describes the debate that took place and its conclusion which was that a public meeting should be arranged by Axgro Foods. It does not however mention any alleged remarks made by Councillor Dr Shore about Mr Charlton.
- 6.9 There is also reference in an e-mail from Katy Fowler, the Clerk to the Parish Council to the East Riding and Northern Lincolnshire Local Council

Association (ERNLLCA) dated 23 September 2009 that Councillor Dr Shore did not know who Mr Charlton was. In his interview Councillor Dr Shore had confirmed that he did not know that Mr Charlton and Mrs Moore were at the meeting because he did not know them and could not therefore identify them. Also the Chairman of the Parish Council, Councillor Harris was under the impression that the alleged statement was made after the meeting. However, Mr Charlton is clear that the alleged statement was made during the course of the meeting in the debate on A Agro Foods.

6.10 I have considered very carefully the respective accounts given by Mr Charlton and Councillor Dr Shore of the events of the evening of 21 September 2009. Both were clear and unequivocal in their respective recollections. Equally clear were Mrs Tina Moore, Councillors Harris, Coggon and Jones and Katy Fowler, the Clerk.

6.11 Paragraph 1 of the Code of Conduct applies a threshold which has to be met in order for there to be additional breaches of the Code, it states that -

A member must observe the authority's Code of Conduct whenever he/she -

- a) Conducts the business of the authority.
- b) Conducts the business of the office to which he has been elected or appointed; or
- c) Acts as a representative of the authority.

and references to a member's official capacity shall be construed accordingly.

I am satisfied that at all times, Councillor Dr Shore was acting in his capacity as a Councillor of West Butterwick Parish Council.

Mr Charlton however, maintains in his complaint that by making the alleged comments Councillor Dr Shore had brought his office as Parish Councillor into disrepute as a result of these. The assessment sub committee also directed the investigator to paragraph 3 (1) of the Code which refers to a member treating others with respect.

6.12 I am content that the meeting of the Parish Council held on 21 September 2009 was conducted in a normal manner with the usual cut and thrust of debate/discussion especially in relation to the item on A Agro Foods. However, for me to be able to conclude or otherwise that Councillor Dr Shore had breached Paragraphs 3(1) and 5 of the Code, I would need to be satisfied that the alleged remarks had indeed been made. If that was the case, I would then be able to assess the matter in the light of the knowledge that Councillor Dr Shore had made remarks that were inappropriate in a public forum and thus come to some conclusion on whether or not the Code had been breached in relation to the paragraphs referred to above.

6.13 However, the uncertainty about what was allegedly said by those who were sat nearest to Councillor Dr Shore, and by the complainant and Tina Moore who

were sat furthest away, leads me to conclude that too much doubt exists to be able to come to a definite conclusion about what was said. My findings point to a situation where there is a clear diversion of views about what was or was not said at the meeting in relation to Axxgro Foods and Mr Brian Charlton. The minutes of the meeting do not provide any clarity about the matter other than that the conclusion of the debate was that Axxgro Foods should arrange a public meeting.

- 6.14 Too much doubt exists about the alleged remarks. On this basis I cannot find that Councillor Dr Shore has breached the Code of Conduct either in relation to paragraph 3 (1) or 5.

7. **Conclusion**

- 7.1 Based on the information set out above, and particularly because of the doubts about the alleged remarks I have determined that Councillor Dr Shore has not breached paragraphs 3(1) or 5 of the Code of Conduct.

8. **Recommendations**

- 8.1 In light of the above, I can only recommend that no further action be taken in relation to this matter.

Mel Holmes  
Investigating Officer  
Legal and Democratic Services  
August 2010