



Date: Friday, 20 November 2015

Time: 9.30 am

Venue: Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire,  
SY2 6ND

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## **STANDARDS SUB-COMMITTEE**

### **TO FOLLOW REPORT (S)**

#### **7 Code of Conduct Complaint**

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Committee and date  
Standards Sub-Committee

20 November 2015

Item

7

Exempt

NOT FOR PUBLICATION BY VIRTUE OF CATEGORIES 1, 2 AND 3 OF PART 1 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972

## CODE OF CONDUCT COMPLAINT – COUNCILLOR BARROW

**Responsible Officer** Claire Porter

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### 1. Summary

- 1.1 A complaint received from Councillor Dave Tremellen which alleged that Councillor Keith Barrow failed to comply with the code of conduct of Shropshire Council was referred, at its meeting held on 30 July 2015, by the Standards Sub Committee for an investigation.
- 1.2 The Monitoring Officer did not consider that it was appropriate to carry out the investigation internally and appointed Olwen Dutton to undertake the investigation.
- 1.3 The investigation by Mrs Dutton is now complete and her report concludes that, by failing to disclose at a meeting of the Board of directors of IP&E Ltd that a director of a company who were to be considered to undertake the audit and accountancy function on behalf of IP&E Ltd, was known to him and that they had mutual business interests, Councillor Barrow failed to comply with the Code of Conduct of Shropshire Council.
- 1.4 Councillor Barrow accepts the findings and agrees that, with hindsight, he should have formally declared his interest. He has agreed to undertake training and to issue a formal apology to the Council.

### 2. Recommendation

- 2.1 That, subject to Councillor Barrow making an apology and undertaking training on his responsibilities under the code of conduct, there be no further action in relation to the finding by the Investigating Officer that, by failing to disclose at a meeting of the Board of directors of IP&E Ltd that a director of a company which was to be considered to undertake the audit and accountancy function on behalf of IP&E Ltd, was known to him and that they had mutual business interests, Councillor Barrow failed to comply with the code of conduct of Shropshire Council.

## REPORT

### 3. Risk Assessment and Opportunities Appraisal

- 3.1 The Localism Act 2011 places a requirement on Local Authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. Failure to resolve the complaint appropriately risks damaging the reputation of the authority.

### 4. Financial Implications

- 4.1 In the event that further action is considered appropriate, costs may involve officer time and /or the costs of arranging a further hearing.

### 5 Background

- 5.1 It was alleged by Councillor Dave Tremellen that Councillor Keith Barrow failed to comply with the code of conduct of Shropshire Council.
- 5.2 The Standards Sub Committee, at its meeting held on 30 July 2015, referred the allegation to the Monitoring Officer for an Investigation. The Monitoring Officer engaged the services of Olwen Dutton to carry out the investigation.
- 5.3 After carrying out her Investigation, Mrs Dutton concluded that Councillor Barrow had failed to comply with the Code of Conduct of Shropshire Council. Her report and appendices are attached.
- 5.4 As required by the legislation, the Monitoring Officer has consulted with the independent Person and, in accordance with the arrangements adopted by Shropshire Council to deal with allegations of a failure to comply with the code of conduct, considers that the matter can reasonably be resolved without the need for a formal hearing. The Independent Person agreed with the proposals of the Monitoring Officer to request that Councillor Barrow issue a formal apology and undertake training on his responsibilities under the code of conduct.
- 5.5 The Complainant, Councillor Tremellen, considers that an apology and a commitment to undertake training on the code of conduct represents a reasonable outcome.
- 5.6 Councillor Barrow has agreed to undertake training provided by the Monitoring Officer and to issue the following apology:

**“Councillor Keith Barrow apologises to the Council for failing to formally declare a conflict of interest when making a decision at ip&e Ltd.**

An investigation into an allegation about the conduct of Councillor Keith Barrow has concluded that he failed to comply with the code of conduct of Shropshire Council by failing to formally disclose a conflict of interest at meetings of the Board of ip&e Ltd.

Councillor Barrow apologises to the Council for failing to disclose at those Board meetings his personal and business relationship with a director of the company eventually appointed as accountants and auditors of ip&e ltd. Councillor Barrow accepts with hindsight that he should have formally disclosed the nature and extent of his interest at the meetings and confirms that he will attend training to make sure he is fully aware of his responsibilities on such matters under the Council's Code of Conduct and to ensure such oversight is avoided in the future.

Councillor Barrow would also like to add that he has resigned from his position as Director of ip&e ltd in order prevent any future risk of such conflicts of interests arising and because it is the right time for the appointment of a Chairman independent of the Council.”

5.7 The options available to the Sub Committee are as follows:

5.7.1 Accept the findings of the report and the recommendations (following consultation with the Independent Person) of the Monitoring Officer that it is appropriate to resolve the matter informally in the manner proposed.

5.7.2 refer the findings in the report for a formal hearing.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Localism Act 2011

Arrangements for dealing with Standards Allegations under the Localism Act 2011

Shropshire Council Code of Conduct

Investigation Report

**Cabinet Member (Portfolio Holder)**

N/A

**Local Member**

N/A

**Appendices**

Attached

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**Shropshire Council**

**Report on behalf of the Monitoring Officer in respect of an alleged breach of the Code of  
Conduct of Shropshire Council  
by Councillor Keith Barrow**

## 1 EXECUTIVE SUMMARY

- 1.1 This matter concerns a complaint under the Code of Conduct (brought in by the Localism Act 2011) made by Cllr David Tremellen against Cllr Keith Barrow. The complaint makes an allegation that, as a non-executive director of ip&e Cllr Barrow was involved in the appointment of a company as auditors to ip&e with whom he was known to have had a previous professional and personal relationship and which appointment raised public disquiet and questions about the prudent administration of ip&e.
- 1.2 A copy of the complaint which applied at the time is attached to this report. It highlights alleged breaches of the Council's Code of Conduct and, whilst it does not state specifically in the complaint which paragraph of the Code of Conduct the complaint relates to, it seems to me, after consideration, that this relates to the following paragraphs of the 2012 Code
- 1.3 INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
- and
- HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest;
- and
- LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.
- 1.4 I note that the Council's Code of Conduct changed between 2012 and the present. As the relevant events surrounding the complaint took place before the date it changed in 2014, I have considered the 2012 Code as being applicable.
- 1.5 The complaint was considered by the Council's Standards Sub-Committee on 30 July 2015 which referred the matter to the Monitoring Officer for investigation. The Monitoring Officer recommended that it went for external investigation. I was subsequently appointed and began my investigation immediately.



## **2 THE BACKGROUND TO THIS MATTER**

- 2.1 These allegations focus on the role of Cllr Barrow as a non-executive director of ip&e which is a wholly owned company of Shropshire Council. As the details below set out, one of Cllr Barrow's roles, as a member of the board of ip&e was to be involved in the decision to appoint auditors to the company. The auditors appointed to ip&e were a local firm: DRE & Co. The concern which led to the complaint arises from the fact that one of the directors of DRE & Co is a shareholder and director of a private limited company, Peakfast Limited, and Cllr Barrow is also a shareholder of this firm and so there is a relationship between Cllr Barrow and DRE & Co. The details of this are set out further on in this report.

## **3 MY CONCLUSIONS**

- 3.1 The first point that I had to consider in this matter is whether or not the Code of Conduct applies. Since the implementation of the Localism Act 2011 the code only applies when a member "is acting in the capacity of a member". In this situation, I consider that Cllr Barrow was acting in the capacity of a member, even though the complaint relates to his role with ip&e, as he is on the board of ip&e by reason of nomination by the Council and ip&e is a wholly Council-owned company. I therefore find that the Act does apply and that therefore the Code of Conduct applies to Cllr Barrow in this case.
- 3.2 I also make the following finding that Cllr Barrow offended against the principles of Integrity, Honesty and Leadership set out in the Council's Code of Conduct at the time by failing to formally declare his relationship with DRE & Co when they were appointed as auditors to ip&e.
- 3.3 I find that Cllr Barrow offended against the Code of Conduct by failing to formally declare his relationship with DRE & Co.
- 3.4 In the course of this investigation I have interviewed the following:
- (a) Cllr Keith Barrow, the Cllr complained of, who is Leader of Shropshire Council;
  - (b) Cllr David Tremellen, Independent (non-aligned) Cllr;
  - (c) Nicky Beardmore, Director of Resources and Support with Shropshire Council, and Chief Operations Officer with ip&e;
  - (d) James Walton, Section 151 Officer with Shropshire Council;
  - (e) Mr Len Evans.

I have also had the opportunity to speak to Tom Roehricht, the former Managing Director of ip&e Limited.

Following the publication of report Cllr Barrow instructed Solicitors who then provided further evidence and comments to me which I have taken into account in finalising my report and my findings. Where I considered it relevant, the further evidence supplied is contained within the appendices and is referred to below. I also received comments on my draft report from the complainant, Cllr Tremellen, and on a factual basis from the Council's Monitoring Officer. I have considered these comments and amended my report where I think it is appropriate to do so.

3.5 I am most grateful to all those concerned for the generosity of their time and also kind cooperation with my investigation which has been very much appreciated.

#### **4 THE BACKGROUND TO THE COMPLAINT.**

4.1 In the summer of 2012 Shropshire Council decided to set up a company, ip&e which would act "as an umbrella vehicle for a range of new service provision" (Cabinet report 6 June 2012 which also contained an appendix concerning the governance arrangements which would apply to the Company including the importance of directors declaring interests in a proposed transaction or relationship with the company). The company was set up shortly after this meeting, and the normal administration events which are necessary when a company is set up began. The first directors of the company were Cllr Barrow, Nicky Beardmore, Cllr Anne Hartley (the Council's then Deputy Leader) and Michael Hyatt (the Council's Head of Strategy). The board had a meeting on 23 August 2012. (The minutes of this meeting are included in the complaint report attached at Appendix 1 which was considered by the Council's Standards Sub Committee on 30<sup>th</sup> July.2015). The first item on the agenda was the "appointment of official auditors" where the minutes read "following discussion it was unanimously agreed to obtain three quotes for official auditors from: [REDACTED] [REDACTED] and DRE & Co. The note under this says "NB (Nicky Beardmore) to action". It appears that Cllr Barrow mentioned at this meeting that DRE & Co were his accountants.

4.2 Subsequently, the company decided to appoint a managing director, and Tom Roehricht was appointed. At a meeting of the board of directors on 10 December 2012, the question of the auditors was again considered. The minutes say:

"NB referred to the requirement for auditors to be appointed as soon as possible.  
TR (Tom Roehricht) undertook to appoint an auditor and will contact the following

accountants to discuss auditor services for ip&e: [REDACTED], [REDACTED] and DRE & Co (Tony Mathews).

(TR is then to report back to the board regarding auditors on 10.1.12 so that a final decision can be made to appoint auditors. KB suggested that TR also discusses his findings with J Walton)."

4.3 This was next discussed at a meeting of the board of directors on 30 January 2013 when. Keith Barrow chaired the meeting. Five Board members were present.

4.4 The minutes of the meeting state as follows:

"3. Auditors report

3.1. TR presented a report following meetings with 4 different companies to discuss the potential of providing both audit and accountancy functions for ip&e.

3.2 Based on discussions and the criteria which were set, the report recommended the appointment of DRE & Co.

3.3 The board unanimously agreed to appoint DRE & Co as auditors and accountants for ip&e".

4.5 It should be noted that at none of these meetings was there any formal recording of whether or not members had any interests to declare.

4.6 From the evidence produced to me it appears to be the case that there is an amount of disquiet and concern amongst a (vocal but probably relatively small in relation to the population of Shropshire) number of Shropshire residents about the activities of ip&e. Some members of the Council are also concerned, and the complainant, Cllr Tremellen published an article and a letter in the Shropshire Star referring to his concerns about ip&e. He was subsequently contacted by Mr Len Evans, who provided him with some views about ip&e, Cllr Barrow and a company, Peakfast Limited.

4.7 The allegation which came from this, which ultimately led to the complaint I was asked to investigate, was that Cllr Barrow and one of the directors of DRE & Co were linked due to a personal relationship, and from that the suspicion that DRE & Co were the accountants appointed by means of the influence of Cllr Barrow. One, both Cllr Barrow and Tony Matthews, a director of DRE & Co were also shareholders and directors of the company

Peakfast Ltd. It was these circumstances that surrounded the complaint made by Cllr Tremellen which I have investigated.

## **5 EVIDENCE OF CLLR BARROW**

- 5.1 Cllr Barrow was interviewed at the Shire Hall, Shrewsbury on 12 August, 2015 and then via telephone on 3 September. Statements from both of those interviews are included in the Appendices. Cllr Barrow also clarified a couple of additional points which I refer to below.
- 5.2 Cllr Barrow is the leader of Shropshire Council and has been leader since the change to unitary status happened in 2009. Whilst he confirmed that he was aware of the Council's Code of Conduct, he does not recall being specifically trained on Code of Conduct matters although he is aware of the process that occurs when a complaint is made. Cllr Barrow explained the reason behind the setting up of ip&e which was to provide income generation from profit for the Council and free it up to operate in a different way. Cllr Barrow referred to the "transformational process" that the Council had to go through due to huge funding reductions.
- 5.3 He is a director of ip&e and chairs the ip&e board. Cllr Barrow is aware of the concern from a "small number of the public, who are concerned that ip&e is about secrecy and will lead to the privatisation of Council services" but he was adamant that this was not the reason for the setting up of the company. Cllr Barrow referred to the manifesto produced by Shropshire Conservatives for the Shropshire Council elections in May 2013 in which ip&e featured strongly. The manifesto made it clear that "profits generated by ip&e selling its services – not only to the Council but to other organisations – will be put back into the Council so that we can continue to provide high quality public services... it will always be owned by you, the people of Shropshire".
- 5.4 So far as the appointment of the auditors was concerned, Cllr Barrow referred to the meeting of the board of directors on 23 November 2012 (it was 10<sup>th</sup> December 2012 but this is no issue to my mind) which he chaired. He was adamant that he had no specific involvement with the company's auditors and accountants but the ethos of ip&e was about using local firms. By then Tom Roehricht had been appointed as managing director and as he was not from the area and so did not know the local situation a number of names were suggested by the board, including DRE & Co.
- 5.5 Cllr Barrow was open with me about the fact that he did have a personal/business relationship with Tony Matthews of DRE & Co. He explained that this had never been a close relationship, and had arisen because he and Tony Matthews had children at the

same school some years ago and so this led to them socialising. DRE & Co were also Cllr Barrow's accountants, although he emphasised that since he had sold his business some time ago the only thing he needed their services for was to complete his tax returns which were done by a junior member of the firm.

- 5.6 Cllr Barrow also appointed out that his interest in Peakfast Ltd is noted on his register of interests. He agrees however that when the appointment of the auditors was considered by the board, he did not declare any interest insofar as the appointment of DRE & Co or the other potential firms was concerned. Cllr Barrow accepts that he should, with the benefit of hindsight have declared an interest, but told me that he was unsure whether to declare interests or not as the item "declaration of interests" did not appear on the agenda as it does at a Council meeting.
- 5.7 Cllr Barrow was adamant that "any suggestion that I did anything to influence the selection of DRE & Co as the company's auditors is completely untrue". He pointed out that he has had little contact with DRE & Co through the ip&e board other than in the normal course of their work with the company and says that so far as the appointment was concerned the board were relying purely on the expertise of Tom Roehricht as the then Managing Director.
- 5.8 Cllr Barrow is also clear that Peakfast Ltd was a company which was set up to hold a ransom strip, which was its only purpose. The fact that the land was a ransom strip could mean that a future developer of adjacent land would require access through the ransom strip; which would enable the owners of the ransom strip to make a profit out of their land. In the case of Peakfast the ransom strip involved a piece of land which was a "ransom strip" to other land which had the potential for planning permission when the company was set up, although Cllr Barrow indicated very strongly that he originally felt that the land would be unlikely to have been developed "in his lifetime".
- 5.9 Cllr Barrow explained that due to changes in planning law and the need for councils to have a five year supply of housing land a number of sites came forward which previously would not have been expected to get planning permission for some time. This included the land adjacent to the Peakfast ransom strip which was the subject of a planning application for housing in 2013 which brought into focus the ransom strip when the matter reached the Council's Planning Committee in March 2015.
- 5.10 Cllr Barrow stated that he had never had a close relationship with Tony Matthews, other than as described above and that he has little contact with him now. In answer to further questions from me he maintained that he has not discussed, "so far as he can recall", the

value of the ransom strip with [REDACTED] another director of Peakfast and says that he has left the issue of valuation of the land with the others involved although he agrees that he "has been copied into emails so may have been party to some exchanges". Other than that there has been little face to face contact or discussion. Equally, the board of Peakfast have held no regular meetings but occasionally "emails have been exchanged".

## **6 EVIDENCE OF CLLR DAVID TREMELLEN**

- 6.1 Cllr Tremellen was interviewed at the Severn Centre, Highley on 17 August. He explained to me that he is a "non-aligned independent" as he was elected to the Council as an independent member in May 2013 but "declared for UKIP" in January 2014. He was keen to emphasise to me that his complaint had nothing to do with party politics.
- 6.2 Cllr Tremellen explained that whilst he "had had some sympathy" for the situation that Cllr Barrow was in, he felt that setting up "Teckal" companies were problematic and he felt things were happening too fast at Shropshire Council and without the full consequences being considered. His concern was that "the public perception of a lack of transparency in the establishment of ip&e and subsequent actions by its directors is what contributes to the lack of public confidence that the affairs of Shropshire taxpayers, and the investment made on their behalf in ip&e are being effectively managed by an executive Council appearing to hide behind 'commercial confidentiality'." Cllr Tremellen referred to "a lot of anger" amongst both Opposition and Conservative members at the speed at which events have taken place.
- 6.3 Cllr Tremellen advised me that the Code of Conduct complaint he made arose from a question that he had submitted on 7 July to the full Council meeting which had been framed as follows:

"given the extent of public disquiet, surrounding the creation of ip&e would Council agree that, purely in the interest of probity the appointment of auditors for ip&e should have been on the basis of competitive tender from companies throughout the county, rather than on the basis of what could be unfairly interpreted as a longstanding personal and professional relationship with the director of ip&e?".

He explained that when this had been submitted the Council's Head of Legal and Democratic Services had asked him if he would consider submitting it as a formal Code of Conduct complaint to "Protect the reputation of the Council", although the Monitoring Officer clarified that the advice that was given to Cllr Tremellen was that his question was not appropriate for Council as it suggested some sort of impropriety which may have

required some action and that to raise the matter so publically at Council might lead to any subsequent investigation (should a complaint be received) being compromised. At that stage, it was not known if his allegation referred to a member or an officer director as this was not clear from his proposed question and he was advised that the correct route for making allegations about officers was by writing to the Chief Executive and about members generally was through the code of conduct. A complaint was subsequently, considered by the Council's Standards Sub-committee ( the report is in the appendix to this report) and sent for investigation.

- 6.4 Cllr Tremellen explained that he asked the question because on 1 July 2015 he had submitted a letter to the Shropshire Star expressing his concerns around ip&e. He was subsequently contacted by Mr Len Evans who claimed to have "evidence that cast doubt on the soundness of ip&e's governance". Cllr Tremellen spoke to Mr Evans who produced some evidence so show a professional relationship between DRE & Co and Cllr Barrow. Cllr Tremellen went on to explain that he felt that putting this question would contribute to transparency and openness because it would mean that the Council and the general public would learn what had happened in the process of appointing DRE & Co as auditors and how the question of compliance with ethical standards had been met.

## **7 EVIDENCE OF MR LEN EVANS**

- 7.1 Mr Evans was interviewed at the Severn Centre, Highley on 17 August. He was accompanied by his wife. Mr Evans explained that he had seen some articles relating expressing concerns about ip&e and he had contacted some Cllrs about this. He contacted Cllr Tremellen after he saw his article in the Shropshire Star and discussed the matter with Cllr Tremellen. Mr Evans said that he knew that Tony Matthews and Cllr Barrow were close friends as DRE & Co were Keith Barrow's personal accountants and that they were also both directors of a company called Peakfast Ltd. However Mr Evans also told me that he had probably not seen Cllr Barrow and Tony Matthews together "for about twenty years or so" and he "did not" know if the Peakfast company is still in existence. He also said "I don't know what process was gone through before DRE & Co were appointed as auditors of ip&e and I don't know why they were chosen".

## **8 EVIDENCE OF NICKY BEARDMORE**

- 8.1 When I interviewed Cllr Barrow I asked him for the names of anyone he would suggest that it might be useful for me to interview and he suggested Nicky Beardmore.

- 8.2 Nicky Beardmore is the Director of Resources and Support at Shropshire Council. Since December 2014 she has been seconded on a full time basis to ip&e as the acting Chief Operations Officer of the company. She was one of the original directors of the company and knew that one of the first things a company had to consider was the appointment of auditors. Nicky raised this at the board meeting on 23 August and was asked to contact certain companies, [REDACTED]; [REDACTED] and DRE & Co and obtain quotes. Nicky could not remember why these firms were put forward but referred to the fact that one of the reasons ip&e was set up was to support local businesses and so the board would have been looking for locally based firms with a geographical spread across the County to choose from. She said that she could not remember who suggested DRE & Co as it was a "broad conversation by everyone in the room" and said that "the discussion was open and fairly carried out". She also said "I am very clear that there is no exertion of influence or pressure carried out by anyone in attendance".
- 8.3 Although the minutes refer to "NB to action" the appointment of auditors, Nicky did not in the end do this, as the new Managing Director, Tom Roehricht was about to come in to post and she felt it was more appropriate for him to deal with the selection. The appointment of auditors was next discussed by the Board at their meeting on 10 December 2012 by which time Tom Roehricht had joined as the MD. Nicky said "again we had a wide discussion, with a focus on the need to appoint a local firm who would work with the values of ip&e etc. Three firms were listed at the end of the discussion but Tom could have gone to anyone he wanted to". Nicky recalled Cllr Barrow suggesting that Tom have a discussion with the Council's section 151 officer, James Walton.
- 8.4 At the ip&e board meeting on 30 January Tom Roehricht presented a written report to the board detailing the discussions/interviews he had had with the four firms listed, detailing the criteria he had considered and making a clear recommendation to appoint DRE & Co. It was a report produced independently by Tom.
- 8.5 Nicky said that she believed that Keith Barrow must have declared an interest and she refers to Tom mentioning it in passing in a discussion at some point and said that she felt that Tom must not have seen this as a problem and did not raise it as an issue. She also said that she had felt that it was not a big relationship "as that would have rung alarm bells with me". Nicky emphasised that the procurement of the auditors was very firmly led by Tom and his recommendations were agreed by the board. She said "at no point at all did Cllr Keith Barrow put any pressure on the Board whatsoever, and as far as I am concerned the procurement of accountants and auditors was carried out by Tom Roehricht as MD and conducted as it should be".



## **9 EVIDENCE OF JAMES WALTON**

9.1 James was interviewed by telephone on Tuesday 8 September 2015. He explained that he did not have a direct role with ip&e as his role as the Councils Section 151 officer has always had to be on the Council side. So far as the appointment of auditors were concerned he said that this was a matter for the company and the then managing director and he did not recall discussing the appointment with Tom, either in relation to the firms that the company might consider or what his findings about the shortlist of firms were.

9.2 I also spoke to Tom Roehricht. Tom recalled that at the meeting of the board of directors on 10 December 2012 he asked the board to provide him with the names of local accountancy firms for him to contact as he was not local to the area. He believed that Keith Barrow made a couple of suggestions, one of which was DRE & Co and he also saw ██████████ "at James Walton's suggestion". He was quite clear that it was he who invited the short listed firms for interview and to present to him and that it was he who reported back to the board recommending that DRE & Co be appointed as auditors as it seemed to him they could best provide what the company needed. He told me that of the two firms he felt would do the job required, his recommendation was to go with DRE & Co because one of his remits was to build business in Shropshire and they were a Shropshire-based firm. Tom had no recollection as to whether or not Cllr Barrow said that DRE & Co were his accountants but was clear that there was no pressure put on him at any time by anyone to recommend the company choose DRE & Co as their auditors.

## **10 THE ADDITIONAL EVIDENCE PROVIDED ON BEHALF OF CLLR BARROW**

10.1 This was received by me on the afternoon of 9<sup>th</sup> October (an extension to the deadline having been agreed). I have considered this carefully, and am once again grateful to those involved to providing evidence. I considered particularly whether I would need to interview myself the persons who had provided the statements but decided after consideration that given their content and the nature of my investigation it was not necessary for me to do so.

10.2 The statements it contained are included within the appendix. I have removed two items from what was provided to me. One was an email from Owen Patterson MP which I have removed because it appeared to me that it contained personal information about an individual which was not relevant to my investigation; and I also removed copies of minutes of a meeting of ip&e as these were already appended to the report of the Standards Sub-Committee.

- 10.3 The additional evidence of Cllr Barrow states that he did state at the meetings of ip&e on 23 August 2012 and 10 December 2012 that he knew Tony Mathews of DRE & Co and that they did his tax return which he mentioned "in passing when names of local accountants were being discussed". He also states that the meetings at that point were "very informal and therefore it did not occur to [me] to formally declare this interest".
- 10.4 Tim Smith's evidence relates to the appointment of DRE & Co to be auditors to ip&e (Trading) Ltd, which is a sister company to ip&e Ltd. At a meeting on 13 January 2014 ip&e were appointed as auditors to ip&e (Trading) Ltd. Mr Smith's evidence is that Cllr Barrow exerted no pressure or influence towards the appointment. He cannot recall whether Cllr Barrow voted or not on the appointment. He also states that he "was not aware at that time of any personal or professional connection that Keith Barrow may have with DRE & Co or Tony Matthews".
- 10.5 The statement of Mike Owen states that Cllr Barrow did not exert any influence as to the appointments and that Tom Roedricht did this independently. He said that "once a decision had been made by the Board Keith mentioned that he had dealt with the DRE & Co previously" that he had "queried with the Board whether this was OK and whether it affected their decision. The Board agreed that it did not affect their decision."
- 10.6 In his statement Tom Roedricht largely repeated (but in a little more detail) what he had told me and what is recorded earlier in this report.
- 10.7 Joanne Hardie, PA to the COO of ip&e took notes at the meetings of 10<sup>th</sup> January 2013 and 30 January 2013. She said that "the meetings at that time were very informal. They have since become more formal and better documented as we received guidance in relation to this. It was not until we received this guidance that making declarations of interest was on the agenda for each meeting. Prior to the guidance I would not describe the meetings as Board meetings given how informal they were." She also stated that Cllr Barrow exerted no influence over the vote.
- 10.8 In her statement Alison Stack states that she can "recall that Keith Barrow mentioned DRE & Co as a possibility to obtain quotes from and he mentioned at that time that DRE & Co did his personal annual tax return. I did not minute this as it was an informal discussion suggesting names". She also said that she was "Not aware, nor am I aware now, of any personal relationship between Keith Barrow and Anthony Matthews. Although, I do know that they have some connection in a professional capacity via Peakfast Ltd."

10.9 Antony Matthews, partner in DR&E states that he recalled mentioning to Tom Roedricht at the presentation prior to the award of the contract that DR&E were Cllr Barrows accountants and that he was the supervising partner for this and so that another partner would act as auditor if they were appointed. He also gave some details about the nature of the relationship between himself and Keith Barrow, saying that "In the past, Keith Barrow and I were acquaintances as our children attended the same school. However, since I moved eight years ago, we have only ever socialised in a business, professional capacity and that too had been very limited".

## 11 MY CONCLUSIONS

11.1 I have approached this investigation by considering the facts as obtained from witness statements and other evidence referred to against the Council's Code of Conduct, which places a high onus upon members to behave properly in the interests of the Council and with regard to the principles set out in the Code of Conduct.

11.2 This also means that members must be seen to be behaving properly, as it is not simply the facts of the matter, but it is also how the matter is perceived which is important. This is behind the high standards of conduct which are set out in the Council's Code of Conduct and the necessity for members to behave in a way which provides the "leadership and example" which the Code of Conduct mentions. In my view, senior members of the Council, especially the Leader, have a particular onus placed upon them to demonstrate these high standards.

11.3 The complaint is focused on the issue that the auditors who were appointed to ip&e – a company wholly owned by the Council of which the leader was the Chairman and to which he appointed Council representatives to the board- was a company with whom Keith Barrow had a personal relationship via one of the senior partners. Whilst there is no doubt that this relationship exists Keith Barrow says in his evidence that he has had very little contact with Tony Matthews over the last few years, and Mr Matthews says that in the last eight years their socialisation has been limited. I have disregarded the evidence of Mr Len Evans on this point as although he said that he had seen them about together in the past he could not say that he had seen this within the last 20 years or so.

11.4 So far as specific concerns regarding ip&e re concerned Cllr Barrow says that his only involvement is that DRE & Co deal with his now "very simple" tax returns for him. Anthony Matthews said that whilst they had been acquaintances since their children attended the

same school in recent (8 years ago) their socialisation has been limited and has been in a business and professional capacity.

- 11.5 However, there is also further involvement through the joint ownership of the company Peakfast Ltd. I have considered the evidence about Peakfast and the activity of the company. The directors who have been consistently there since the company was formed are Cllr Barrow and Tony Matthews (of DRE & Co). A few other have come and gone in the meantime, although no changes since 2004/5. The company is not dormant, although it is inactive and it has to file company accounts. In establishing exactly what the relationship is between Tony Matthews and Cllr Barrow I have considered the law in relation to the question of companies and when those companies do need to actually have a physical meeting of the Board. It seems to me that whilst there may be very few meetings of the board, there must be some communication between the directors and the company secretary to appoint directors. Equally, when a director resigns he gives notice to the company and I find it difficult to believe that the board would not be notified of this. There is also the requirement to file accounts and once again there would need to be some communication to this effect. Cllr Barrow does admit that certain emails were exchanged and I believe that these probably were in relation to this.
- 11.6 I was also informed of a situation relating to the ransom strip owned by Peakfast Ltd and the possible sale of that land as a ransom strip very recently following a planning application on the land to which it is a potential access. I was told by Cllr Barrow that he had not had any discussions about this ransom strip and the potential value of it, which would of course accrue to the shareholders of Peakfast Ltd, of which Cllr Barrow is one. Evidence was provided from a firm of solicitors on behalf of Cllr Barrow which confirmed that the dealings on this matter on behalf of Peakfast had been through [REDACTED] and Tony Matthews "with Keith Barrow copied into many of the emails". Accordingly, it seems to me that whilst the relationship may not have been a very close one at the relevant time, it had existed for some length of time and it continued to exist.
- 11.7 Given that the appointment of the auditors to ip&e is now almost three years ago, and presumably was fairly routinely carried out at the time, it is not surprising that memories have faded a little amongst the people who were involved back then. There seems however to be little disagreement about the fact that, whether or not Cllr Barrow suggested that one of the firms who might be considered was DRE & Co that there was no pressure from him or indeed anyone else put on Tom Roehricht to recommend that DRE & Co were the most appropriate firm. This was my view, reflected in my draft report, before I received the evidence provided on behalf of Cllr Barrow and that further evidence has not changed

my view. The appointment seems to have been carried out properly (other than the question of the declaration of interests by Cllr Barrow), with the Managing Director at the time interviewing the firms, scoring them and making the appropriate recommendation to the board.

- 11.8 Memories are also not clear about whether not Cllr Barrow made a declaration of interest. However, he does not recall making such a declaration, the minutes do not show that he did make any declaration and other memories are vague. It seems to me therefore that it is more likely that not that Cllr Barrow did not make a formal declaration of interest at any stage in relation to the appointment of DRE & Co.
- 11.9 For the sake of completeness, I do not consider that there is any question here of any issue of a Disclosable Pecuniary Interest in relation to Cllr Barrow and the appointment of DRE as auditors to ip&e.
- 11.10 Cllr Barrow has declared his directorship of Peakfast Ltd in the Register of Interests and it has not been suggested that he has ever tried to hide this. The questions behind this investigation however relate how a member should behave in accordance with the Code of Conduct. The Code very clearly sets out that all choices and public duties must be made on merit and that members must always act solely in the public interest. As I state above, leading members of the Council need to be particularly aware of the importance of this and alert to ensuring that the public can be confident that procedures are rigorously carried out.
- 11.11 I have no evidence to suggest that in considering DRE & Co for the appointment as auditors of ip&e there was any suggestion on Keith Barrow's part that he was not acting in the public interest and that the award of the appointment of the auditors, at the meeting he chaired was not made on merit and according to the recommendation from Tom Roehricht. After interviewing all concerned and reading the relevant documents I believe that this was the case and the award was made on merit following the recommendation.
- 11.12 However, I have referred above to the very high onus that there is upon members and particularly senior members in ensuring that fairness and unbiased public interest is not only present in all decisions but that it is seen to be present by the public who elect those politicians. Cllr Barrow told me that he wished he had declared his interest. I can only agree. Had he declared an interest at the time it is unlikely that this matter could have been complained about as he would have behaved entirely properly and in accordance with the Code.

11.13 I have considered Cllr Barrow's claim that he did not appreciate whether or not he should have declared an interest on the basis that there was no item on the agenda of the company which indicated that declarations of interest would be sought. With respect, I dismiss this suggestion, as it seems to me that a highly experienced member, with officers to turn to to advise him in the event of any doubt, should have a sufficient understanding of the way in which all public business- including that of wholly owned local authority companies- is carried out to make sure that they do formally declare any interests they may have. In the situation that faced Cllr Barrow and the Council and its company, my view is that it was incumbent upon him to make a formal declaration of interest in respect of DRE & Co and he did not do so.

## **12 FINDINGS**

12.1 I have taken account of the fact that the time when the offence was committed was nearly three years ago and under a different Code of Conduct I have also taken account of the fact that there does not appear to have been any damage to anyone by Cllr Barrow's behaviour and to the fact that memories are somewhat vague given the length of time passed.

12.2 I have also taken account of the fact that the evidence is that there was no pressure put on Tom Roehricht to appoint or recommend any particular accountancy firm and I believe that Cllr Barrow did not seek to exert any pressure whatsoever to have DRE & Co appointed. The further evidence provided on behalf of Cllr Barrow has served to confirm my initial view. I have been asked to make a finding to that effect and I am confident in doing so.

12.3 However, in public life in local government to which the Code of Conduct applies, the importance of how matters in relation to interests as reflected in the Code of Conduct is such that I do think that in accordance with the Code Cllr Barrow should have formally declared on record at the Board meetings of ip&e his relationship with DRE & Co and so have placed on the record the fact that DRE & Co were his accountants and that in the past he had had a relationship with Tony Matthews and they were joint owners of a company. I have considered the statements that the meetings were carried out informally at the time but whilst this may have been the case, this does not in my view remove the basic principles that interests should be declared and recorded.

12.4 I have also taken account of the fact that members, including Cllr Barrow, were initially appointed to the board of ip&e in the summer of 2012. At that point advice about declaring interests was provided to them via an appendix to the Cabinet report of 6<sup>th</sup> June. It was not

until September 2013 that a further, and formal advice note was sent out. Whilst it is arguable that had this advice note upon the register of interests and potential conflicts been made available earlier it is possible that Cllr Barrow would not have failed to declare an interest in this way the responsibility for declaring interests always remains that of the member.

- 12.5 Taking into account all the above, whilst I accept that this may be considered to be at the lower end of the scale, I find that Cllr Barrow offended against the principles of Integrity, Honesty and Leadership set out in the Council's Code of Conduct at the time by failing to formally declare his relationship with DRE & Co when they were appointed as auditors to ip&e.

**Olwen Dutton**  
**Bevan Britton LLP**  
**October 2015**

Appendices	Pages
1. Member Code of Conduct of Shropshire Council	1-4
2. Complaint by Cllr Tremellen and associated documents	5-42
3. Email from Cllr Keith Barrow	43
4. First Statement of Cllr Keith Barrow	44-48
5. Second Statement of Cllr Keith Barrow	49-50
6. Statement of Cllr David Tremellen	51-54
7. Statement of Mr Len Evans	55
8. Statement of Ms Nicki Beardmore	56-58
9. Statement of Mr James Walton	59-60
10. Register of Interests of Cllr Keith Barrow	61-63
11. Shropshire Conservatives Manifesto May 2013	64
12. Cllr Tremellen's letter to the Shropshire Star	65-66
13. Press cutting from the Shropshire Star 23 <sup>rd</sup> June 2015	67
14. Briefing note for Directors 17 <sup>th</sup> September 2013	68-88
15. Supplementary evidence provided on behalf of Cllr Keith Barrow	89-103
16. Appendix 2 to the Cabinet Report of 6 <sup>th</sup> June 2012	104-113

Note

As these documents have come from several sources there was inconsistent numbering. The relevant pages numbers are the consecutive ones written on the bottom of each page. Blank pages (other than those in the report to the Standards Sub-Committee) are not numbered.



**As a Member of Shropshire Council my conduct will in particular address the statutory principles of the code of conduct by:**

- **Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.**
- **Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.**
- **Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the authority in a proper manner.**
- **Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.**
- **Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.**
- **Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.**
- **Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it**
- **Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.**
- **Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.**
- **Always treating people with respect, including the organisations and public I engage with and those I work alongside.**
- **Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.**

## REGISTRATION AND DISCLOSURE OF PECUNIARY INTERESTS

As a Member<sup>1</sup> of Shropshire Council ("the Council") I am required to register certain interests (known as "disclosable pecuniary interests") of my own and of my partner<sup>2</sup>. These interests are set out in the table below.

When I am present at a meeting of the Council and I have a disclosable pecuniary interest (which includes your own interest and that of your partner) in any matter being considered which is entered in the Council's register of interests, I do not need to disclose it to the meeting, but I will withdraw from the meeting room when the matter is being discussed and will not participate, or participate further, in any discussion of, or any vote taken on, the matter at the meeting.

If my disclosable pecuniary interest (which includes your own interest and that of your partner) is not entered in the Council's register of interests, I will disclose its existence and, unless it is a sensitive interest<sup>3</sup>, its nature, to the meeting and will notify the Monitoring Officer of the interest within 28 days of the meeting. I will withdraw from the meeting room when the matter is being discussed and will not participate, or participate further, in any discussion of, or any vote taken on, the matter at the meeting.

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain by you or your partner
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period <sup>4</sup> in respect of any expenses incurred by you in carrying out your duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

<sup>1</sup> "member" means a member of the Council and includes a co-opted member;

<sup>2</sup> Partner includes your spouse, civil partner or person with whom you are living as if they were your spouse or civil partner

<sup>3</sup> An interest is sensitive if its nature is such that you, and your Monitoring Officer, consider that its disclosure could lead to you, or a person connected with you, being subject to violence or intimidation.

<sup>4</sup> "relevant period" means the period of 12 months ending with the day on which you give a notification of its existence

<b>Contracts</b>	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest <sup>5</sup> ) and the Council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land</b>	Any beneficial interest in land <sup>6</sup> which is within the area of the Council.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to your knowledge)— (a) the landlord is the Council ; and (b) the tenant is a body in which you or your partner has a beneficial interest.
<b>Securities</b>	Any beneficial interest in securities <sup>7</sup> of a body where— (a) that body (to your knowledge) has a place of business or land in the area of the Council ; and (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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**5** "body in which the relevant person has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest; and "director" includes a member of the committee of management of an industrial and provident society

**6** "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

**7** "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

**Agenda Item 6**



Committee and date	Item
Standards Sub-Committee	6
30 July 2015	Exempt

**NOT FOR PUBLICATION BY VIRTUE OF CATEGORIES 1, 2 AND 3 OF PART 1 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972**

**CODE OF CONDUCT COMPLAINT – COUNCILLOR BARROW**

**Responsible Officer** Claire Porter

**Email:** [claire.porter@shropshire.gov.uk](mailto:claire.porter@shropshire.gov.uk)

**Tel:** 01743352763

**Fax:**

**1. Summary**

- 1.1 A complaint has been received from Councillor Dave Tremellen who alleges that Councillor Keith Barrow has failed to comply with the code of conduct of Shropshire Council.
- 1.2 The Monitoring Officer has delegated authority to determine what, if any, action is appropriate in respect of complaints about councillors. She considers that it is not appropriate for her to make that decision on this occasion as the complaint relates to the Leader of the Council.

**2. Recommendations**

- 2.1 That the Standards Sub Committee considers what, if any, further action is appropriate in relation to allegation that Councillor Barrow has failed to comply with the code of conduct.

**REPORT**

**3. Risk Assessment and Opportunities Appraisal**

- 3.1 The Localism Act 2011 places a requirement on Local Authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. Failure to assess the complaint appropriately risks damaging the reputation of the authority.

**4. Financial Implications**

- 4.1 In the event that further action is considered appropriate, costs may involve officer time and /or the costs of external consultants.

Standards Sub Committee 30 July 2015: Code of Conduct Complaint – Councillor Barrow

- 5.1 It is alleged by Councillor Dave Tremellen that Councillor Keith Barrow has failed to comply with the code of conduct of Shropshire Council.
- 5.2 He alleges that, as an officer of ip&e, Councillor Barrow was involved in the appointment of a company as auditors with whom he was known to have had a previous professional and personal relationship which, in view of the extensive publicity regarding widespread public disquiet about the creation of ip&e, risked raising questions concerning the prudent administration of ip&e. He indicates that the records which link Councillor Barrow with the auditors are of a company called 'Peakfast', incorporated on 12th December 1983, Incorporation Certificate No: 1781701/3 and which was Registered on 6th January 1984
- 5.3 A Copy of the complaint and relevant e-mail that has been received from Councillor Tremellen are attached to this report at Appendix 1a and 1b
- 5.4 The Code of Conduct is reproduced as follows:

"You are a member or co-opted member of the Shropshire Council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member –

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, including your membership of any Trade Union, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

Standards Sub Committee 30 July 2015: Code of Conduct Complaint – Councillor Barrow

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example."

- 5.5 Current Directors of Peakfast Limited can be found in a quick internet search and details of the results are attached at Appendix 2.
- 5.6 Current Directors of the IP&E appointed Auditors, D.R.E. & Co Financial Services Limited, can be found in a quick internet search and details of the results are attached at Appendix 3.
- 5.7 A response to the allegation has been received from Councillor Barrow and is attached as Appendix 4.
- 5.8 In order to demonstrate the commitment of the authority to the highest standards of probity and given the high profile of the member complained about, the Monitoring Officer considers that it is likely to be in the public interest to refer the matter for an investigation.
- 5.9 The options available to the Sub Committee are as follows:
  - 5.9.1 take no action in respect of the complaint or request further information; or
  - 5.9.2 refer the complaint to the Monitoring Officer for investigation or some other course of action.

<b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</b>
Localism Act 2011
Arrangements for dealing with Standards Allegations under the Localism Act 2011
Shropshire Council Code of Conduct
<b>Cabinet Member (Portfolio Holder)</b>
N/A
<b>Local Member</b>
N/A
<b>Appendices</b>
Attached

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**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**Shropshire Council**

**Member code of conduct complaint - Ref. 3288451**

**Customer details**

Family name Tremellen  
First name David  
Title Mr  
Address 1, Old Colliery  
Station Road  
Town Highley  
County or administrative area Shropshire  
Postcode WV16 6NW  
Country (if non UK)  
Work phone 07979 295387  
Home phone [REDACTED]  
Mobile [REDACTED]  
Fax  
Email dave.tremellen@shropshire.gov.uk  
Preferred method of contact Email

**Details of the complaint**

Please tell us which complainant type best describes you: An elected or co-opted member of an authority

Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Family name Barrow  
First name Keith  
Council or authority name Shropshire Unitary

Please explain in this section what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct. As an officer of Ip&e he appointed a company as auditors with whom he is known to have had a previous professional and personal relationship which, in view of the extensive publicity regarding widespread public disquiet about the creation of Ip&e, risks raising questions concerning the prudent administration of Ip&e.



**Details of the complaint**

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when she decides whether to take any action on your complaint. For example:

- \* You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- \* You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- \* You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- \* You should provide any relevant evidence or background information.

Please provide us with the details of your complaint:

**Confidentiality**

*In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that to do so would be contrary to the public interest or would prejudice an investigation.*

*Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.*

*However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.*

Do you wish to keep your identity  No

**Confidentiality**

confidential

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

**About this form**

Issued by

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
SY2 6ND

Form reference

3288451

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**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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**From:** Dave Tremellen  
**Sent:** 08 July 2015 15:56  
**To:** Graham White  
**Subject:** Re: Code of conduct complaint

It's done now Graham. Reference: 3288451

The records that link the parties concerned are of a company called 'Peakfast', incorporated on 12th December 1983, Incorporation Certificate No: 1781701/3. Company was Registered on 6th January 1984.

The connection was ongoing.

*Regards*

*Dave Tremellen  
Member for Highley*

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**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**Peakfast Directors**

<b>Mr Anthony John Matthews</b>	<b>Since 07-06-1991</b>
<b>Mr Keith Robert Barrow</b>	<b>Since 07-06-1991</b>
<b>Mr Paul Daniel Marsden</b>	<b>Since 08-01-2001</b>
<b>Mrs Janet Patricia Marsden</b>	<b>Since 08-01-2001</b>

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**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**D.R.E. & CO FINANCIAL SERVICES LIMITED DIRECTORS**

<b>Mr Anthony John Matthews</b>	<b>Since 19-10-2001</b>
<b>Mr Francis Nock</b>	<b>Since 09-05-2003</b>
<b>Mr Martyn Robert Kent</b>	<b>Since 07-04-2004</b>
<b>Mr Richard Barrington Heath</b>	<b>Since 01-05-2010</b>
<b>Mrs Caroline Heather Matthews</b>	<b>Since 19-10-2001</b>

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## NOT FOR PUBLICATION

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**From:** Keith Barrow  
**Sent:** 20 July 2015 12:14  
**To:** Graham White  
**Subject:** Councillor Barrow Response  
**Attachments:** 20150720120036778.pdf; 20150720120031142.pdf; 20150720120074412.pdf;  
20150720120015748.pdf; 20150720120007822.pdf

Dear Graham

I enclose a copy of the first set of notes from the Informal meeting on 23<sup>rd</sup> August 2012. You will see from Item 1.1 that Nicki Beardmore was asked to obtain 3 quotes. You will then note in the minutes from 10<sup>th</sup> December 2012, items 5.5 and 5.6 that Nicki Beardmore raised the issue of the appointment of auditors and that this was required to take place as soon as possible. Tom Roehricht was tasked with this and asked to contact [REDACTED] and DRE and report back to the Board on 10<sup>th</sup> January 2013. You will also note that I suggested that Tom discussed this with James Walton, Head of Finance, Governance and Assurance.

On 30<sup>th</sup> January 2013 the minutes of the Board meeting, Items 3.1, 3.2 and 3.3 show that Tom Roehricht presented a report following meetings with four different companies and the Board unanimously agreed to support the appointment at the recommendation of Tom, which is in the report. I have had no involvement whatsoever in searching or speaking to any of the companies involved in the process. As a result of this complaint, I contacted Tony Matthews from DRE and I enclose a copy of the email sent in response which makes it quite clear that I was not involved in the process and that Tom was informed that they acted for me as my accountant, and there would be no conflict if they were appointed.

You will note that the minutes said the appointment of DRE was a unanimous decision, this is true and whilst it's true you will note that I did not vote on the matter, anyone who knows me as Chair knows I do not vote, because I believe the chairman should only vote in the event of a tie. There are many videos of me chairing Cabinet which can illustrate this point. I'd like you to also note that there was no item on the agenda for declarations of interest, because at this time the Board was unsure whether it was a requirement, it now features on every Board meeting agenda. Had it featured on the agenda, I'm not sure this would make a difference to my position as I don't socialise with Mr Matthews, have never been to his house and quite frankly I don't know where he lives. I am a shareholder in Peakfast, and have declared this on the register of interests, even though the company has not traded for over 20 years, I was not a director of the company. A very junior accountant at DRE deals with my accountancy needs which are minimal, in fact they deal solely with my annual tax return.

You will also have noticed in the press there is much negative publicity generated around Ip&e, which has been politically motivated and my guess is that this is part of the same personal attack on myself.

Regards

Keith

ENC:

Minutes of Board Meeting - 23 August 2012  
Minutes of Board Meeting - 10 December 2012  
Minutes of Board Meeting - 13 January 2013  
Minutes of Board Meeting - 30 January 2013  
Email from Tony Matthews, DRE

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**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**Ip&e**  
**Minutes of Meeting of the Board of Directors**  
**23 August 2012**

**Board Members Present:** K Barrow, N Beardmore, A Hartley, M Hyatt.

**Also Present:** A Stack.

**Directors absent:** None.

**1. Finance**

**Appointment of Official Auditors**

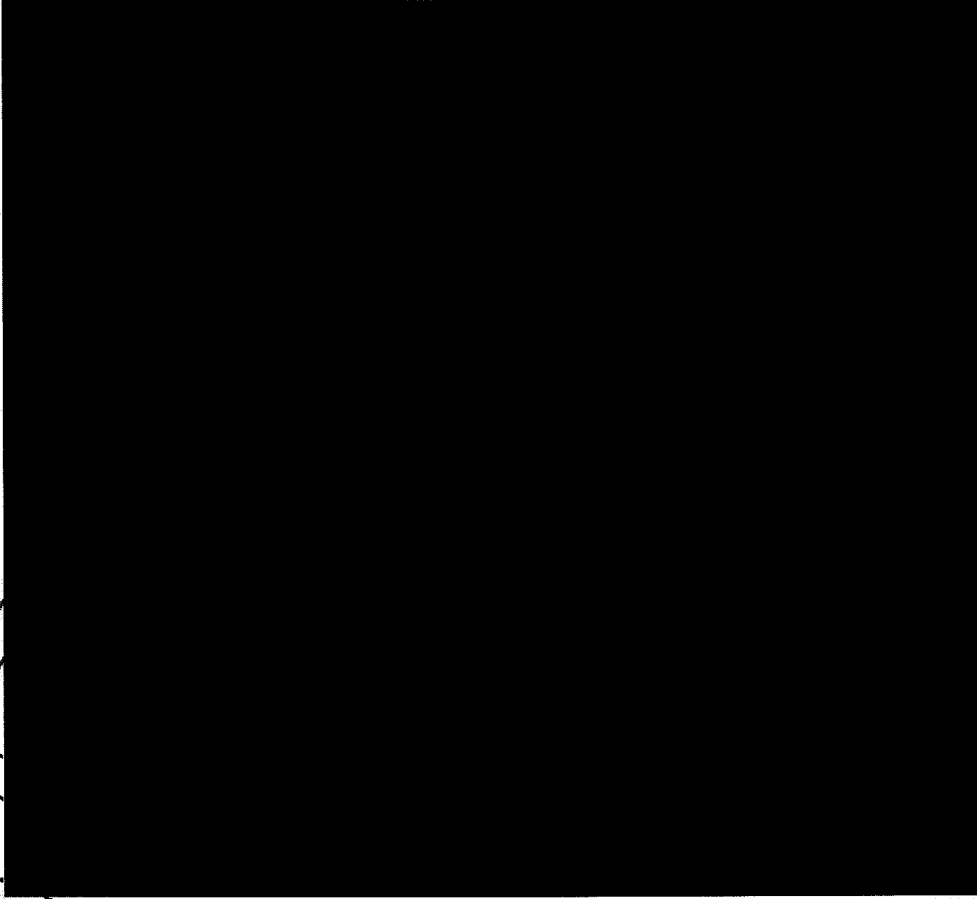
1.1 Following discussion, it was unanimously agreed to obtain 3 quotes for  
official auditors from:

██████████  
██████████

DR and E  
NB to action.

**Action**

**NB**

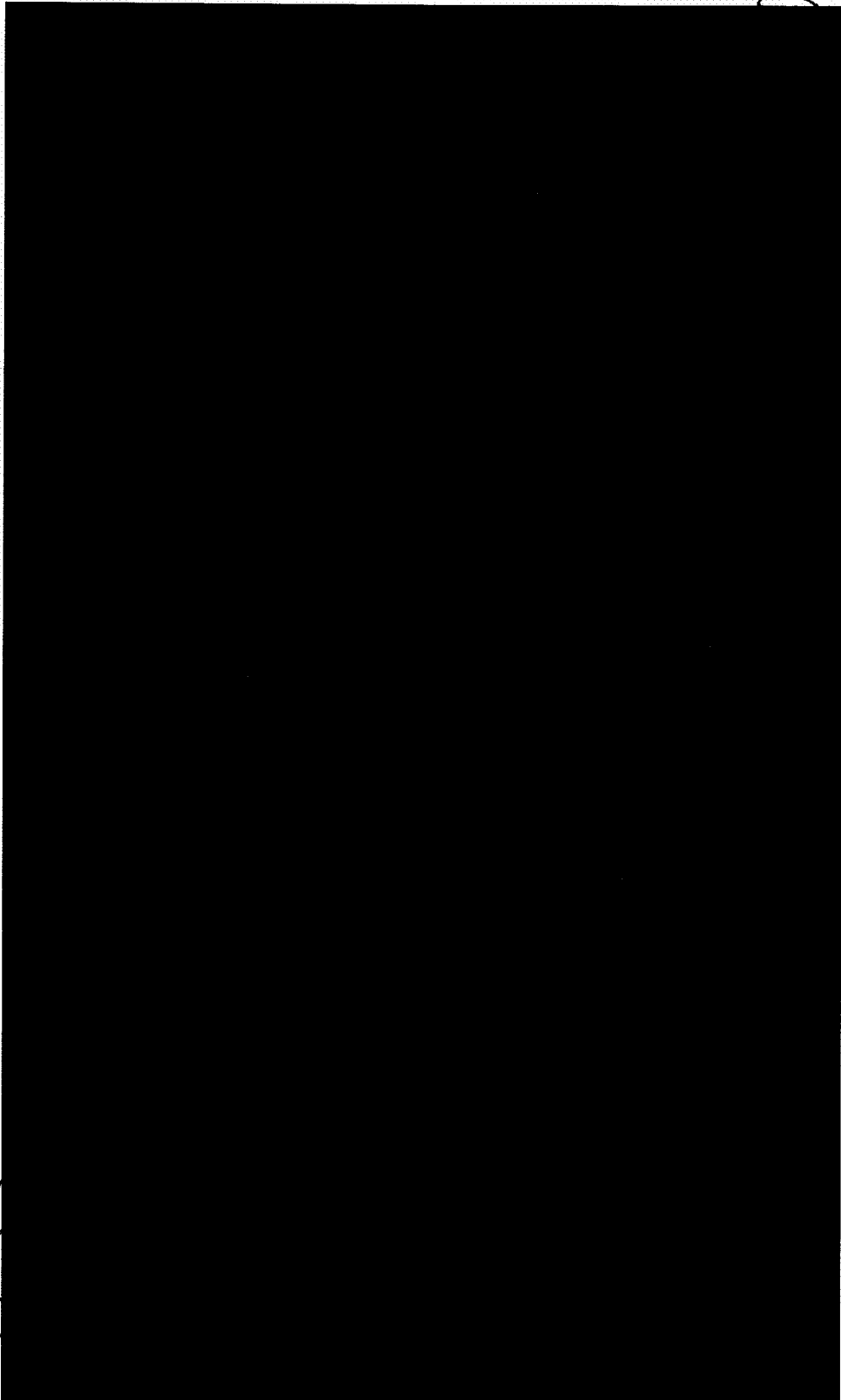


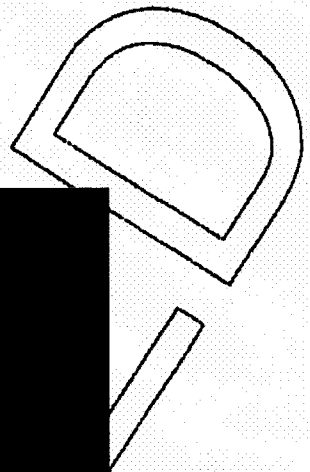
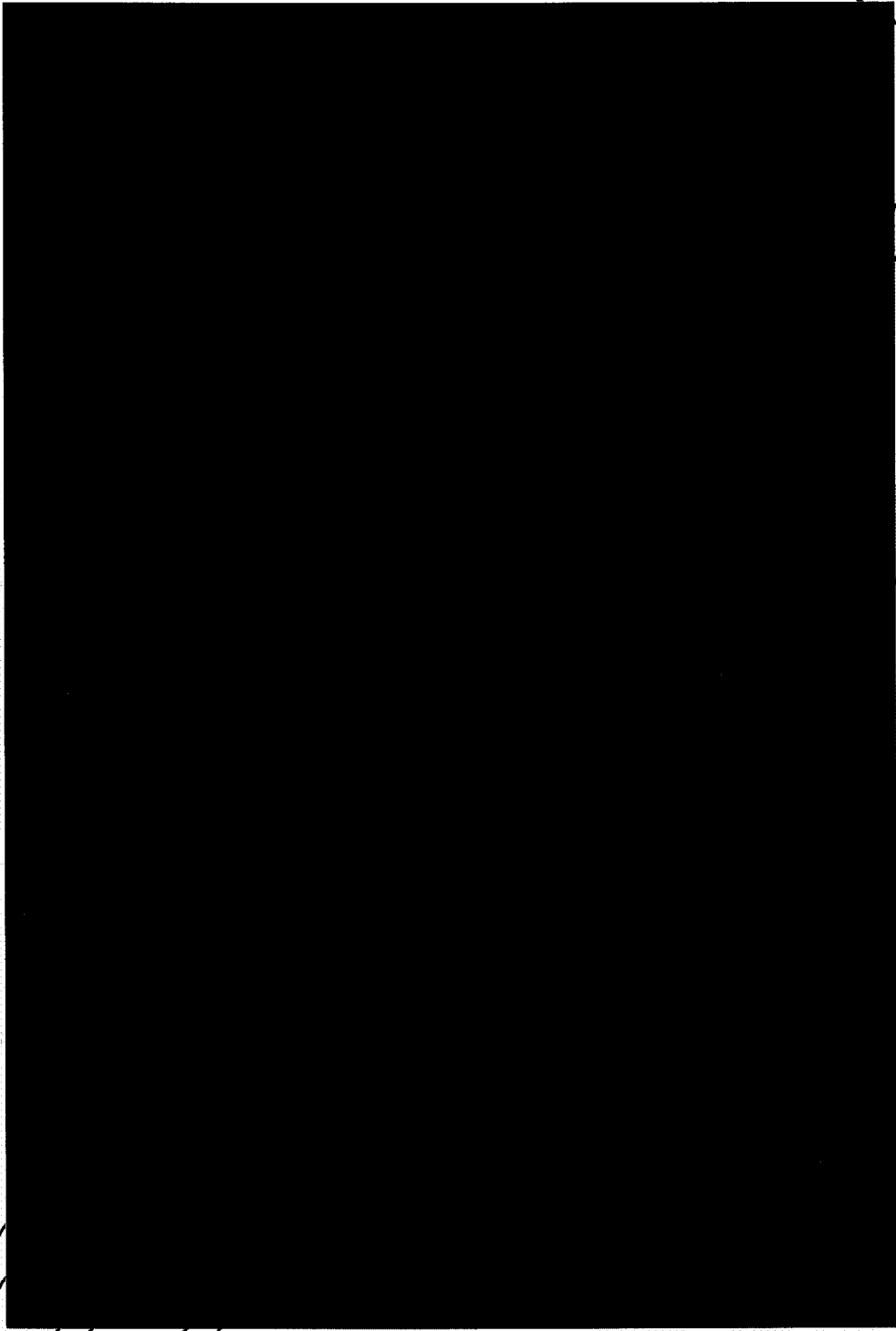
2.

3.

4.

5.





AH

6.

Signed

Keith Barrow  
Chairman, Ip&e

3

RESTRICTED

**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**ip&e**  
**Minutes of Meeting of the Board of Directors**  
**10 December 2012**

**Board Members Present:**

**K Barrow, N Beardmore, A Hartley, M Hyatt, T Roehricht**

**Action**

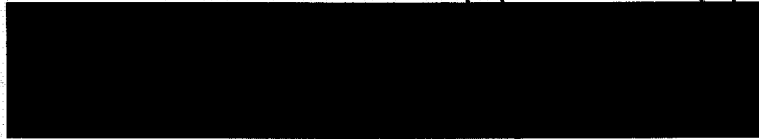
1. **Apologies**

1.1 None.

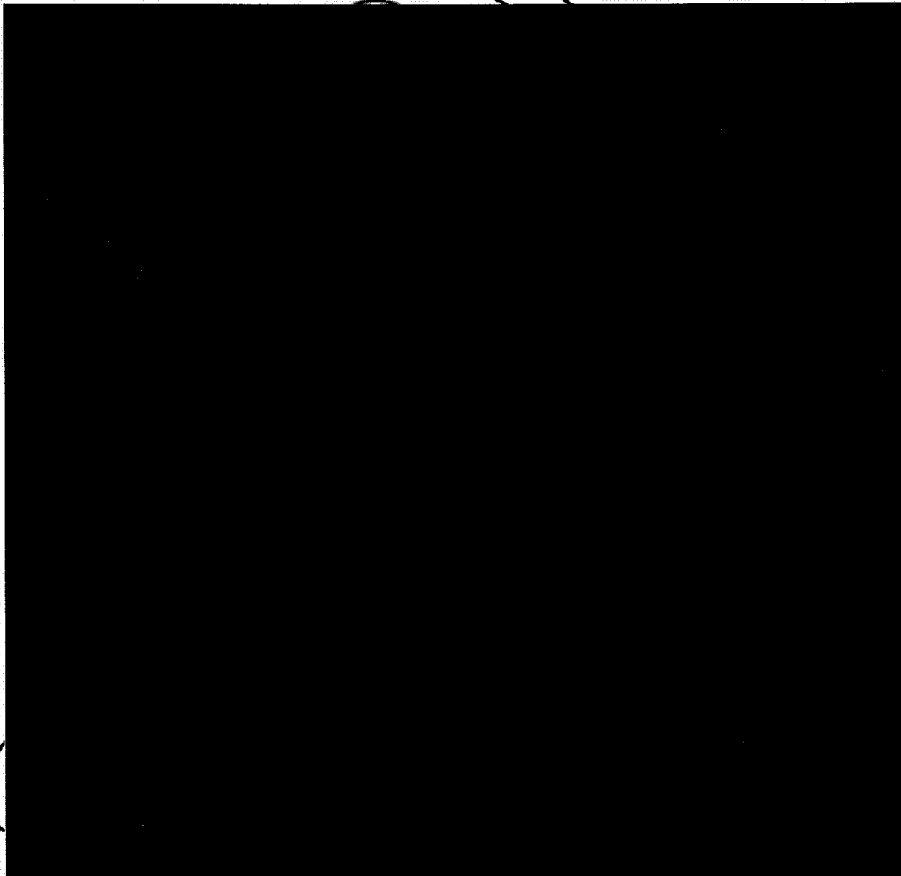
2. **Minutes of Previous Meeting**

2.1 Approved as an accurate record.

3.

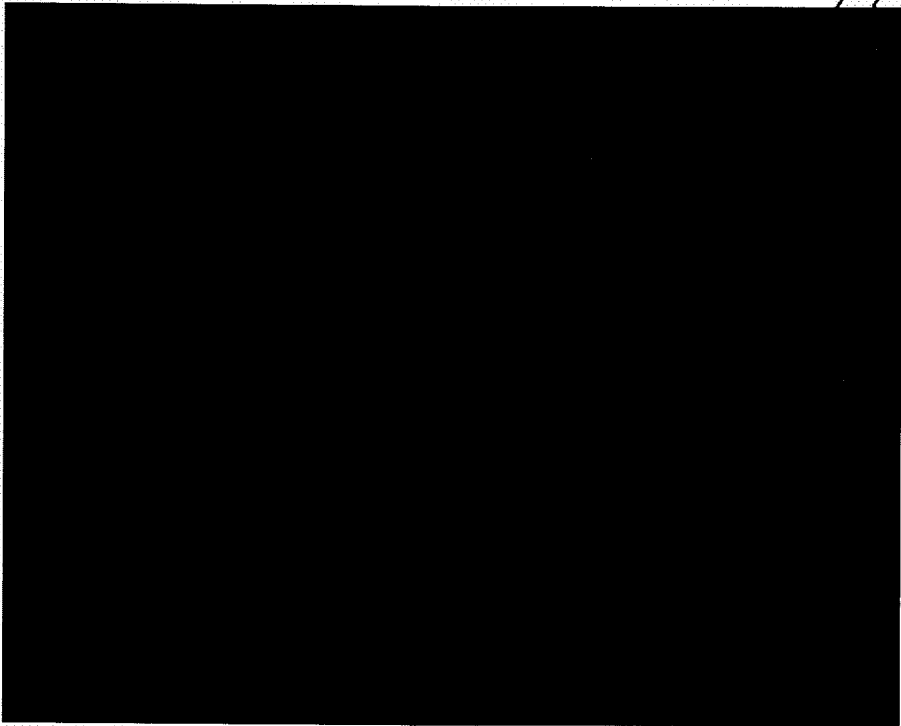


4.



5 & 6.





5.5 NB referred to the requirement for auditors to be appointed as soon as possible. TR undertook to appoint an auditor and will contact the following accountants to discuss auditor services for ip&e: TR



DR and E (Tony Matthews)

5.6 TR is to then report back to the Board regarding auditors on 10.1.12, so that a final decision can be made to appoint auditors. KB suggested that TR also discusses his findings with J Walton. TR

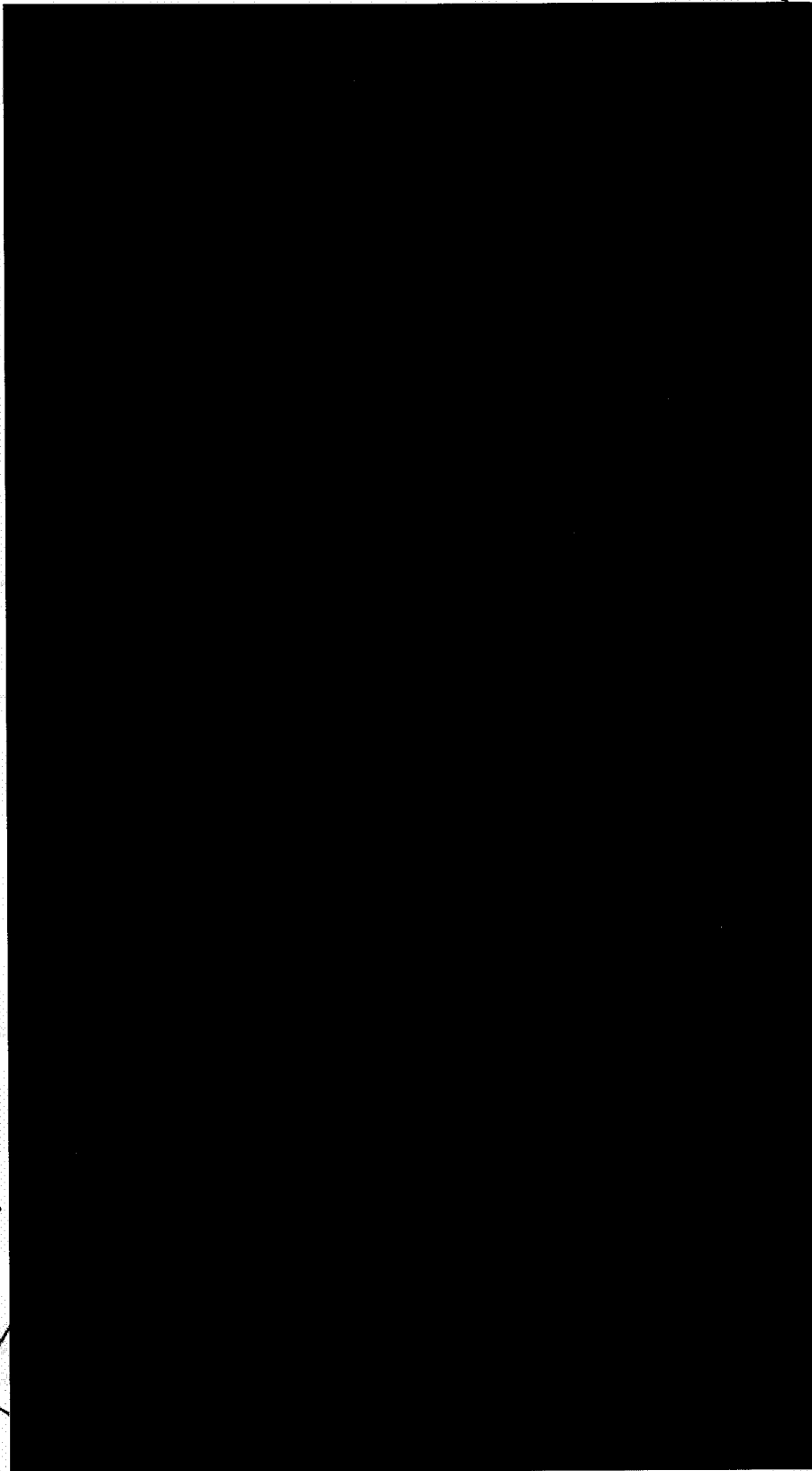
5.7



5.8

RECEIVED

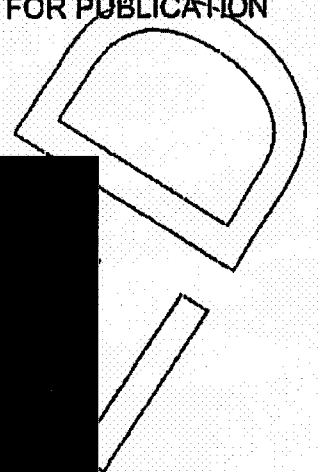
6.



7.

8.

REDACTED



M

S

9.

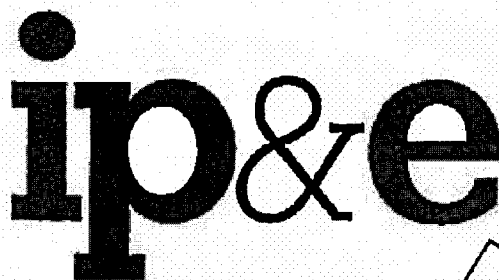
Signed

.....  
Keith Barrow  
Chairman, ip&e

RES

**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.



Minutes of a meeting of the board of directors of IP&E (TRADING) LIMITED (Company number 08651093) held at Castle View, Oswestry on 13 January 2014 at 10am.

**Present**

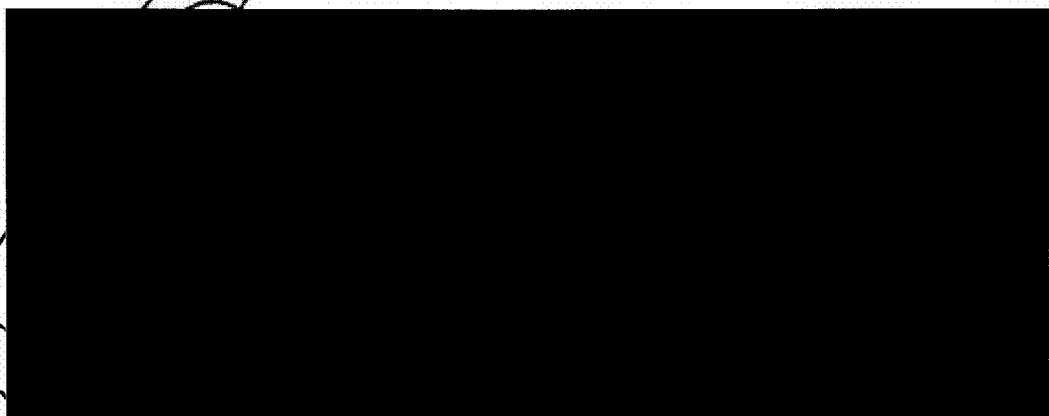
<b>Name</b>	<b>Position</b>
Keith Barrow	Director
Mike Owen	Councillor Director
Clive Wright	Director
Nicki Beardmore	Officer Director
Michael Hyatt	Director
Tim Smith	Company secretary

**In attendance**

<b>Name</b>	<b>Position</b>
Neil Langford	Head of Service – Programme Management, Systems & Transition

**Apologies**

<b>Name</b>	<b>Position</b>
None received	





**2. CHAIRPERSON**

Keith Barrow was appointed chairperson of the meeting and chaired the meeting throughout.

**3. NOTICE AND QUORUM**

The chairperson reported that due notice of the meeting had been given and that a quorum was present. Accordingly, the chairperson declared the meeting open.

**4. DECLARATIONS OF INTEREST**

4.1 Each director present confirmed that they had no direct or indirect interest in any way in the proposed transactions and/or other arrangements to be considered at the meeting which they were required by section 177 of the Companies Act 2006 and the Company's articles of association to disclose.

4.2 The following directors hold the following positions as directors with other companies:

Name

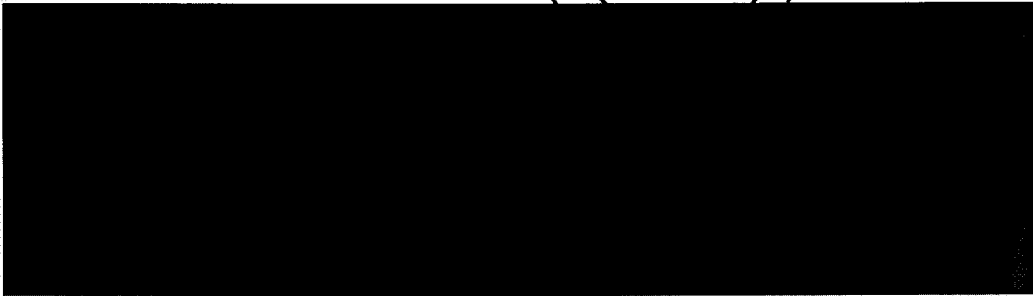
Other directorships

It was resolved to authorise these other directorships and any potential or actual conflicts that may arise in connection with them and the relevant director's position with the Company in accordance with section 175 of the Companies Act 2006. It was noted that the director(s) so interested did not vote or count as part of a quorum on this resolution and that, nevertheless, there was a quorum for this item of business transacted by the meeting.

- 4.3 It was noted that pursuant to article 21 of the Company's articles of association, a director may vote and form part of the quorum in relation to any proposed transaction or arrangement in which they are interested, subject to any restrictions imposed under article 21 of the Company's articles of association.

5. **BUSINESS OF THE MEETING**

**MATTERS REQUIRING A DECISION**

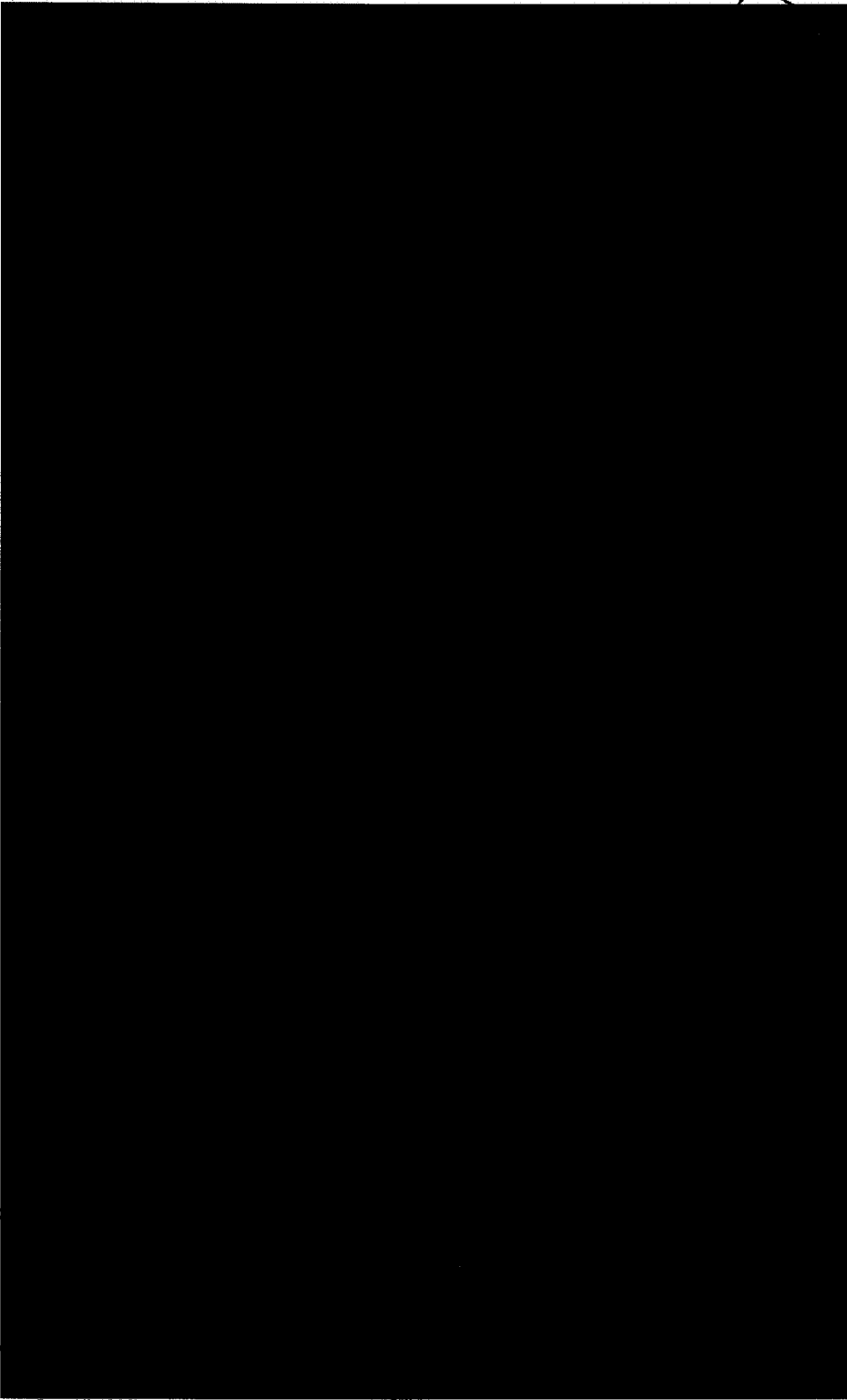


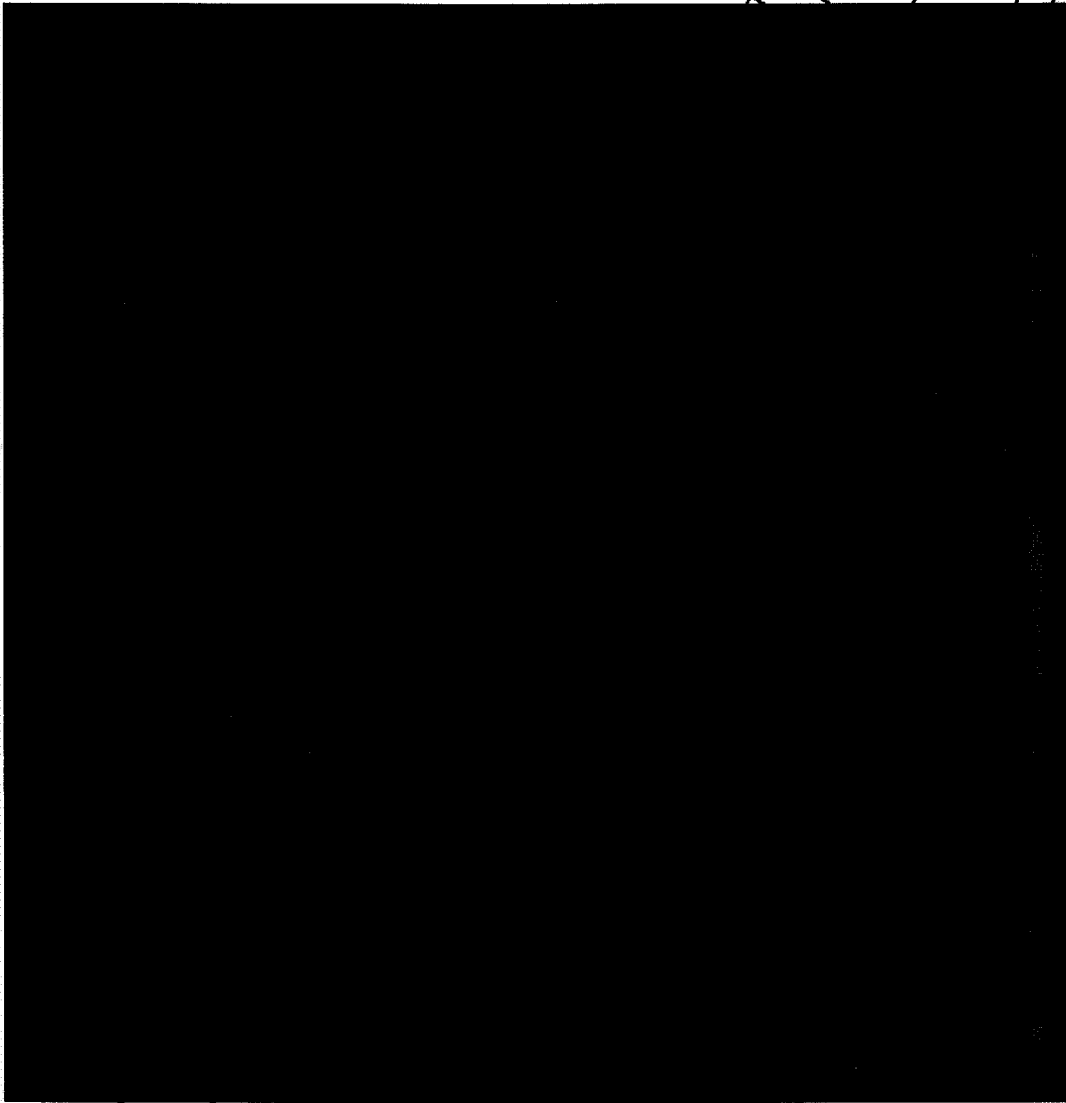
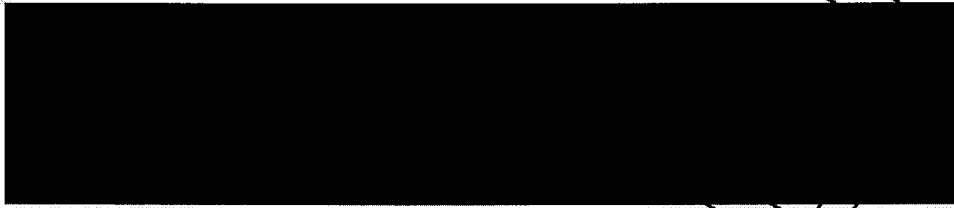
- 5.3 The board agreed to appoint **D.R.E. & Co. Chartered Accountants** as auditor(s) of the Company with immediate effect and instructed the company secretary to notify the auditors of their appointment.



6.

6.1

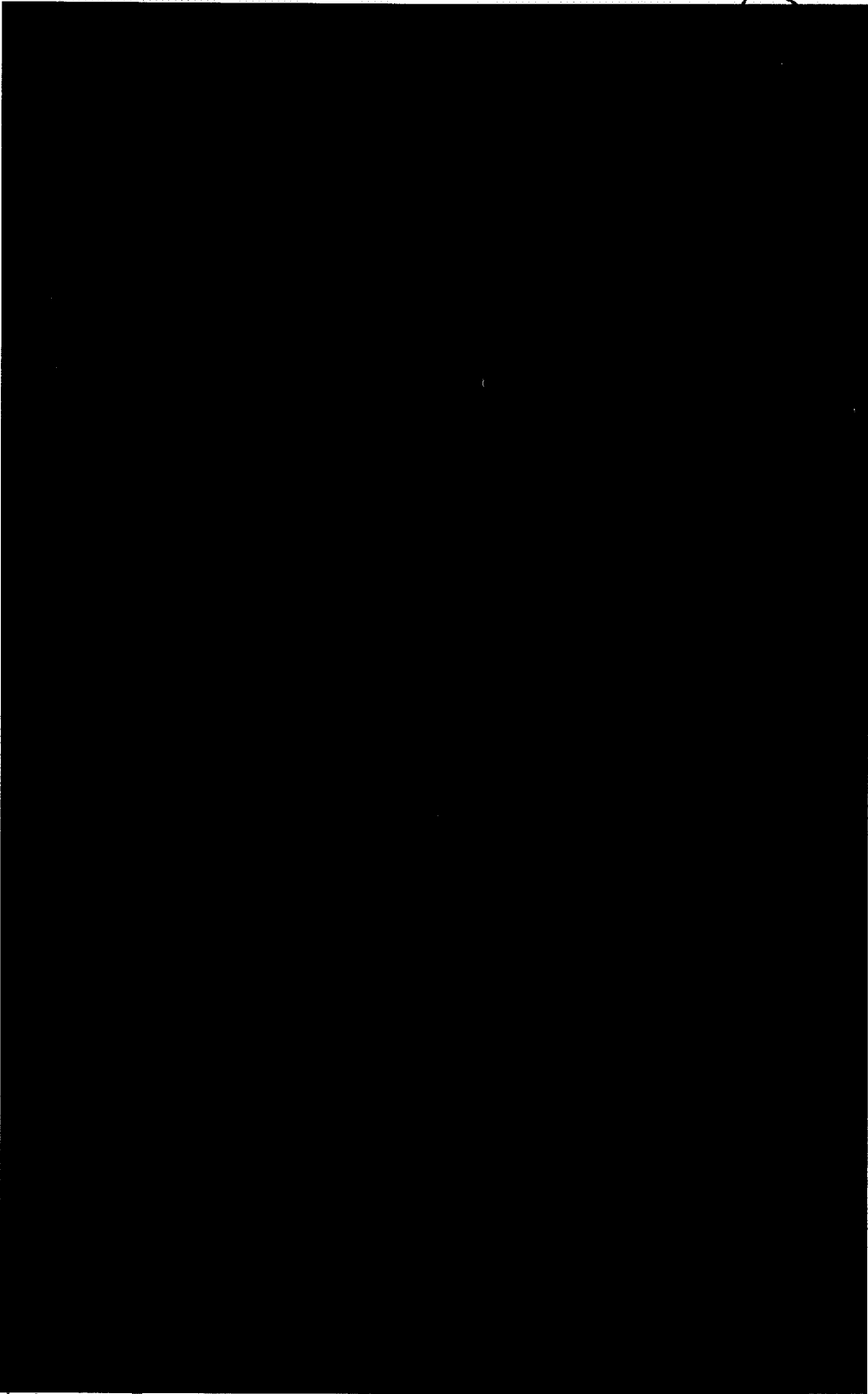


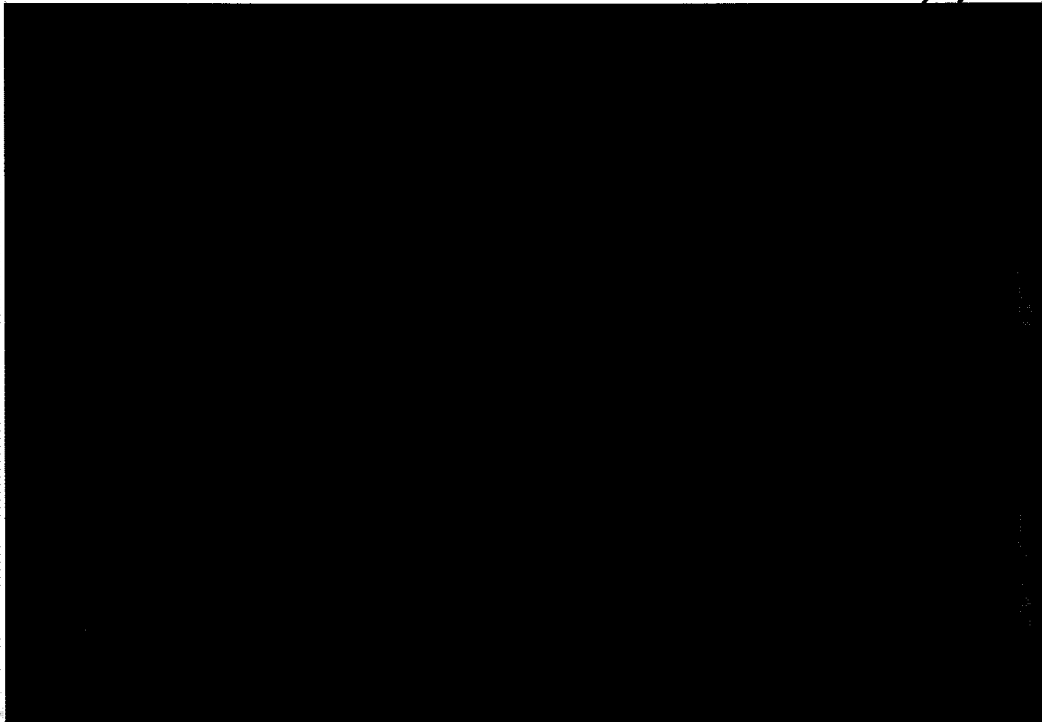


8.3

Appoint D.R.E. & Co. Chartered Accountants as auditor(s) of the Company with immediate effect to hold office until the end of the next period for appointing auditors under section 485(2) of the Companies Act 2006 [on the terms set out in the Agreement for audit services and to pay D.R.E. & Co. Chartered Accountants the ordinary professional charges for their services as auditors.







.....  
Chairperson

.....  
(Date)

RESTRICTED

RESTRICTED

**NQT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**ip&e**  
**Minutes of Meeting of the Board of Directors**  
**30 January 2013**

**Board Members Present:**

**K Barrow, M Owen, M Hyatt, T Roehricht, A Gore**

**1. Apologies**

1. None.

**2. Notes of Previous Meeting**

2.1 Approved as an accurate record.

**3. Auditors Report**

3.1 TR presented a report following meetings with 4 different companies to discuss the potential of providing both audit and accountancy functions for ip&e.

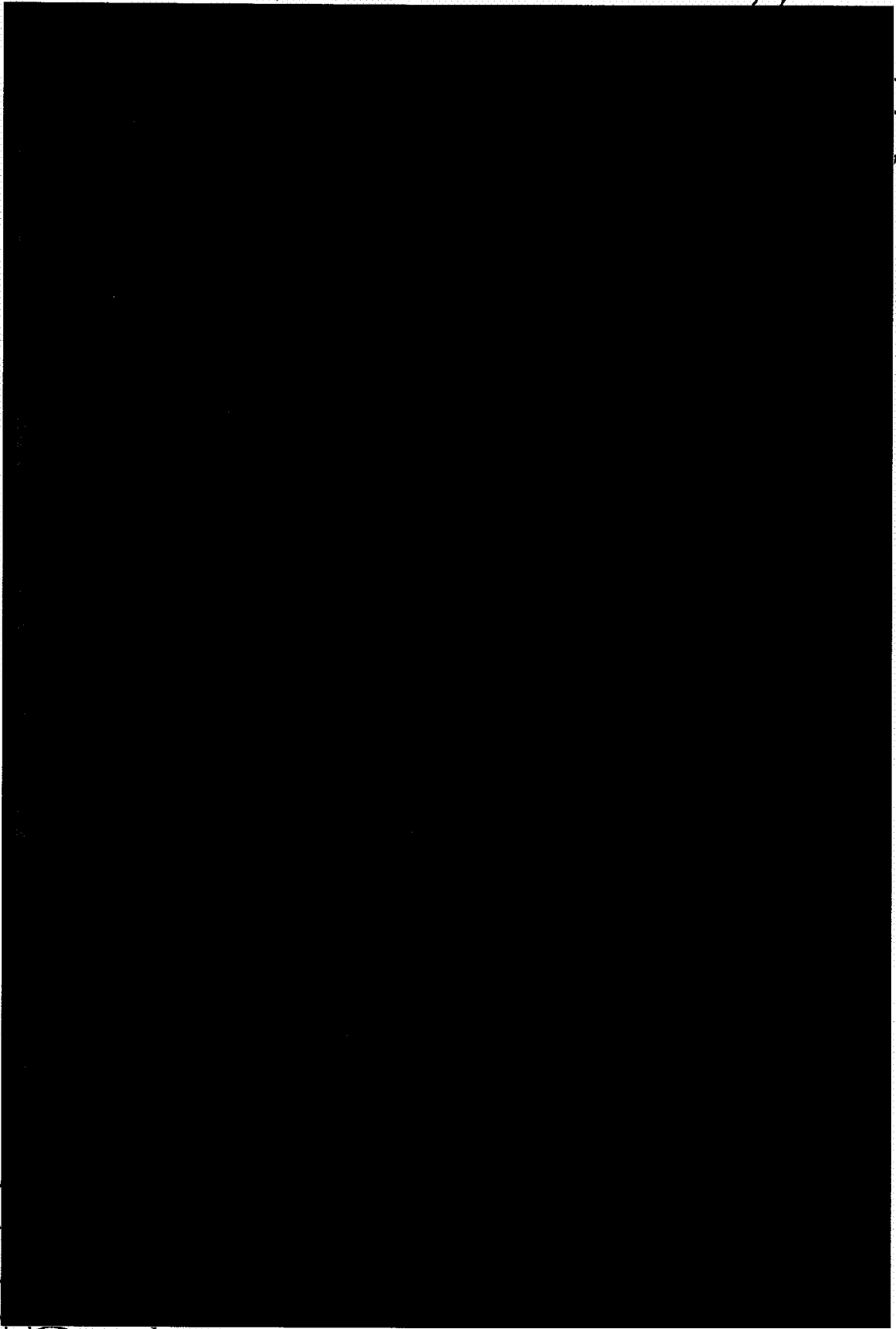
3.2 Based on discussions and the criteria which were set, the report recommended the appointment of DRE & Co.

3.3 The Board unanimously agreed to appoint DRE & Co as auditors and accountants for ip&e.

Action

TR





8.4

8.5

8.6

Signed: .....

Keith Barrow  
Chairman, ip&e

RESTRICTED

RESTRICTED

**NOT FOR PUBLICATION**

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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**From:** Kelth Barrow <[REDACTED]>  
**Sent:** 15 July 2015 10:58  
**To:** Alison Stack  
**Subject:** Fwd: IPANDE appointment as auditors

Alison

Could you print this and put it with the other paper please. Remind me to sort before the end of next week.

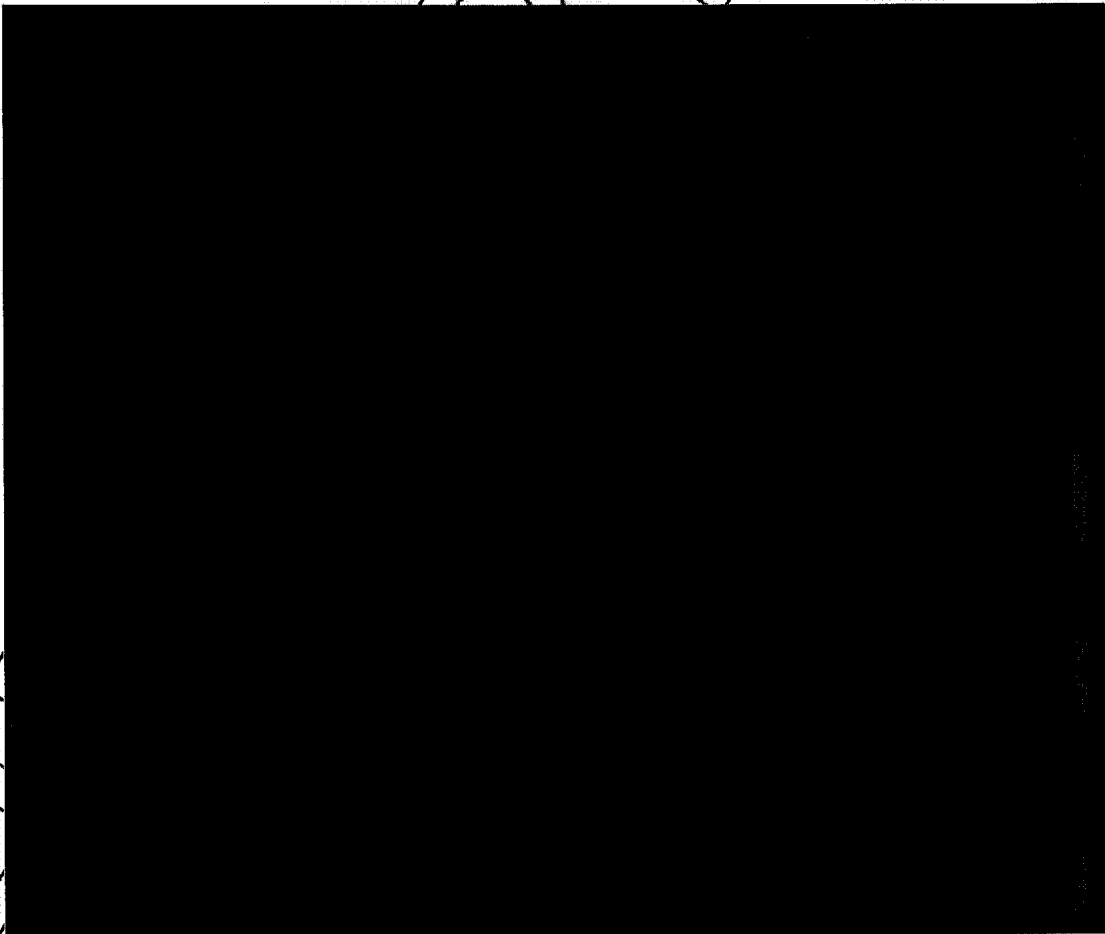
Kind regards

Kelth

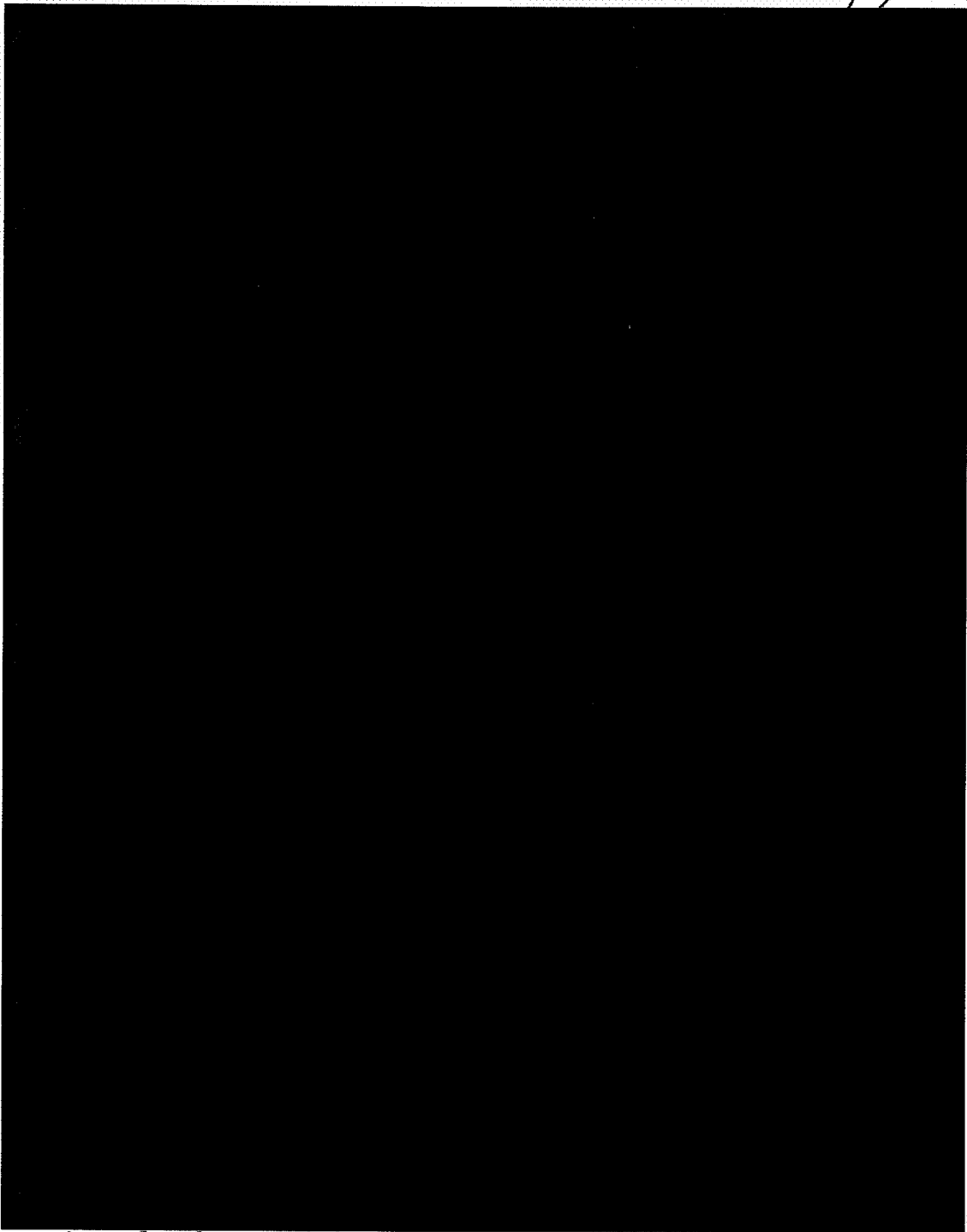
Sent from my iPad

Begin forwarded message:

**From:** Tony Matthews <[REDACTED]>  
**Date:** 15 July 2015 10:52:34 BST  
**To:** "[REDACTED]" <[REDACTED]>  
**Cc:** [REDACTED]  
**Subject:** IPANDE appointment as auditors







PRELIMINARY

## Olwen Dutton

---

**From:** Keith Barrow <[REDACTED]>  
**Sent:** 15 September 2015 19:21  
**To:** Olwen Dutton  
**Subject:** Private and Confidential  
**Attachments:** keith barrow final 1 - kb.docx; ATT00001.htm

Dear Olwen,

Sorry for my delay in replying but I have been away from my desk all afternoon. I attach my first Statement and can confirm that I am happy with both this and the second statement. I will sign paper copies tomorrow and forward them on to you.

Kind regards

Keith Barrow

At the start of the interview the investigator informed Cllr Barrow of the process that she would follow and of the possibility that his statement, as it would be appended to her report, may get into the public domain. Cllr Barrow confirmed that he understood and accepted this.

### **STATEMENT OF COUNCILLOR KEITH BARROW**

**Interviewed at Shirehall, Shrewsbury on 12th August 2015**

- 1 I am the Leader of Shropshire Council. I have been a Councillor on and off since 1987, first of all with Oswestry Borough Council, and I have been the Leader of Shropshire Council since the change to unitary status happened in 2009.
  
- 2 I am aware of the Council's Code of Conduct and I am aware of the process which follows if a complaint is submitted and which may lead to an investigation. I don't recall that I have been specifically trained on the Code of Conduct but I know that there have been member briefings and training sessions which I could have attended. I am not aware of the details of any specific training on Standards, and I don't believe any have been run since the 2013 election. I am aware of the process that usually occurs in situations like this because this is detailed in the standards documents.
  
- 3 So far as ip&e is concerned, it is a 100% Council owned company and Shropshire Council is the only shareholder. It was set up in 2012 and the idea was that it would provide income generation from profit for the Council, and free it up to operate in a different way. It was part of the transformational process that the Council had to go through due to the huge reductions in funding from central Government.
  
- 4 I am a director of ip&e on behalf of the Council. I know that there has been concern expressed by a small number of the public who are concerned that ip&e will lead to the privatisation of council services but this is not why the company was set up and there has never been any intention to privatise the company at all and this is not its purpose. I am only aware of one FOI requests about the company, it asked how much I am paid as a director; the answer is nothing as non-executive directors don't get paid. The main thrust of objections about the company, by the few, are politically motivated and are aimed to damage the reputation of the company and the political direction of the current administration. They are not founded in care for ip&e and the staff who work within it.
  
- 5 As far as the appointment of directors to the company is concerned, the shareholders committee is the Cabinet of Shropshire Council and I have the delegated authority as

Leader to appoint directors of the company, which I do after consultation with the other group leaders. At the Council, I have dispensations to speak on matters relating to the company, although this does not extend to any individual decisions which I might make in my role as leader.

- 6 When the company was first formed it was decided that we needed to have a Managing Director with appropriate experience and so we appointed Tom Roehricht as he had a commercial background. Tom dealt with most of the initial arrangements once the company was set up. At all the meetings of the company senior Council staff have been present. The make-up of the Board at the time of the decision about the appointment of auditors was made was a mixture of members, Council Officers, and Tom, as the Managing Director (he was also the Company Secretary and officiated over the meetings i.e., agenda, minutes etc.).
- 7 I was present at a meeting of the Board of Directors of ip&e on 23 November 2012; in fact I chaired the meeting. As part of the arrangements to set up the company we had to appoint auditors and accountants to the company. I had no specific involvement with the choice of the company's auditors and accountants who the company would choose from but I recall that they were all local firms, which fits in with the ethos of ip&e. We wanted to use a local firm, and from discussion I understood that the provision of the necessary audit work would have been likely to be more expensive had we sourced it from the Councils auditors.
- 8 I think that Tom Roehricht asked for names of local accountants to consider as he was new to the area and so had no local knowledge and a number of names were suggested by the board. I suggested that Tom should speak with James Walton the Councils s151 Officer, and it was also agreed that he may also want to consider speaking to the council's current auditors, Grant Thornton.
- 9 Tom Roehricht was asked by the Board to interview the firms and he duly did so. I specifically asked Tom Roehricht to speak with James Walton (Shropshire Council 151 Officer and Head of Finance) to discuss the findings of his interviews before anyone was appointed. This was to ensure that that the process was done correctly and that Shropshire Council were happy with the selection.
- 10 I was not aware that the meetings between Tom and DRE or the other firms had taken place until we had the meeting at which Tom presented his report. This was held on 30 January 2013 and Tom recommended DRE. I have looked at the notes of the meeting

and it was in fact a written report that Tom had prepared. From memory, Tom talked through the pros and cons of each company and put forwards his recommendation (that is contained within his written report although I did not remember this). Given the points he had expressed when making the recommendation, a decision was unanimously made by the Board to appoint DRE. This was on the merit of the proposal put forwards and based upon Tom's recommendation. I don't know what the criteria was that he used to pick the recommended firm, as this was up to Tom. DRE were duly appointed as the company's auditors. The appointments were made unanimously by the Board, although as Chairman I did not vote.

- 11 To be very clear, at no point was I part of the procurement process, I did not attend any meetings/interviews with companies, I did not have any influence whatsoever in the writing of Tom's short report (I had even forgotten it existed until I referred back to the notes), I had no influence in his recommendation and I could not, in any way, have influenced the decision of the Board. This was an independent decision made by the Board of Directors, based upon the independent findings of Tom Roehricht.
- 12 I did not declare an interest when the appointment was made, or declare an interest when DRE were put forward as one of the list of firms for Tom to consider. As these were the first meetings of the company, I was unsure whether to declare interests or not as the item 'Declaration of Interest' did not appear on the agenda as it does at a council meeting. The agenda was provided by Tom Roehricht and no one was asked about declaring interests I did not have a briefing note about declaration of interests as far as the company was concerned or about the role of a Director and the relationship with the Members Code of Conduct until September 2013 when Claire Porter provided a detailed note.
- 13 Any suggestion that I did anything to influence the selection of DRE as the company's auditors is completely untrue. We were relying purely on the expertise of Tom Roehricht as the Managing Director who after going through an interview process recommended DRE as the most appropriate company. I have since had very little involvement with DRE through the ip&e Board other than in the normal course of their work with the Company, which is led by the Finance and Commercial Director; for example I do not know how much they are paid or how many payments have been made to them etc.
- 14 I accept that I it would have avoided this nonsense if I had declared an interest but, as DRE have done nothing for me other than fill in my tax return for the last nine years, I

am not sure that it was required. I now have no active business interests outside the Council, as I sold my carpet business in 2005 and the building has now been sold. My tax affairs are therefore very simple, and someone very junior in DRE prepares my tax return and this is all that they deal with for me.

- 15 I accept that with hindsight, a declaration of interest would have avoided all of this. I do not accept that the information was withheld. Tom Roehricht was aware of the connection and I believe that DRE discussed it with him at the interview. He clearly did not see this as an issue because other than a reasonably junior accountant preparing tax returns, I have no direct business connection with DRE (other than the declarations that were already on public record). It was not even raised as a possible need for declaration by Tom.
- 16 My other connection with DRE is through Tony Matthews, who is a Director of DRE. I don't think that we would ever have described ourselves as friends and we don't meet socially now, and socially at the time was only through our children. Sometimes we will both be at the same events but that is mere coincidence. For example, I don't even know where Tony Matthews now lives. My connection with DRE was not originally through Tony Matthews but with [REDACTED] who was the founding partner of the firm. Tony Matthews is not from Oswestry but from somewhere in the south of the country, I don't know where. I had the same contact with Tony Matthews as I did with the other twenty odd parents who had children in the same class at that time.
- 17 It is however true that Tony Matthews and I are now directors of a company called Peakfast Ltd. This is a matter of public record and absolutely no secret. This Company was set up in the early 1980s and it owns some land. Tony Matthews and I have been directors of the Company from the start. The origin of this is that I bought some land – a field amounting to 3.6 acres, in front of Morda House for £4,800. The house then burnt down and a plan was put in by [REDACTED] at the accountancy firm (now DRE) to apply for planning permission to develop the land. My field was not appropriate for development as it marshy and floods easily. Eventually, the land around Morda House obtained planning permission sometime I think in the mid-nineties. Peakfast does have some land, which amounts to a ransom strip and the only reason to keep the company is for the value of the ransom strip.
- 18 Details about my involvement with Peakfast are on my Register of Interests at the Council and so are publicly available and I have never sought to hide my connection with the Company. The ransom strip has not been used and is still owned by

Peakfast. Land on the other side of the ransom strip has now got planning permission however I believed that the fact that I had declared my interest with Peakfast and therefore its Directors on my Council declaration of interests was sufficient. This has been in the public domain for many years and is no secret

I believe that the facts of this statement are true to the best of my knowledge and belief.

Signed..... Dated.....

## Second Statement of Keith Barrow

Interview taken by telephone on Thursday 3<sup>rd</sup> September 2015

At the beginning of the interview the investigator reminded Cllr Barrow about the possibility of his statement getting into the public domain. Cllr Barrow confirmed that he understood this.

1. The only transaction which Peakfast has done was to keep a piece of land as a ransom strip to land which had the potential, at some point, to get planning permission. When we kept the land as a ransom strip I did not think that the field would get planning permission during my lifetime. However, the planning law changed and authorities were required to have a five year land supply for housing. At the time of the change Shropshire Council did not have a five-year land supply and as a result many applications were put in which would not have been foreseen under the previous planning law. Previously, I had thought that I may transfer my shares in Peakfast to my children as I thought that there was no possibility of the land getting planning permission in my lifetime.
2. I do not get involved in planning matters at the Council and so although I was vaguely aware that some discussions were going on about the land and may have known that an application might be made at some point, I was not aware of the application for planning permission made by [REDACTED] in early 2013 beforehand and was not aware of any discussions before 2013 in any detail.
3. I was not involved in any negotiations about the ransom strip and I had no idea of the value of the ransom strip. I have kept my distance from every aspect of this and so whilst I was aware of the situation, to the best of my recollection I did not have any discussion with Tony Matthews about it.
4. There is no evidence to show that I have done anything inappropriate at all. I am absolutely clear that I was not involved in any discussion about the ransom strip with officers and I cannot recall any conversations about it with regard to Peakfast. I am aware that a complaint was made but I strenuously deny that I did anything wrong and I consulted my solicitors over the claims.
5. So far as Peakfast is concerned, it has never been active. Over the years that it has been in existence directors have come and gone, although the last time that this happened was in 2004. I cannot recall whether or not the meetings of Peakfast when new directors were



added or directors resigned where actually held between the directors or if they were done as a paper exercise.

6. I cannot see how the issue relating to the land held by Peakfast is connected with IP and E. I don't see how the things are into related. I am aware that there is some disquiet about the company, although I think that is confined to a relatively low number of people. In the manifesto for the Shropshire Conservatives for the election in 2013 we were very clear about how we saw ip&e providing public services on the councils behalf and trading to the benefit of Shropshire people and Shropshire Council and that it would be owned by the people of Shropshire. Thousands of leaflets explaining this were put through the doors in Shropshire whilst we were campaigning.

I believe that the contents of this, my statement are true.

Signed..... Dated.....

At the start of the interview the investigator went through the process that she was going to follow and warned Councillor Tremellen that his statements may get into the public domain. He confirmed that he understood and accepted this.

**Statement of Councillor David Tremellen  
Interviewed at the Severn Centre, Highley on Monday 17<sup>th</sup> August 2015**

- 1 I was elected to Shropshire Council as an Independent member for the Highley Division in May 2013. I "declared" for UKIP in January 2014. Because there is no UKIP political group at Shirehall, my altered status placed me outside the formal Independent group at Shirehall, altering the balance of representation on council committees, I was therefore accorded the formal status of "Non-Aligned Independent", losing my place on the Environment Services Scrutiny Committee and allocated a place on the Performance Management Scrutiny Committee.
- 2 Despite membership of UKIP, which does not operate a party Whip at local government level, this complaint has nothing to do with party politics. It is my belief that party politics has no role in local politics on anything other than a personal level, informing but not dictating either opinion or action. In that sense "Independent" describes me but does not define me, as evidence the fact that I originally stood as official Conservative candidate for my Division, standing down from the Conservative party only because I disagreed with the way that central government (at the time in coalition with the Liberal Democrats) was interfering in the business of local government, specifically with regard to planning policies. I felt that the whole process of local government was being undermined.
- 3 Given central government budgetary constraints and the uncertainty created by "austerity measures", I have made it clear in published articles in the local press that I am not without sympathy for the situation that Council Leader Keith Barrow finds himself in, I can also see why Shropshire Council's Cabinet is attracted to alternative ways of delivering on its statutory services. But creating council-owned stand-alone companies able to trade for profit which can then be channelled back to the council may be attractive from a purely financial point of view, but these 'Teckal' companies are problematic where democratic representation is concerned.
- 4 Shropshire Council's Teckal company is ip&e. The concept is tried and tested and found to work, but I do feel that things are happening too fast and without the full consequences being considered notably the impact of ip&e on the machinery of local government and elector representation. Of equal concern is the matter of sound accounting practice, but I'll

address that aspect when I have finished establishing that my motive for raising the matter in the first place was not "party political", but out of concern over the level of public disquiet.

- 5 The public perception of a lack of transparency in the establishment of ip&e and subsequent actions by its directors is what contributes to the lack of public confidence that the affairs of Shropshire taxpayers, and the investment made on their behalf in ip&e, are being effectively managed by an executive Council appearing to hide behind "commercial confidentiality".
- 6 Before ip&e came more fully onto the scene, I had written articles in the local press about the shortcomings of an existing stand-alone, council-owned company: Shropshire Towns & Rural Housing. ST&RH is the Arm's Length Management Organisation (ALMO) which manages all of Shropshire Council's housing stock. It is at arm's length from the Council and therefore at arm's length from Local Members. The significance of its position relative to the Council is that when a constituent contacts me about a housing issue there is nothing I can do because ST&RH is operationally independent and notionally answerable only to its Board of Directors and through them to the relevant Cabinet portfolio holder. So having experienced the distancing of one ALMO from the machinery of local government the appearance of an even more refined model of remote administration in the form of ip&e, was viewed with alarm and not a little suspicion that it would further distance council operations from the electorate. That was my reaction, but public perception was of a creeping process of privatisation.
- 7 There is a lot of anger amongst Opposition Members and subtly (but understandably not openly) expressed concern amongst Conservative Members at the speed at which events have taken place. Decided in Cabinet, the reaction to that criticism is discounted as irrelevant and obstructing. When concerns have been raised in the Performance Management Scrutiny Committee, chaired by a Conservative councillor and dominated by Conservative Members, concerns are likewise ruled irrelevant, inappropriate or obstructive.
- 8 This Code of Conduct complaint actually arose from a question I had submitted to 7<sup>th</sup> July full Council meeting. The question I was going to ask was: "Given the extent of public disquiet, surrounding the creation of ip&e, would Council agree that, purely in the interest of probity the appointment of auditors for ip&e should have been on the basis of competitive tender from companies throughout the County, rather than on the basis of what could be unfairly interpreted as a long-standing personal and professional relationship with a director of ip&e?". When I submitted the question, Claire Porter (Head of the Legal & Democratic Services) telephoned me to ask if I would consider submitting it as a formal Code of

52

Conduct Complaint because she felt that "in order to protect the reputation of the Council" it would be better dealt with by the Standards Sub Committee who would then decide whether to pass the matter on to an independent investigator, the Council would then decide how to go forward on the basis of the investigator's report. At a subsequent meeting of the Standards Sub Committee (from which I was barred as the complainant) it was decided that the matter warranted further investigation and is the reason we are here.

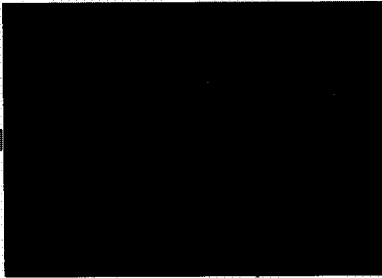
- 9 I do believe that there is not enough openness about ip&e and certainly I have had complaints that the company is not open enough. Whilst I understand that the company and Cllr Barrow have to observe commercial confidentiality as the competitors to the company should not be allowed to know what their thinking is and the company after all is supposed to be raising funds for Shropshire tax payers, I think that the lack of transparency goes too far. For example, the leaders of both the Liberal Democrat and Labour groups complained that much of the company's business plan was redacted.
- 10 As to my reasons for asking that original question? On 1 July 2015 I submitted a letter to the Shropshire Star expressing my concerns about ip&e. I was subsequently contacted by Mr Len Evans who claimed to have "evidence" that cast doubt on the soundness of ip&e's governance. I was concerned that he may have had a personal axe to grind but despite that thought it worth talking to him because the issues he raised were significant and, if proved true, ignoring them would have been a dereliction of my duty as a councillor. Any doubt I may have had with regard to Mr Evans' credibility was overcome when I met him at his home where he produced documentary evidence that did indeed establish a close professional relationship between DRE, who are ip&e's auditors, and Councillor Barrow going back over decades.
- 11 I felt that by putting a question to Full Council it would give Councillor Barrow (as Chairman of ip&e) a chance to explain his position and, by placing the whole matter into the public domain, would mean that full Council and the general public would learn what had happened in the process of appointing DRE as auditors and how, in that process, the question of compliance with ethical standards had been met in relation to Councillor Barrow's historic relationship with directors of DRE.
- 12 In terms of its impact on local governance, ip&e I believe is the biggest change since the Representation of the People Act 1880 because it places decision making outside the direct control of the Council's elected Members and therefore at a distance from Shropshire's electorate; a situation that makes it even more important that ip&e is seen to be prudent in managing those new arrangements, which is why I question whether or not it was prudent

accounting management to appoint as external auditors a company whose directors have documented historical personal links with ip&e's Chairman.

- 13 My question had grounding in my personal background, given that my degree (obtained as a mature student) is a business one that included the study of Financial and Management Accounting and Business and Company Law, which whilst not qualifying me as either an accountant or lawyer does give me an awareness of ethical business standards.

I believe that the content of this, my statement are true

Signed



Dated 11 SEPT. 2015.

At the start of the interview the investigator went through the process that she would follow and informed Mr Evans that his statement may get into the public domain. Mr Evans confirmed that he understood and accepted this.

Mr Evans was accompanied by his wife [REDACTED]

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STATEMENT OF  
MR LEN EVANS

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- 1 I am Len Evans. I have been a Shropshire resident all of my life and am retired due to ill health. I have quite a lot of free time now that I am in retirement and so I read a lot, including the local newspaper, the Shropshire Star. A few weeks ago I saw an article on the front page of the Shropshire Star a while ago which concerned some protests outside Shire Hall. This caught my eye and so I followed it up.
- 2 I saw articles by Alan Moseley, a Labour Councillor and also by Andy Boddington, a Liberal Democratic Councillor all of which were expressing concerns about ip&e and I contacted them about the company with some information which I thought they might find useful, but they did not seem interested. I then saw Councillor Tremellen's article in the Shropshire Star and his letter and so I contacted him and he did seem interested and came to see me.
- 3 When I saw Councillor Barrow was involved in ip&e, I contacted Mr Boddington and asked for copies of information; matters like who incorporated the company and who were the auditors of the company. I said to my wife that I would bet a £1,000 that the auditors of ip&e would be DRE. I said this because I know that Tony Matthews, the Senior Partner in DRE and Cllr Barrow were close friends and that DRE were Keith Barrow's personal accountants.
- 4 I knew this from my own knowledge. I also know that they are both Directors of a company called Peakfast. I believe that Keith Barrow and Tony Matthews also socialise regularly as I use to see them together. However, I have to say that I have not seen them together recently, probably not for about 20 years or so.
- 5 Whilst I believe that Councillor Barrow and Tony Matthews have a close relationship, I don't know if the Peakfast Company is still in existence. I don't know what process was gone through before DRE were appointed as auditors of ip&e and I don't know why they were chosen.

I believe that the facts of this statement are true to the best of my knowledge and belief.

Signed: [REDACTED]

Dated: 4-09-2015

At the start of the interview the Investigator explained to the Interviewee the process she would follow and explained to the Interviewee that it was possible that her statement would get into the public domain, and that it would also be shown to Councillor Barrow. The Interviewee indicated that she understood and accepted this.

### Interview of Nicki Beardmore

Taken by telephone on Friday 28<sup>th</sup> August 2015

1. I am the Director of Resources and Support at Shropshire Council, a post I have held since January 2013. Before that I was Communications Manager and Head of Communications at the Council. Since December 2014 I have been seconded on a full time basis to ip&e as the acting Chief Operations Officer of the Company.
2. When the Council originally set up ip&e I was asked to be one of the Directors of the Company; there was a need to have Directors in place to form the company, I was asked if I would undertake this role in the short term. The then Deputy Leader, Cllr Anne Hartley; and Michael Hyatt, the Councils Head of Strategy, were also appointed to the Board. One of the first things we needed to consider was the appointment of auditors. I first raised this at a meeting on 23 August 2012 and the minutes of the meeting show that I was asked to action this and obtain quotes from a number of different companies, it was agreed to contact Grant Thornton, [REDACTED] and DRE. I can't remember why these firms were put forward other than Grant Thornton are the Councils auditors and the others are local firms.
3. One of the reasons that ip&e was set up was to support local businesses, and work with local firms who could deliver for us and help grow the economy of Shropshire, and so we were looking for locally based firms, and also wanted to make sure that there was a geographical spread across the county, so suggestions were made where firms were understood to have a presence in either the North, South or centre of the county. From my recollection the Board had a broad conversation about who they thought fitted this sort of criteria, and there was no must/mustn't at all about the selection. I can't recall who suggested DRE as it was a broad conversation by everyone in the room, but the company will have fitted the criteria of having a central and northern office I think; I seem to remember that [REDACTED] had a central and southern office. The discussion was open and fairly carried out. Grant Thornton was suggested because they were the council's current external auditors. I do not recall anyone focussing more specifically on one

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company than another and I'm very clear that there was no exertion of influence or pressure carried out by anyone in attendance.

4. I did not action this in the end as there was the oncoming appointment of a new MD and I felt that it was more appropriate for the new MD to carry out the selection of the accountants/auditors because they would be working closely with them in the future. At this point there was no business taking place within ip&e and it had no employees. It was next discussed at a meeting of the Board of ip&e on 10 December 2012, by which time Tom Roehricht had joined as the MD. At that meeting I referred to the need to appoint auditors. Again we had a wide discussion, with the focus on the need to appoint a local firm who would work with the values of ip&e etc.
5. As Tom was not from the area he wanted suggestions as to who to consider. Three firms were listed at the end of the discussion, [REDACTED] [REDACTED] and DRE, I'm assuming because they fit the criteria of being local and geographically spread, but he could really have gone to anyone he wanted to. Cllr Barrow I recall suggested that Tom also consider approaching Grant Thornton, the council's current external auditors, and requested that Tom also have a discussion with the Council's s151 officer, James Walton to discuss the approach being taken.
6. The matter came back to the ip&e Board at the meeting on 30<sup>th</sup> January 2013. Tom presented a written report detailing the discussions he had had with the firms listed in paragraph three above, and also with [REDACTED] which detailed the criteria he had considered, including the requirement for a local firm who could meet the company's needs, pricing details and how the firms had presented. He made a clear recommendation to appoint DRE. Tom had met with each of the firms on his own as far as I'm aware, and the report was produced independently by Tom.
7. I am confident Keith Barrow must have declared an interest, as I recall Tom mentioning it in passing in a discussion at some point. From my recollection, Tom mustn't have seen this as a problem and didn't raise this as an issue to me or the Board. I seem to have the impression that it was not a big relationship between Keith Barrow and DRE as that would have rung alarm bells with me at that time. I did not feel that there was anything untoward, and I didn't have concerns about the relationship. In his role as MD and Company Secretary, Tom was trusted to make such judgements, act and inform to the Board accordingly.

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8. The procurement of the Auditors was led very firmly by Tom, as MD and his recommendations that were enclosed within his report, were agreed by the Board. At no point at all did Cllr Keith Barrow put any pressure on the Board whatsoever, and as far as I am concerned the procurement of accountants and auditors was carried out by Tom Roehricht as MD and conducted as it should be.

Signed .......... Dated.....9.9.15.....

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At the start of the interview the Investigator explained to the interviewee the process she would follow and explained to the interviewee that it was possible that his statement would get into the public domain, and that it would also be shown to Councillor Barrow. The interviewee indicated that he understood and accepted this.

### Interview of James Walton

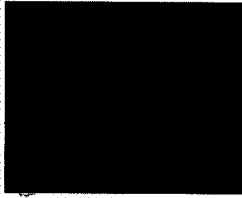
Taken by telephone on Tuesday 8<sup>th</sup> September 2015

1. I am Head of Finance, Governance and Assurance at Shropshire Council, and the Council's s151 officer. I first held this post on an interim basis in 2011, and was appointed to the substantive post in 2013. I am a CIPFA qualified accountant.
2. I do not have a direct role with ip&e. My role has always been on the side of the Council, looking at the financial implications of what ip&e was doing and the financial implications that might have on the Council.
3. At one time, when ip&e was first set up there was a general assumption that they would get their back office support services from the Council. Around that time, however, internal audit reviews had identified some control weaknesses within a number of support functions delivered through Shared Services and so we had discussions about whether there was an opportunity to get these services delivered in other ways. I think that we considered whether DR&E were able to provide accounting and payroll services. These services were of a very small financial value at the time, and would have had a low impact on the council were they not delivered internally. We also felt that it would be useful to have a benchmark against the cost and quality of council provision. I don't recall why DR&E were mentioned or if other firms were considered. I don't recall speaking to Cllr Barrow about this at the time or subsequently.
4. The appointment of auditors for ip&e was a matter for the company, and the then Managing Director, Tom Roehdricht. I don't recall discussing the appointment with Tom, either in relation to the firms that the company might consider, or what his findings about the shortlisted firms were.

I believe that the contents of this, my statement, are true.

59

Signed



Dated 11<sup>th</sup> September 2015

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**LOCALISM ACT 2011**

**RELEVANT AUTHORITIES (DISCLOSABLE PECUNIARY INTERESTS)  
REGULATIONS 2012**

**DISCLOSABLE PECUNIARY INTERESTS**

<b>Name</b>	Keith Barrow
<b>Address</b>	Silverdale House Silverdale Drive Trefonen Oswestry SY10 9DJ
<b>Telephone Number</b>	01691 676017/07703344774

Every Member<sup>1</sup> is required to register and disclose certain interests and those of their Partner<sup>2</sup> where they are aware of the existence of such interests.

<b><u>Employment, office, trade, profession or vacation</u></b>  Any employment, office, trade, profession or vocation carried on for profit or gain by you or your partner	None
---	------

1 "member" means a member of the authority and includes a co-opted member;

2 Partner includes your spouse, civil partner or person with whom you are living as if they were your spouse or civil partner

<p><b><u>Sponsorship</u></b></p> <p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period<sup>3</sup> in respect of any expenses incurred by you in carrying out your duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>	<p>Conservative Party</p>
<p><b><u>Contracts</u></b></p> <p>Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest<sup>4</sup>) and the Council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>	<p>I P &amp; E Ltd Non Exec Director</p>
<p><b><u>Land</u></b></p> <p>Any beneficial interest in land<sup>5</sup> which is within the area of the Council.</p>	<p>Silverdale House, Silverdale Drive, Trefonen, Oswestry, SY10 9DJ</p> <p><del>46B Bailey Street, Oswestry</del> property sold March 2015</p>
<p><b><u>Licences</u></b></p> <p>Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.</p>	<p>None</p>

<sup>3</sup> "relevant period" means the period of 12 months ending with the day on which you give a notification of its existence

<sup>4</sup> "body in which the relevant person has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest; and "director" includes a member of the committee of management of an industrial and provident society

<sup>5</sup> "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

<p><b><u>Corporate tenancies</u></b></p> <p>Any tenancy where (to your knowledge)—  (a) the landlord is the Council ; and  (b) the tenant is a body in which you or your partner has a beneficial interest.</p>	<p>None</p>
<p><b><u>Securities</u></b></p> <p>Any beneficial interest in securities<sup>6</sup> of a body where—  (a) that body (to your knowledge) has a place of business or land in the area of the Council ; and  (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>	<p>Director of Peakfast Ltd, Oswestry</p>

**NOTES ON SENSITIVE INTERESTS**

An interest is sensitive if its nature is such that you, and your Monitoring Officer, consider that its disclosure could lead to you, or a person connected with you, being subject to violence or intimidation

The nature of your sensitive interest will not appear in the published register of interests but it may be recorded that you have a sensitive interest.

*I hereby undertake in accordance with The Localism Act 2011 to notify, in writing, the Monitoring Officer, within 28 days, of any disclosure made at a meeting of a disclosable pecuniary interest which is not already included above*

Signe  .. Dated..... *5th July 2012*

***This form should be returned to Claire Porter, Monitoring Officer, Shropshire Council, The Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND***

<sup>6</sup> "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



Our plan for the next four years is...

## Working Together

The future is not just about working smarter, it's about working together. The council does work with other public bodies, for example our communications team work for the Police Commissioner, but this needs to grow and develop further.

Our new community based approach will look at all the public services in an area, no matter who provides them. Understanding what is happening on the ground will allow us and our partners to cut out duplication and deliver high quality services more effectively.

It is just common sense for the council, partners in health, the police, Shropshire Fire and Rescue and the voluntary sector to co-operate to get the best value for the public pound.

## INSPIRING PARTNERSHIPS & ENTERPRISE

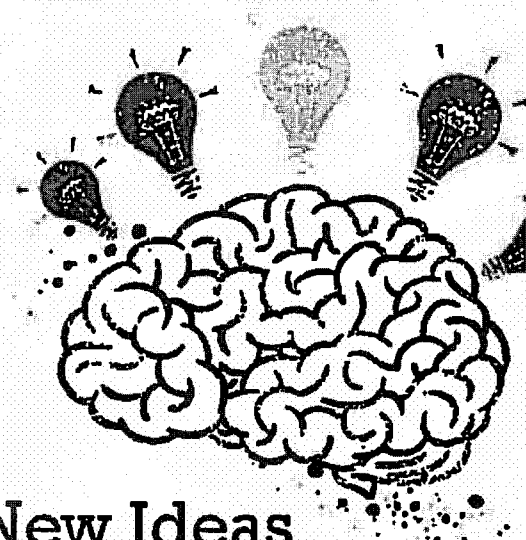
ip&e group limited is a new trading company which we have setup and is wholly owned by Shropshire Council. It will provide public services on the council's behalf. It will also be able to trade with other organisations, and the council will reinvest profit from trading into providing services.

The company belongs to Shropshire Council and that means you, Shropshire's taxpayers. It will have a contract with the council to deliver services.

We have set up this company to make our funding go further. Like all councils across the country, we need to provide services to the public with a lot less money. New laws enable us to sell our services to other organisations, and to do this we have to set up a business.

Profits generated by ip&e selling its services – not only to the council but to other organisations – will be put back into the council so that we can continue to provide high-quality public services.

The thing that makes ip&e different from schemes that other councils have set up is that it will always be owned by you, the people of Shropshire.



## New Ideas

As we are faced with more cuts to our funding doing things the same as yesterday is not an option. We need to be innovative:

### Redesigning the way we work

The council still does things the way it did a generation ago. We have made a start but will continue to get rid of outdated practices to make it fit for purpose.

### Budgets based on outcomes

We have all seen the rush to spend money by managers at the end of the financial year. In future we will first decide on our outcomes and then provide the budget to deliver them. This process will not only save everyone money but will make our staff more accountable.

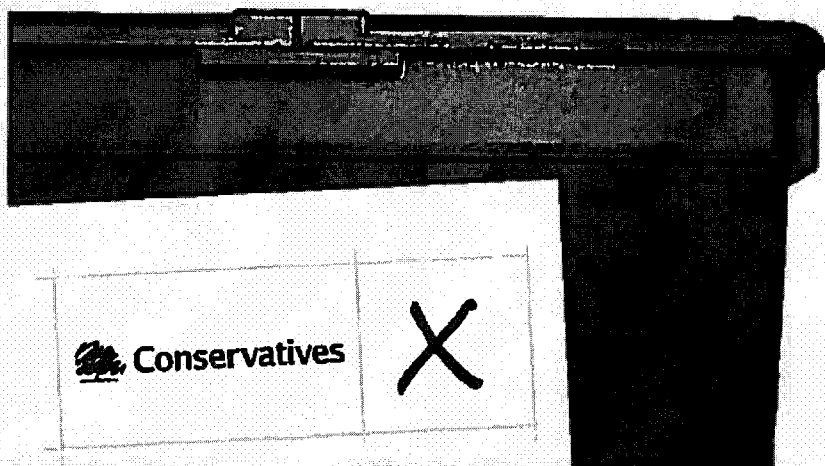
One process that has been redesigned is fixing potholes. The repair time for reporting has been cut from 30 days to 3 days, with an average of 19 jobs completed everyday rather than 3.

### Putting people first

It's a well known business saying that the customer is always right and we believe we should take that further. The council needs to recognise that the people of Shropshire are its customers and treat them appropriately.

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## PLEASE REMEMBER TO VOTE AT THIS ELECTION



## REASONS TO VOTE FOR US AT THESE ELECTIONS

- ✓ £55 MILLION SPENDING SAVED
- ✓ COUNCIL TAX FROZEN AGAIN
- ✓ MORE LOCAL DECISION MAKING
- ✓ A CLEAR PLAN FOR THE FUTURE

POLLING DAY IS ON THURSDAY MAY 2ND 2013, 7AM TO 10PM



Dear Sir,

**Keith Barrow's article, Shropshire Star, Tuesday 23rd June.**

Keith Barrow says nothing new in his piece about ip&e, but continues to miss the point that ip&e removes Council even further away from local communities than Unitary, when it replaced the Districts and County council.

Whichever way ip&e's own communications company presents the case for its parent company, it is bad news in terms of its direct effect on democratic processes. However much political spin you put on it, changes to local government will mean, to paraphrase Keith Barrow, less cost because less service.

The expression often used by politicians to describe what they're doing is 'transformational change'. They insist that the changes they are being forced to make are actually driven by your expectations, because you expect the best, therefore transformational change means that your expectations will be met in a more efficient form for less cost. It is a bit like being told that the pile of lettuce leaves in front of you is actually better for you than the steak you ordered, and cheaper.

The reality is that, for all Councillor Barrow's mystified reactions regarding opposition to his plans, ip&e is an outcome decided by force of numbers not force of argument. Because the people opposing him are not of his political party he is bound to see opposition as "politically motivated". He is the Leader of a Council governed by a Cabinet system over which he has absolute power of patronage. He chooses his Cabinet. They are all of his political party. That is the "political" reality we Opposition back-bench councillors have to deal with.

Councillor Barrow claims he has no influence over the forces that compel him towards ip&e, therefore ip&e is not driven by ideological imperatives and is not a process that hands control of council services to a caucus of individuals selected by him. In other words, it is no more than a natural progression that advances the wellbeing of Shropshire people.

Sorry, it is not that. It is not that at all.

Granted, councils across the UK are being forced to paint themselves into the same corner, but I just wish he wasn't so concerned to have us admire the colour of the paint rather than protest about our being placed in a position we wouldn't have agreed to if we had been told what the full implications of his re-decoration scheme really meant.

It used to be that local councillors served as the bulwark against central government attempts to impose whatever party ideology happened to be flavour of the month in Westminster.

"Austerity" hasn't helped. It could be argued that it has handed central government the opportunity to remove the bulwarks of local opposition and dismantle the whole framework on which those bulwarks were built. Local government has effectively become central government by proxy.



When Councillor Barrow insists that “the people of Shropshire voted for this”, he confirms my suspicions that political parties assume a mandate for everything in their manifesto, even those parts that would be manifestly disliked if they were spelled out in detail, which ip&e was not.

*Dave Tremellen*  
*Member for Highley*

# ON THE WEB

www.shropshirestar.com

## MOST READ

- 1 Caught short? Probe into Shrewsbury Half Marathon's 'missing' half mile
- 2 Body of man found in car at The Wrekin
- 3 Wife reports Shrewsbury child porn man to police
- 4 Here's something you don't see every day... Monster VC10 makes its way through Shropshire streets
- 5 Dog walker hit by driver at Telford car park

## ONLINE POLL RESULTS

Would you be willing to pay more for the BBC?

**8%** **92%**

of readers said yes      said no

Should Apple pay musicians for songs on streaming services?

## TOP COMMENTED

**Caught short? Probe into Shrewsbury Half Marathon's 'missing' half mile**  
 "If the course was short then that truly is a disaster."  
 Pictures: Shropshire's Lee turns shed into his very own pub  
 "Love it! One of the best shed pubs I've seen."

Join the debate at shropshirestar.com

## VIDEO CHOICE

Milki and Sue make Team GB for European Dog Agility Championships



## NATIVE MONSTER

10 things that everyone from Shropshire can relate to  
 For more details and other events across the region visit nativemonster.com

## Weekend

Declaring war: Is BBC drama Odyssey the new Homeland?  
 This Saturday



# Laid up Biker Harry vows to be at his own motorcycle show after road crash



Motorbike for Harry is on the mend

The organizer of a bike show that takes thousands to thank Wales Air Ambulance is in a race against time to attend the event - after landing himself in hospital after a crash.  
 Harry Edwards insists a broken pubic and cracked knee will not stop him going to Llanthyllis Bike Show, which he is co-organising on August 1 and 2.  
 But he admits it is ironic that he lands himself in hospital after a crash on his bike.  
 The show is planning to raise thousands of pounds for Wales Air Ambulance, which helps scores of stricken motorcyclists every year.  
 In his case, Harry didn't read the forecaster as he crashed near an accident and emergency centre while recovering well in Royal Stoke University Hospital following the incident where his new Honda Scrambler was in collision with a car near Bodelwyddan, North

Report by Sue Austin

Wales, on June 2, putting him in intensive care.

The 55-year-old runs the Llangollen-based Shropshire engineering company which has just finished rebuilding the town's famous Chain Bridge.

Harry, who is also a keen motorcycle racer, said: "It happened just a mile from Glas Cwyrdd Hospital accident and emergency unit, so I was taken there by road before being transferred to the trauma unit in Stoke."

"But I owe my life to an ambulance after I crashed at a supermoto event a few years ago. That's why all the proceeds of the

Llanthyllis Bike Show are going to Wales Air Ambulance."

The Nantlle Hill Half Marathon Race Festival has donated prizes worth hundreds of pounds for the Bike-Put rally including a Premier Experience at Denonville Park circuit, with insiders telling us a Honda CBR600RR.

The Llangollen Pavilion site has previously hosted successful bike shows - but Llanthyllis Bike Show is being organised by a new team of local enthusiasts, with support from the Llangollen & District Motorcycle Club.

The show will be opened on August 1 by seven-time TT winner Mick Grant and Carl 'Fuzzy' Fegarty BIKK, the most successful World Superbike racer of all time, with a beer-and-bands party on the Saturday night.

Book tickets and stands online at www.hankirkfest.co.uk or call 07960 652398.

## Council leader responds to rumours over 'secrecy' at company

# Ip&e 'delivers better service for less cost'

Shropshire Council has created a commercial company called Ip&e to deliver services and make a profit. Today council leader KEITH BARROW answers critics who claim its secrecy is undemocratic.

IP&E is the company created by Shropshire Council to deliver public profit and improved outcomes to Shropshire.

The company is not political and is there simply to do a great job of delivering some council services in better ways, and also doing this for other organisations in the public sector.

Over the past few weeks, you may have seen or heard news of Ip&e, fuelled by ridiculous rumours of it not being a very open organisation.

But let me tell you, this is far from the case. Ip&e is a relatively new business, made up of incredibly talented people who work hard every single day, ensuring all sorts of amazing services across Shropshire and beyond.

### Checks

The breadth of huge and they carry out essential work such as doing vital health and wellbeing checks in our communities by working with GPs and other healthcare organisations, and helping schools to educate our children in the best way we can through our school improvement services as well as redesigning council services so we can keep doing the really important and necessary parts of public services for Shropshire residents in the most efficient way.

There is a fine balance between Ip&e wanting to be open and transparent with information and yet not giving away sensitive, non-commercial information that would undermine its ability to trade. This would compromise the goal of making a public profit that gets reinvested back into Shropshire. It wouldn't be in the interest of Shropshire residents to give this information away and would allow competitors to know what the company is doing and planning, clearly give them an advantage.

Obviously our public organisations do not publish their business plans and do not share this kind of information with their competitors.

Ip&e is open and transparent in everything it can be. But it is important to protect the interests of Shropshire's residents,



Council leader Keith Barrow says Ip&e aims to deliver public profit

as information is shared where it is confident that it doesn't compromise the company's ability to trade.

All the information publicly available is already on the Shropshire Council website, with Ip&e's own site recently launched and developing as you read this - and all our key documents and policies have been shared with the council's various committees in the public arena.

Our company's accounts will also be available once they are finalised in July and I'm looking forward to reporting a small, but not insignificant profit for the last trading year.

This is great news, and in addition to this, the contracts that we have with the

council leader, as shared where it is confident that it doesn't compromise the council in the region of three quarters of a million pounds.

### Jobs

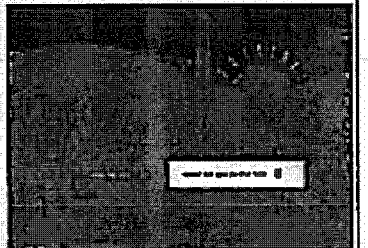
This is simply by doing things differently within the company in the context of it being a limited company (although wholly owned by Shropshire Council), and being able to reduce process and operational costs.

They have also created new jobs and this is not to continue as the company grows. It's a win-win situation, the public get a better service for less cost.

If Ip&e benefits, then the public of Shrop-



Protesters against privatisation of council services



Openness - the recently launched Ip&e website

shire benefits, which is why I was astounded when some councillors who claim to have taken office to help our county, happily defame Ip&e without bothering to actually find out what it's really about and how it is significantly helping our county.

It is time for others to take the politics out of the company and let it have some credit for the contribution it is making, and thank the amazing staff for the work they are doing.

I look forward over the coming months to continuing to shape the success of Ip&e. By delivering services in new, innovative ways, we can continue to improve the quality of life for everyone that lives in, works in, or visits our beautiful Shropshire.

# Claims of lack of transparency shroud company

It has attracted criticism from councillors and campaign groups since it was set up three years ago, but what is the issue with Ip&e? writes Jennifer Robertson.  
 The company was brought into being in 2012, established by Shropshire Council as a way to sell its services to other companies and councils - using the proceeds to fund the authority's running costs.

Services provided by Ip&e include examinations for Shropshire Council and other organisations, recently transferred "school improvement services" and "Help

to Change" which provides support for people on smoking and weight issues.

However, the company has endured a stream of criticism regarding "secrecy", with protesters demanding an Shirehall earlier this year, and councillors questioning the company's transparency.

Ledley's Campaign for Fairness has been one of the company's most vocal critics, with around 40 placard-waving protesters attending Shropshire Council's May meeting to make their feelings known. Chairman Sandy Robertson said Ip&e

uses "commercial sensitivity" as a means of avoiding scrutiny. He said: "We are concerned about the notion of secrecy by the privatisation of council services, including the setting-up of a private company within the council itself, which reduces accountability and transparency as regards the delivery of local services."

Councillor Alan Mackley, leader of the council's Labour group, has said: "I am concerned we do not know, as the ordinary members of this council, enough about what is going on."

The company also made a profit (one of £114,701 in its first year of trading although council leader Keith Barrow said it was largely due to a £37,000 charge for the staff who are members of the Local Government Pension Scheme).

The company has again been criticised over "secrecy" in recent weeks, with Ledley South councillor Andy Boddington (writing Ip&e's business plan on his blog with virtually all the text blacked out, claiming that one all he was allowed to say about it.

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**From:** Claire Porter  
**Sent:** 17 September 2013 16:11  
**To:**  
**Subject:** FW: Briefing note for Councillors and officers acting as company directors  
**Attachments:** Guide for Directors and Secretaries gba1.pdf; Briefing Note to a Councillors and Officers on being a Company Director.doc

Hi I have sent this to them as drafted.

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**From:** Claire Porter  
**Sent:** 17 September 2013 16:11  
**To:** Michael Hyatt; Tim Smith; Keith Barrow; Mike Owen; Lee Chapman  
**Subject:** FW: Briefing note for Councillors and officers acting as company directors

Dear All,

I thought it might help if you had advice on being a Director in one place. I am conscious that some of you may have received bits of advice on your role and duties over the last year or so and some may not have. The advice attached applies where you are appointed a director by the Council to any company and not just for IP&E. This is being sent as a helpful tool which some of you may know already. Any queries don't hesitate to ask Lindsey or myself.

The main section of the guide summarises the statutory duties of directors, and the last couple of pages goes into the relationship as employees and councillors of the Council. It may seem a bit long but we thought it was better to cover everything rather than leave it to you to have to research further.

Also attached is a Companies House guide which may be of use.

Best wishes Claire.

# SHROPSHIRE COUNCIL

## Briefing Note to Councillors and Council Officers on being a company director

### Contents

#### Part 1 – Directors' Duties and Responsibilities

#### Part 2 – Duties and Responsibilities to the Council

The purpose of this Briefing Note is to provide an overview of the general duties and responsibilities owed by directors of a company.

This briefing note is not intended as a comprehensive guide to the law, and detailed professional advice should be sought where necessary.

### **PART 1 - DIRECTORS' DUTIES AND RESPONSIBILITIES**

A company is a separate legal body with its own legal identity which is structured on two levels:

- 1) the Members of the company, who are the owners and Shareholders;
- 2) the Directors, who are appointed to manage the day to day business of the company on behalf of the members and who must work collectively through the Board and not as individuals, unless acting in accordance with delegations made by the Board (see also restrictions on the role of Councillors when acting as company directors in Part 2 of this document).

Directors are responsible for the company carrying on its business and exercising its powers. A Director's primary responsibility is to the company (that is the Members), but responsibility may also be owed to co-directors, employees and creditors of the company.

Directors are appointed and removed or retired in accordance with the company's Articles of Association, and the company is responsible for notifying Companies House within 14 days of a change in Directors.

The duties owed by Directors to their companies have evolved through case law, and are known as common law and fiduciary duties. Many of these have now been codified under the Companies Act 2006 and so the general duties of Directors broadly comprise the general duties of directors set out in the Companies Act 2006 (CA 2006), fiduciary duties, other common law duties and other statutory duties. Any or all of these may be relevant to a particular situation. Directors should familiarise themselves with their duties, as failure to comply may result in criminal proceedings if the requirements of the Companies Act 2006 are breached.

Councillors acting as directors should be aware of these duties, particularly those which could lead to:

- a) a conflict with their role as member of a local authority (for example, the duties to promote the success of the company, to exercise independent judgement and to avoid conflicts of interest);

**b) personal liability for the debts of the company**

Both Councillors and Officers will need to balance their duties as a company director with their duties and responsibilities to the Council, and further information is provided in Part 2 of this document.

**1. GENERAL DUTIES UNDER THE COMPANIES ACT 2006 AND FIDUCIARY DUTIES**

**1.1 Duty to act within powers (section 171, CA 2006)**

Director's must act in accordance with the company's constitution and must only exercise their powers for their proper purpose (that is, the power for which they were conferred, and not, for example, to protect their own position as a director). You should be aware that this prohibition applies even if a director believes, in good faith, that their conduct will promote the success of the company for the benefit of the members as a whole (paragraph 1.2 below).

A company's constitution is widely defined to include:

- (a) The company's Articles of Association.
- (b) Any resolutions and agreements affecting a company's constitution that are required to be filed with the Registrar of Companies.

Directors should familiarise themselves with the constitution of the company, particularly with any limitations on the powers of the company or the directors.

By way of an example, before signing any contracts, cheques or other documents directors should ensure:

- the transaction is within the company's powers as set out in any Objects clause or other provisions or restrictions in its constitution;
- the act has been authorised by the company or is within any delegated powers of the director;
- the document is signed 'on behalf of' the company or the document is clearly in the company's correct, full name, to avoid the director becoming personally liable.

**1.2 Duty to promote the success of the company (section 172, CA 2006)**

Directors must act in the way they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole. In fulfilling this duty, Directors must have regard to (among other matters) the following factors:

- (a) the likely consequences of any decision in the long term;
- (b) the interests of the company's employees;
- (c) the need to foster the company's business relationships with suppliers, customers and others;
- (d) the impact of the company's operations on the community and the environment;

- (e) the desirability of the company maintaining a reputation for high standards of business conduct; and
- (f) the need to act fairly between members of the company.

This duty applies to all directors actions, not just formal decisions taken by the Board.

If the company is insolvent (or in danger of becoming so), the Director's primary responsibility will be to consider the interests of company's creditors, see paragraph 4.

This is essentially a subjective duty and, provided that a Director has exercised their powers as a director diligently and in good faith, it is irrelevant that their conclusion may not be the same conclusion that a court might reach on the same facts.

### 1.3 Duty to exercise independent judgment (section 173, CA 2006)

Directors must not restrict themselves from exercising independent judgment on the company's behalf. Directors cannot agree with any shareholder that appoints them to vote at board meetings in any particular way (even if voting in that way would not otherwise be a breach of their duties as a director to the company). An exception to this rule is where a Director and co-directors decide that entering into an agreement on behalf of the company, under which a Director will be bound to vote in such a way as to ensure that the company performs its obligations under that agreement, would be most likely to promote the success of the company for the benefit of its members as a whole.

This duty will not prevent a Director from relying on advice, as long as they exercise their own judgment in deciding whether or not to follow the advice.

This duty is particularly relevant in respect of 'shadow directors'. A shadow director is person or organisation who is not a director of the company, but is a person with whose directions or instructions the directors of the company are accustomed to act. If a person is held to be a shadow director they can be held liable for certain offences, as well as the actual directors.

### 1.4 Duty to exercise reasonable care, skill and diligence (section 174, CA 2006)

A Director must exercise due skill and care in fulfilling their functions. Under section 174, a director must exercise the care, skill and diligence that would be exercised by a reasonably diligent person with both:

- (a) The general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company (the "objective" test).
- (b) The general knowledge, skill and experience that the director actually has (the "subjective" test).

Therefore, a person must be sufficiently qualified or experienced to be able to fulfil the functions that might reasonably be expected to be carried out by him as a director, and if the person is particularly highly qualified or experienced then he would be expected to exercise a high level of skill and expertise.



Directors are also required to exercise their directors' duties diligently, keep themselves informed about the company's affairs and, with their co-directors, to supervise and control them. Overall, this responsibility cannot be delegated to any party. However, this does not prevent Directors from relying on the experience and expertise of their colleagues or, generally, from sensibly delegating or allocating tasks to others, provided that they do not attempt to absolve themselves entirely of responsibility.

**1.5 Duty to avoid situational conflicts of interest (section 175, CA 2006)**

Directors must avoid a situation in which they have, or can have, a direct or indirect interest that conflicts, or may possibly conflict, with the interests of the company. This duty extends to the exploitation of information, property or opportunity for personal purposes, regardless of whether the company itself could take advantage of it, and continues to apply once you leave the company in relation to knowledge gained while in office.

Directors should also consider the interests of any person "connected" to you. The definition of "connected" is very wide and includes family members and corporate bodies.

CA 2006 provides that this duty will not be infringed if the situation cannot reasonably be regarded as likely to give rise to a conflict or, the company's Constitution has approved the situation or the conflict of interest has been authorised in advance by the other Board members, where they have no interest in the relevant transaction. This authorisation may be given subject to certain conditions, such as providing that an interested director may:

- (a) not receive certain papers;
- (b) not vote on certain issues;
- (c) be required to withdraw from certain meetings;
- (d) not pass on information; and/or
- (e) not participate in committees to which certain matters in which he has an interest are delegated.

In addition, this duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company, which is dealt with as a separate duty (see paragraph 1.7 below).

A company's constitution may contain further details in respect of conflicts of interest, including any potential conflicts which are authorised by the company, and Directors should familiarise themselves with the relevant provisions of the Articles in respect of declarations to be made in respect of conflicts of interest and whether the interests of related bodies to the company can be taken into account when the Director is exercising their judgement.

**1.6 Duty not to accept benefits from third parties (section 176, CA 2006)**

Directors must not accept any benefit (which includes any kind of financial inducement or bribe) from a third party which is conferred because they are a director, or because they do (or do not do) something as a director.

Although there is no formal minimum threshold to exempt minor "benefits" such as corporate entertainment, CA 2006 makes it clear that the duty is not infringed:

- (a) if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict; or
- (b) if the benefit is conferred by the company, associated companies or persons acting on their behalf.

However, in contrast to situational conflicts, the acceptance of benefits from third parties cannot be blessed by the directors. Only shareholders can approve or ratify a breach of this duty.

**1.7 Duty to disclose interest in proposed or existing transactions or arrangements with the company (sections 177 and 182, CA 2006)**

Directors, if they are (directly or indirectly) personally interested in a proposed or existing transaction or arrangement with the company in any way, have a duty to declare the nature and extent of this interest to the other directors.

If they fail to comply with the duty to disclose an interest in an existing transaction or arrangement, they may commit a criminal offence and be liable to a fine.

Both duties also require directors to update any declaration that is or becomes inaccurate or incomplete. It is important to note that a director need not be a party to the transaction to have an interest in it. Directors should therefore consider the interests of persons "connected" to them when deciding whether to make a declaration.

A declaration in relation to:

- (a) a proposed transaction or arrangement must be made before the transaction is entered into and can be made by any method; and
- (b) an existing transaction must be made as soon as practicable but must be made at a directors' meeting or by written notice or by general notice.

A declaration will not be required under section 182 of CA 2006 if or to the extent that a declaration has been made already under section 177 of CA 2006.

As with the other statutory duties, there are a number of exclusions to these two duties:

1. a director does not need not make a declaration where they are unaware of their interest or the transaction, although they will be treated as being aware of anything of which they ought reasonably to be aware;
2. similarly, a declaration in relation to matters of which the other directors are aware or ought reasonably to be aware will not be necessary;
3. these duties will not be infringed if the matter cannot reasonably be regarded as likely to give rise to a conflict of interests.

Further requirements may be specified in the company's Articles



## **2. DUTY OF CONFIDENTIALITY**

Directors owe a duty of confidentiality to the company of which they are a director. This duty overlaps with the duties to promote the success of the company, to avoid situational conflicts and not to accept benefits from third parties (see paragraph 1).

The duty of confidentiality is such that, even if a director were appointed by a shareholder, the director must not, without the authority of the company, disclose any confidential information relating to the company which has been gained by them in their position as a director of the company to the shareholder. Such authority may be contained in any agreements between the company and the shareholder.

## **3. OTHER STATUTORY DUTIES: COMPANIES ACT 2006**

### **3.1 Accounts and financial duties**

A director has a personal responsibility to ensure that accounting records are maintained so that at any time they are able to demonstrate and explain the financial position of the company. Failure to do this will cause every defaulting officer of the company to be liable to a fine, imprisonment or both.

In addition to this, it is the responsibility of a director to ensure that full annual accounts are produced each year and sent to all members within the required time. If it is proposed that the company takes advantage of certain exemptions in relation to the preparation of the annual accounts, directors will also need to be satisfied that the company is a private company that meets the qualifying criteria for such exemptions.

The Directors have a duty to deliver the annual accounts and reports to Companies House. Failure to submit the accounts within the required period carries an automatic civil penalty payable by the company in default, which increases according to how late the accounts have been filed.

### **3.2 Duty to maintain statutory registers and records**

The directors are required by CA 2006 to maintain a set of statutory books and records which detail important aspects of their companies' operations and structure. Companies usually keep these official documents in a company register. They must be written up on incorporation and amended from time to time to reflect any changes, so that they are always up to date. If not, the company and any director in default may be liable to a fine.

Examples of these statutory registers include the register of the company's shareholders, the register of directors of the company and the register of directors' residential addresses.

### **3.3 Duty to make directors' service contracts open to inspection**

The directors are responsible for ensuring that the company keeps copies of all directors' service contracts open to inspection by any member of the company, without charge, throughout their duration and for a period of at least one year from the date of termination or expiry of the contract.

#### 4. LIABILITY OF DIRECTORS

Generally a director is not liable for company debts, except in limited circumstances. Directors may be personally liable if they act outside of the powers given to them under the company's constitution. Companies can be bound by the unlawful actions of their officers as third parties acting in good faith can rely on decisions made by directors acting outside their authority. Directors should therefore only act within their powers and only exercise them for their proper purpose and ensure they do not breach their duties as directors. If a breach occurs, the following types of liability may arise:

##### 4.1 Liability to the company

A breach of duty may result in the director being personally liable to the company, where the unlawful actions of the director have bound the company to a course of action. In a case where a director has profited from their breach, they may have to account to the company for any profit made. Even if they have not made any personal gain, they may still be liable to the company for any loss it has suffered as a result of their breach.

##### 4.2 Liability to third parties

A director acts as agent of the company, so shareholders or third parties will normally only have a cause of action against the company and not against a director.

However, directors may incur liabilities to shareholders and third parties if they act in a manner which creates a personal obligation. This is not lightly implied, but could be assumed, for example, if a director (in their capacity as a director) gave an express representation to a shareholder or third party, accepting a personal obligation.

#### 5. INDEMNITIES AND INSURANCE

A company cannot indemnify its directors from liability for negligence, default, breach of duty or breach of trust in relation to the company.

However, this does not prevent the company from taking out (and paying the premiums for) insurance against such liabilities for its directors against any liability attaching to them in connection with any negligence, default, breach of duty or breach of trust by them in relation to a company of which they are a director.

In addition to any actions taken by the company, the Council currently indemnifies its Councillors and Officers in the following terms:

"The Council will, to the extent that it has power to do so and subject to the exceptions set out below, indemnify its employees and its councillors and its former employees and councillors against claims made against them (including costs awarded) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its employees under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the employee) occasioned by neglect, act, error or

omission including any breach of trust, or duty of care or fiduciary or any other duty committed by them in or about the pursuit of their duties on behalf of the Council whilst acting within the scope of their employment or authority which shall include when they are acting for other persons or other bodies of whatsoever nature."

Any indemnity provided by the Council may not cover liability arising from any act or omission which:

- constitutes a criminal offence, for example matters which may give rise to a civil claim and a criminal prosecution. If the director is found guilty of part or all of the charges, the indemnity or insurance must contain a claw-back of sums paid out by the authority or insurer; or
- is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that director.

## **6. STATUTORY DUTIES: INSOLVENCY**

A company is insolvent when it is unable to pay its debts as and when they fall due or where its liabilities exceed its assets. In an insolvency situation, the interests of the creditors (as a whole) will become the most significant element in determining how a director should discharge their duty to promote the success of the company under section 172 of CA 2006 (see paragraph 1.2). Whilst generally Directors are not liable for company debts, in certain circumstances Directors may have personal liability for the debts of the company where there is negligence, recklessness or fraud.

Whilst the provisions mentioned below appear onerous, Directors should not be unduly concerned about them provided they take steps to protect themselves including:

- attend board meetings and keep themselves fully informed as to the current and future trading position of the company, including regular report on the company's financial position;
- concerns and actions about the company's future viability and any insolvency should be raised at Board meetings and minuted;
- regularly call and attend Board meetings if the company is in financial difficulties and fully report the commercial decisions of the directors in the company's minutes;
- seek professional advice immediately doubts are raised about the company's future prospects.

### **6.1 Misfeasance and breach of duty**

If, as a director you wrongfully perform a normally lawful act (misfeasance) or commit a breach of fiduciary duty, you may be obliged to repay, restore or account for money or property with interest or pay a contribution to the company's assets for losses arising from that act.

## **6.2 Fraudulent trading**

If, in the course of the winding up of a company, it appears that any business of the company has been carried on with the intent to defraud creditors of the company, the liquidator can apply to the court to obtain a contribution from any director who knowingly carried on the business in such a manner. There has to be actual dishonesty involving real moral blame on the part of a director for this offence to apply (for example, where a director took positive steps to continue to trade and incur debts at a time when they were aware that there was a reasonable prospect of the company being unable to repay such debts, thus defrauding creditors). Fraudulent trading is also a criminal offence which may result in any guilty director having a disqualification order made against him (see paragraph 6.4).

## **6.3 Wrongful trading**

Where the company has gone into insolvent liquidation and, at some point before the commencement of the winding up of the company, any director knew (or ought to have concluded) that there was no reasonable prospect that the company would avoid this, that director could be required by the court, on the application of a liquidator, to contribute. The court will not make an order for wrongful trading if the director took every step with a view to minimising the potential loss to the company's creditors.

Legal advice should be taken immediately if the directors suspect that there is a reasonable prospect of the company becoming insolvent. To avoid wrongful trading, it may even be necessary for the company to cease trading.

## **6.4 Directors' disqualification order**

A disqualification order may be made against a director if the company becomes insolvent and the director's conduct makes them unfit to be concerned in the management of a company, or where a director is convicted of serious company offences. A disqualified director would not be able to be a director of any company or directly or indirectly, in any way, be concerned or participate in the promotion, formation or management of a company without the permission of the court. A disqualification order may be made for a period of between of two years and fifteen years.

## **PART 2 - DUTIES AND RESPONSIBILITIES TO THE COUNCIL**

Whilst the directors of a company in which the Council is a shareholder, or has another interest, will owe the same duties as the directors of any other company, the application of these duties may be more complex where the Council is a shareholder, in that a director who is also a member or officer of the Council will frequently have concurrent loyalties to the Council and to the company itself (albeit that duties to the company are in essence duties to the shareholders which in the case where the Council is the sole shareholder is a duty to the Council so in practice the duties may be aligned).

### **1. COUNCILLORS**

#### **a) Disclosable Pecuniary Interests**

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Councillors should consider whether their involvement with the company is a disclosable pecuniary interest, particularly where the item of business being considered by the Council affects the financial position of the company (i.e. anything to do with contracts or funding for the company).

The Localism Act provides that authorities may grant a dispensation, enabling a Councillor to continue to partake in discussions, meetings and votes despite a Disclosable Pecuniary Interest in certain circumstances, and therefore the existence of any such dispensation should be considered.

**b) Councillors only appointed as Non-Executive Directors**

A distinction is made between executive directors (who work as employees of the company) and non-executive directors (who is not a full or part-time employee of the company or holder of an executive office). Executive and non-executive directors have the same legal duties, although the practical application of those duties may vary as a result of the functions they are expected to fulfil.

Section 80 Local Government Act 1972 disqualifies, subject to certain exceptions, individuals who hold any employment in a company controlled by a Council (which could include any company of which the Council is a majority shareholder) from being a member of a local authority. Any Councillor appointed to the board of a Council controlled company therefore needs to be appointed as a non-executive director.

Councillors who wish to maintain their position as a member of the owning Council therefore should be clear that as a non-executive director they are not there to undertake the day to day management of the company but to be involved in periodic discussions on strategic issues relating to the operation of the company and offer a balance / challenge to executive directors.

**c) Remuneration**

Where the Council owns and controls a company, the company may not pay the Councillor more for acting as a director than the special responsibility allowance (SRA) which he or she would have received had the activities of the Company still been discharged directly by the Council. This effectively means that they cannot receive additional remuneration from the company for acting as a director, as they are probably in receipt of an SRA within the Council which would not be increased had the company's activities remained in-house. In addition, he or she may only claim mileage, travel and subsistence at the rates which they would have been able to claim as a councillor.

**2. OFFICERS**

**a) Declaration of Interests**

Officers owe a duty to the Council both under statute and under their contracts of employment. Section 117 of the Local Government Act 1972 requires an officer to disclose to the employing authority any pecuniary interest, direct or indirect, which he / she has in any contract or other matter in which the employing authority is concerned. There is now no definition of what constitutes a pecuniary interest (as the definition was repealed when the Members' Code was introduced in 2001). Where officers are not paid any additional amount for undertaking the role of director there is unlikely to be a direct pecuniary interest. However, the section also covers indirect interests and could therefore include the simple fact that they are directors of the company and the company's financial position is affected by the

decision. Failure to disclose that interest to the Council as the officers' employer is not only a disciplinary but also a criminal offence.

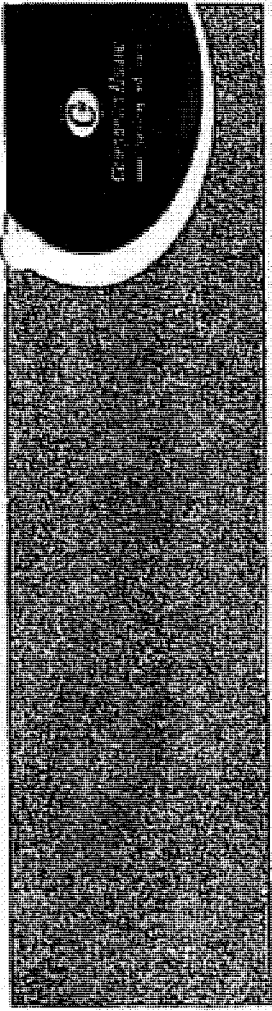
**b) Conflicts of Interest**

The requirement to act in the best interest of the Council and withdraw in the event of a conflict of interest is purely contractual, being set out in the officer's contract of employment which will also deal with avoidance of conflicts. JNC Terms provide that "He or she shall not subordinate his or her duty (as an employee of the Council) to his or her private interests or put himself or herself in a position where his or her duty and private interests conflict." As a result, the Council can waive that interest, directing the officer in the event of a conflict to act in the best interests of the company and authorising him to continue to act within the Council even where he has that outside interest as a director. Accordingly, an officer director can continue to act within the Council and within the Company.

**c) Remuneration**

It is a criminal offence for an officer, under colour of his office, to accept anything other than his proper remuneration. Accordingly, where an officer is appointed as a director of a company by reason of his post within the Council, s/he may not accept any payment from the company for their services as a director, unless the Council agrees that the additional payment shall form part of the proper remuneration or that person's employment.

**Legal & Democratic Services  
Shropshire Council  
September 2013**



This guidance is available in alternative formats which include Braille, large print and audio tape. For further details please see our [website](#), email our [enquiries section](#), or telephone our contact centre on 0303 1234 500.

When reading these guidance notes, you need to be aware of the following:

Some (but not all) of the provisions in the Companies Act 2006 have come into force. Therefore, some provisions in the Companies Act 1985 remain relevant. We have tried as far as possible to make it clear throughout these notes which Act applies. If you would like to find out more you may wish to visit our website where you can find out which provisions in the respective Acts are in force. Our website also contains a link to the BERR (The Department for Business, Enterprise and Regulatory Reform) website where you can find further information. Some provisions in the new Act are subject to transitional arrangements. We will as far as possible explain these in this guidance and give details on our website.

There is one final stage in the implementation of the Companies Act 2006 scheduled for October 2009. We will update any guidance notes affected by those implementations at the time. You may wish also to keep an eye on our website where we will publish more information as the implementation process continues so you can access the most up to date information.

Until October 2009, these guidance notes apply only to companies formed in Great Britain (England, Wales and Scotland). The separate system in Northern Ireland is then scheduled to merge into a single system for the whole of the United Kingdom.

As modified by the Companies Act 2006

## Directors and Secretaries

GBA1

May 2009

Version 18

**BERR**  
Department for Business  
Enterprise & Regulatory Reform



## Contents

### Introduction

1. Limited companies: the basics
2. Role of a company director
3. Role and duties of a company secretary
4. What you have to send to Companies House
5. Quality of paper documents
6. Further information

*This is a guide only and should be read with the relevant legislation.*

- Companies Act 2006
- The Companies Act 2006 (Commencement no.3 Consequential Amendments Transitional Provisions and Savings Order 2007)
- The Companies Act 2006 (Commencement no.5 Transitional Provisions and Savings) Order 2007

### Introduction

The director, or directors, must manage the company's affairs in accordance with its articles of association and the law. Certain responsibilities apply to all directors, whether executive or non-executive, and to all types of company whether trading or not. The company secretary has a few duties set out in the legislation, and may be given others by the articles or the directors.

Private companies must have at least one director. Public limited companies must have at least two directors and a company secretary. A private limited company does not have to have a company secretary but it can choose to include in its articles a requirement to have one. From 1 October 2008 all companies whether private or public must have at least one director who is a natural person i.e. an individual, and who is at least 16 years old. Any company that had only corporate directors on 8 November 2006 (the day the Companies Act 2006 received Royal Assent) will have until 1 October 2010 to appoint a natural person director.

Any director appointed before 1 October 2008 who has not reached the age of 16 before that date will automatically cease to be a director on 1 October 2008.

If you need more information, contact 0303 1234 500

### This guide:

- explains some of the main responsibilities of a company's officers; and
- deals with some of the key requirements in relation to the delivery of documents to Companies House.

The guide will not tell you everything about being a director or secretary, but it will give you a good idea of your responsibilities as they relate to Companies House.

If, after reading this guide, you are in doubt about your responsibilities, you should consider seeking professional advice.



Chapter 1  
Limited companies: the basics

1. Do I really need a limited company?

The majority of businesses are not companies. There are various reasons for having a company, for example, it could involve ownership of property, obtaining investment funds, taxation or contractual relationships. Many businesses function satisfactorily as sole traders or partnerships.

The key point to recognise is that a company is a separate entity:

- this means that it is a legal person in its own right; and
- it is separate from those who own or run it, and has 'limited liability' (unless its owners choose to have unlimited liability).

2. What does limited liability mean?

Limited liability gives the owners of the company (its shareholders) protection if the company fails.

This means that if a company is put into liquidation, the people who own the company will only be required to pay what they have already paid or agreed to pay towards settling its debts - usually what they have paid or agreed to pay for their shares.

3. How do I set up a limited company?

There are various methods of incorporating a company. For specific details see our guidance on, 'Company Formations' and 'Company Names'.

4. What can I do with an unwanted company?

If you decide that you do not need a company that you have set up, you should consider putting it into voluntary liquidation. Alternatively you may be able to apply for it to be struck off the register.

Our guides to 'Liquidation and Insolvency' or 'Liquidation and Insolvency (Scotland)' and 'Strike-off, Dissolution and Restoration' or 'Strike-off, Dissolution and Restoration (Scotland)' will give you more information on these subjects.

Chapter 2  
Responsibilities of a company director

1. Can anyone be a director?

Generally it is up to the members to appoint the people they believe will run the company well on their behalf. The only restrictions that prevent anyone becoming a director are:

- they must not have been disqualified from acting as a company director (unless the court has given them permission to act for a particular company);
- they must not be an undischarged bankrupt (unless they have been given permission by the court to act for a particular company).

From 1 October 2008 any person who has not reached the age of 16 will cease to be a director. Companies House will put a notice on the public register to show that the appointment has ceased. The company will have to amend its register of directors to show that the appointment has ceased. Consequently, if the company is left without an eligible director it will be in default and will need to appoint at least one director.

2. What are the directors' duties to the company?

A director's general duties to the company are, for the first time, set out in the Companies Act 2006 but the relevant provisions are being commenced in two stages. Most of Chapter 2 of Part 10 of the 2006 Act (General duties of directors) was commenced with effect from 1 October 2007, but the sections relating to the duties to avoid conflicts of interest, not to accept benefits from third parties, and to declare an interest in a proposed transaction or arrangement with the company (and related provisions) will be commenced with effect from 1 October 2008. The general duties of directors were previously contained in case law. See the [Department of Business, Enterprise & Regulatory Reform website](#) for further details.

3. What responsibilities does a director have towards Companies House?

Every company director has a personal responsibility to deliver statutory documents to Companies House as and when required by the Companies Acts. These include, in particular:

- accounts;
- annual returns; and
- notice of change of directors or secretaries or in their personal details (Forms 288a, 288b or 288c).

In addition, it is usually the directors who will give notice of a change of registered office (Form 287).

You can notify Companies House of any of the above changes online via WebFiling, using a suitable Software Filing package or by sending paper documents to us by post. Chapter 4 summarises what a limited company has to send to Companies House.

4. What happens if I do not submit accounts or annual returns to Companies House?

As a director of a company Companies House can prosecute for not submitting these documents on time. This is a criminal offence and upon conviction the court can fine a director up to £5,000 for each offence. There is a separate, civil penalty imposed on the company for the late filing of accounts.

If Companies House believes that the company is no longer carrying on business or in operation, we can, after writing to the company to check whether that is true, strike it off the register and dissolve it. If this happens all the assets of the company, including its bank account and property, generally become the property of the Crown. Once a company is dissolved you can only restore it to the register by means of a court order. For further details see our guidance, 'Strike-off, Dissolution and Restoration' or 'Strike-off, Dissolution and Restoration (Scotland)'.

5. Do you really prosecute directors?

Yes. On average we prosecute more than 1,000 directors each year for failing to deliver accounts and returns to Companies House on time. Persistent failure to deliver statutory documents on time may also lead to the court disqualifying a director from taking part in the management of a company for a specified period.

6. What if I deliver the accounts late?

If a company files its accounts with Companies House late, the company will automatically incur a 'late filing penalty'. The amount depends upon how late the accounts arrive and whether the company is private or public. These penalties are in addition to any fine imposed by a court - as explained in question 4 of this chapter.

Further information about late filing penalties is available in our guidance on 'Late Filing Penalties' and 'Accounts' available on the Companies House website.

7. Are there any other consequences of filing accounts late or not at all?

Yes. This could affect any future business opportunities as potential customers can search our website which gives free information about which accounts are outstanding. Not filing or filing late could possibly have a consequence on the company's credit rating.

8. How can I avoid prosecution and late filing penalties?

Make sure your company complies on time with all its filing obligations, not only in connection with its accounts and annual returns, but in connection with all other documents required under the Act.

9. Isn't my accountant supposed to do all this?

Your accountant's responsibilities depend on the agreement you have with them. However, the responsibility to deliver accounts and other statutory documents rests entirely with the directors.

You should make sure that your accountants have all the necessary information to prepare your accounts and if necessary to audit them on time. If necessary, chase your accountants. Don't just assume they are getting on with the job. Companies House prosecute the directors not the accountants.

10. Why does Companies House need this information?

In exchange for the benefits of trading with limited liability, companies must deliver certain information about themselves to Companies House. This information is made available for

inspection by the public so that they can make informed decisions about companies that they may wish to invest in or do business with.

Chapter 3  
Roles and duties of a company secretaries

1. Do I need a company secretary?

From 6 April 2008 a private company does not have to have a company secretary (unless its articles of association explicitly require the company to have a secretary). An existing private company that decides to terminate the appointment of their secretary must notify that termination to Companies House on a form 288b. A public company still needs to have a company secretary.

When you appoint a secretary you must notify Companies House of the appointment, any change of details or the termination of the appointment.

2. Does a company secretary need any qualifications?

The company secretary of a private company needs no formal qualifications.

The company secretary of a public limited company must be qualified as explained below.

The directors of a public company must make sure, as far as reasonably possible, that the secretary, or each joint secretary, appears to them to have the knowledge and experience to carry out the functions of company secretary. In addition, the secretary must meet one or more of the following qualifications:

- be a member of any of the following bodies:

- the Institute of Chartered Accountants in England and Wales;
- the Institute of Chartered Accountants of Scotland;
- Association of Chartered Certified Accountants;
- the Institute of Chartered Accountants in Ireland;
- the Institute of Chartered Secretaries and Administrators;
- the Chartered Institute of Management Accountants; or
- the Chartered Institute of Public Finance and Accountancy;

- have held the office of company secretary of a public company for at least 3 out of the 5 years immediately before their appointment as secretary;

- be a barrister, advocate or solicitor called or admitted in any part of the UK; or

- be a person who appears to the directors to be capable of carrying out the functions of company secretary, because that person holds, or has held, a similar position in another body or is or was a member of another body.

3. What is the role of a company secretary?

While the legislation does not generally specify the role of the company secretary, the company secretary might normally undertake the following duties:

(a) Maintaining the statutory registers.

(b) Ensuring that the company files statutory information promptly. See What you have to send to Companies House, for more information.

(c) Providing members and directors with notice of meetings.

(d) Providing members with proposed written resolutions and auditors with any passed resolutions. For more information see our guidance on Resolutions & Meetings.

(e) Sending copies of resolutions and agreements to Companies House.

(f) Supplying a copy of the accounts to every member of the company, every debenture holder and every person who is entitled to receive notice of general meetings.

(g) Keeping, or arranging for the keeping, of copies of all members' resolutions (passed other than at general meetings), and minutes of all proceedings and general meetings.

(h) Ensuring that people entitled to do so can inspect company records.

(i) Custody and use of the company seal. Companies no longer need to have a company seal, but if they do, the secretary is usually responsible for its custody and use. (You can buy company seals from company law stationers and company formation agents).

As the secretary is an officer of the company, they may be criminally liable for defaults committed by the company. For example failure to file - in the time allowed - any change in the details of the company's directors and secretary, and the company's annual return.

4. Does a company secretary have any powers?

No, but they are able to sign most of the forms that companies need to submit to Companies House.

5. What rights does a company secretary have?

They depend on the terms of his or her contract with the company.

#### Chapter 4

What you have to send to Companies House

Company directors and secretaries are responsible for submitting information to the Registrar. There are over 200 forms that companies can file. The following information deals only with the most common forms and documents that companies will use. You can submit most of the following information online via WebFiling or electronically using a suitable Software Filing package. For more information please visit our website

#### 1. Accounts

All companies, whether trading or not, must keep accounting records; and all limited companies (and some unlimited companies) must submit accounts for each accounting period to Companies House.

Generally, accounts prepared by the directors must include:

- a directors' report (with a business review if the company does not qualify as small);
- an auditors' report (unless the company is a small, dormant or not-for-profit public-sector company exempt from audit);
- a profit and loss account (or income and expenditure account if the company is not trading for profit);
- a balance sheet signed by a director;
- notes to the accounts; and
- group accounts (if appropriate).

Quoted public companies must also prepare a directors' remuneration report.

Not all companies need to submit these to Companies House: there are different rules for small, medium-sized, unquoted and quoted companies.

Note - this guide cannot go into the detailed information that these documents must contain - for this see the Companies Act 2006 and the relevant regulations.

Our guidance on Accounts and Accounting Reference Dates provides more information on preparing and filing accounts and about exemptions from filing, but cannot go into the detailed information that these documents must contain - for this you need to look at the relevant legislation. You may also consider consulting an accountant for advice.

You can submit audit-exempt accounts, abbreviated accounts and dormant company accounts (DCA) online. If a company is able to submit accounts online, the balance sheet must contain the company authentication code in place of the director's signature required on paper accounts. For more information on availability and registration details please visit our website

Directors are personally responsible for preparing accounts and submitting to Companies House. Failure to do so may result in a criminal conviction and record for the director(s) and will result in financial penalties for the company.

#### 2. Annual returns (Form 363)

Every company must deliver an annual return to Companies House at least once every 12 months. It has 28 days from the date to which the return is made up to do this. All companies must pay an annual document-processing fee of £30 with the annual return (or £15 for users of our Software Filing or WebFiling services).

Do not confuse the annual return with the annual accounts as they are different documents both of which you must file at Companies House.  
There is a change to the information you must give about the company shareholders for annual returns with a made up date of 1 October 2008 or later. For more information about the changes to the annual return, refer to our 'Annual Return' guidance.

To help you meet your filing requirement we will send a letter to your company's registered office to remind you when your annual return is due. It advises on how to file the form electronically by using our Software Filing or WebFiling services as this is the easiest option. If you do not have the facility to file online you can order a paper copy of the annual return from our Contact Centre on 0303 1234 500.

Please note: Currently, a small proportion of companies on the register are unable to use our WebFiling Service. For more information please visit our website.

If you file the annual return late or not at all, the company and its director(s) and secretary can be prosecuted.

### 3. Change of accounting reference date - Form 225

Every company has an accounting reference date, which is the date by reference to which the company's financial year is determined. It must prepare accounts for each financial year. You can change the accounting reference date by using a change of accounting reference date form (Form 225). For more information, see our guidance on Accounts and Accounting Reference Dates.

### 4. Change of registered office - Form 257

All companies must have a registered office: it is the 'home' of the company to which all official documents, notices and court papers have to be sent. The address must be a physical location, not just a post office box. This is because people have the right to visit your office to inspect certain registers and documents, and to deliver documents by hand.

You can change your registered office address by sending a completed Form 257 to Companies House. The change only becomes legally effective when we have registered the form. A person may validly serve any document on the company at the previously registered address for 14 days after the registration of the form.

### 5. Change of directors and secretary and their details - Forms 286a, 286b or 286c

You must notify any change of a company's directors or secretaries to Companies House.

- Form 286(a) is for the appointment of an officer;
- Form 286(b) is for the termination of an officer's appointment (resignation, removal, death etc); and
- Form 286(c) is for a change in details of an officer, for example, a change of name or new residential address.

You must submit all changes to directors' and secretaries details within 14 days of the change. You can notify Companies House of any of the above changes online via WebFiling or by using a suitable Software Filing package.

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Proof is the Registrar's PROOF (PROTECTED On-line Filing) Scheme. It provides additional security relating to the delivery of directors details and registered office address for documents delivered electronically.

Company directors hold an important position in a company. They have power to make purchases and enter into credit arrangements on behalf of the company. Similarly, this registered office address is important because it is the address to which all official communications will be sent.

Records held at Companies House are sometimes used to check the legitimacy of a company and its directors before credit or loans are made. Therefore it is important that the records are correct. Companies are vulnerable to fraud if the wrong people get themselves on record as company directors or a bogus registered office address is filed.

In order to combat fraudsters posing as legitimate directors, Companies House offers companies a free, fully electronic and secure system for notifying changes of directors and changes to the registered office address. If you opt to only notify these electronically, they will be protected by electronic codes and we will not accept notices from your company delivered in any other format.

You will need to complete an 'Opt-in' form (PR1) and agree to the terms and conditions so that any change of directors or change of registered office address are only accepted by Companies House if they are delivered by the secure electronic method and never on a paper form. The 'Opt-in' form and terms and conditions are available from our web site or by calling 0303 123 4500. The completed form must be posted back to Companies House. This service is voluntary; you may opt-out at any time and Companies House will revert to accepting notices from your company delivered electronically or on paper forms.

From mid 2009 it is planned this paper based process will be replaced by an electronic system, so that once you have agreed to the terms and conditions of the scheme you can sign up or opt out electronically of Proof within the appropriate web pages of the WebFiling service.

### 6. Allotments of shares - Form 98(2)

You must submit this form to Companies House within one month of the allotment of shares. You can submit the information online via WebFiling, using a suitable Software Filing package or by sending paper documents to us by post.

Our guidance on Share Capital gives more information about this.

### 7. Resolutions

You must send copies of certain types of special resolutions, unanimous and ordinary resolutions to Companies House within 15 days of them being passed by the company - our guidance on Resolutions, (CA 1885 or CA 2006) gives more information about this.

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## B. Mortgages and charges

You must send details of every mortgage or charge created by the company and requiring registration to Companies House within 21 days of its creation. See our guidance on 'Company Charges and Mortgages' or 'Company Charges (Scotland)'.

### Chapter 5

#### Quality of paper documents

##### 1. What happens to documents sent to Companies House?

We scan the documents and forms you deliver to Companies House to produce an electronic image. We then store the original documents, and the electronic image is used as the working document.

When a member of the public views the company record, they see the electronic image reproduced on-line. So it is important not only that the original is legible, but that it can also produce a clear copy.

This chapter lays down a few quality guidelines to follow when preparing a document for filing at Companies House.

##### 2. What happens if my documents do not meet the guidelines?

Section 707B of the Companies Act 1985 allows Companies House to reject documents delivered electronically that it cannot capture electronically, giving a notice saying why they are unacceptable. You must deliver an acceptable copy within 14 days of the notice (otherwise we treat the original as not having been delivered).

##### 3. How should documents be set out?

Every paper document delivered to Companies House must state in a prominent position the registered number of the company, and must comply with any requirements specified by the Registrar relating to the legibility of that document.

Briefly, documents should be on A4 size, plain white paper between 80gms and 100gms in weight with a matt finish. Text should be black, clear, legible, and of uniform density. Letters and numbers must not be less than 1.8mm high, with a line width of not less than 0.25mm.

When you fill in a form:

- use black ink or black type;
- use bold lettering (some elegant thin typefaces and pens give poor quality copies);
- don't send a carbon copy;
- don't use a dot matrix printer; and
- remember- photocopies can result in a grey shade that will not scan well.

When you complete other documents, please remember:

- the points already made relating to completing forms;
- to use A4 size paper with a good margin;
- to supply them in portrait format (that is with the shorter edge across the top);
- to include the company number in the top right-hand corner of the first page.

Important: coloured ink can drop out (disappear) when a document is scanned to produce an image. To prevent this - always use black ink to complete and sign all documents.

##### 4. What are the most common problems to avoid?

###### Glossy accounts

If you are producing colour-printed glossy accounts, or accounts that contain photographs, please save them for your shareholders and others who will appreciate them. We still need black on white with a matt finish. A typed unbound version or printer's proof is ideal, provided it has the necessary signatures.

###### Members' lists

Our requirements on document quality also apply to the lists of shareholders that accompany annual returns and allotment forms.

If these are computer prints, it is essential that the print quality is good. We have particular problems with lists printed on green-lined computer paper. We can handle members' lists on paper up to 14.5" x 12". We will accept documents delivered on certain types of computer-generated microfiche (comfiche) on a black master - as an alternative to paper - provided we can duplicate them on our diazo machines.

We accept large members' lists on CD-ROM, DVD-ROM and floppy disk. We may also be able to accept magnetic tape for very large listings.

##### 5. Can I find out more about this?

For further guidance on print requirements contact 0303 1234 500

### Chapter 6

#### Further Information

##### 1. How do I send information to Companies House?

The safest and most secure way to send statutory information to Companies House is to use our online filing services. For more information and registration details [please visit our website](#). You may deliver documents to Companies House by hand (personally or by courier), including outside office hours, bank holidays and weekends to Cardiff, London and Edinburgh.

You may also send documents by post or by the Document Exchange Service (DX). If you send documents, please address them to:

For companies incorporated in England & Wales:	For companies incorporated in Scotland:
Companies House Crown Way Cardiff CF14 3UZ DX33050 Cardiff 1	Companies House 4th Floor Edinburgh Quay 2 138 Fountainbridge Edinburgh EH3 9FF DX ED235 Edinburgh 1 or LP-4 Edinburgh 2

If you are sending documents by post, courier or Document Exchange Service (DX) and would like a receipt, Companies House will provide an acknowledgement if you enclose a copy of your covering letter with a pre-paid addressed return envelope. We will barcode your copy letter with the date of receipt and return it to you in the envelope provided.

Please note: an acknowledgement of receipt does not mean that a document has been accepted for registration at Companies House.

Companies House sends an automatic e-mail acknowledgement for every submission made via WebFiling and an additional e-mail indicating whether the submission has been accepted or rejected.

Please Note: Companies House does not accept accounts or any other statutory documents by fax.

## 2. Can I file documents in other languages?

Usually, you must file documents sent to Companies House in English. The exceptions are detailed below. If the registered office of the company is situated in Wales however, you need only send the Welsh accounts without a certified translation into English if you so choose.

Companies can deliver the following documents in other languages if the document is accompanied by a certified translation into English:

- resolutions and agreements affecting a company's constitution;
- contracts relating to the allotment of shares for a consideration other than cash;
- for companies included in accounts of larger EEA or non-EEA groups, the group accounts and parent undertaking annual report; and
- charge instruments (or copy charge instruments).

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In addition companies may also file voluntary certified translations of any document subject to the First Company Law Directive disclosure requirements. These are:

- constitutional documents such as the memorandum and articles of association;
- directors appointments, changes in particulars or terminations;
- accounts, reports and annual returns;
- notification of any change in a company's registered office;
- winding up documents;
- share capital documents (public companies only);
- documents relating to mergers and divisions (public companies only); and
- documents relating to overseas companies.

The voluntary translation must relate to a document delivered to Companies House on or after 1 January 2007. Voluntary translations can only be filed in an official language of the European Union and must be accompanied by Form 1106.

## 3. Where do I get forms and guidance?

This is one of a series of Companies House guidance which provides a simple guide to the Companies Act.

Statutory forms and guidance are available, free of charge from Companies House. The quickest way to get them is through this website or by telephoning 0303 1234 500.

Forms can also be obtained from company law stationers, accountants, solicitors and company formation agent.

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**how to contact us**

Contact Centre: 0303 1234 500\*  
Mini-com: 029 2038 1245  
enquiries@companieshouse.gov.uk  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

\*For training and quality purposes  
your call may be monitored

**Cardiff:**  
Companies House  
Crown Way, Cardiff CF14 3UZ  
Fax: 029 2038 0900

**Edinburgh:**  
Companies House  
4th Floor  
Edinburgh Quay 2  
139 Fountainbridge  
Edinburgh EH3 9FF  
Fax: 0131 535 5820

**London:**  
Companies House  
21 Bloomsbury Street, London WC1B 3XD  
Fax: 020 2038 0900


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Report on behalf of the Monitoring Officer into an allegation of a breach of the Code of Conduct By Cllr Keith Barrow

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**Witness Statement of Keith Barrow**

**Interviewed on Friday, 18 September 2015 at Aaron and Partners LLP offices,  
Shrewsbury**

1. I, Cllr Keith Barrow, am the Leader of the Shropshire Council and this is my second and supplementary witness statement.
2. To clarify paragraphs 12, 14 and 15 of my interview with Olwen Dutton at Shirehall, Shrewsbury on 12 August 2015, I accept that I did not formally declare an interest in relation to DRE & Co completing my tax return and/or Tony Matthews.
3. I did, however, state at the meetings on 23 August 2012 and 10 December 2012 that I knew Tony Matthews of DRE & Co and that DRE & Co do my annual tax return. I mentioned this in passing when names of local accountants were being discussed.
4. The meetings at that time were very informal and therefore it did not occur to me to formally declare this interest, i.e. ensure that the declaration was minuted as a formal declaration of interest and particularly because this interest was already registered with the Shropshire Council.
5. I believe that the facts of this statement are true to the best of my knowledge and belief.

Signed: 

Dated: 9 October 2015

Witness Statement of Tim Smith

Interviewed on Tuesday 29 September 2015 by Telephone

1. I, Tim Smith, am the Company Secretary and Finance and Commercial Director at IP&E. There are two Companies in existence which are IP&E (Trading) Ltd and IP&E Ltd. I was appointed as Company Secretary of IP&E (Trading) Ltd in January 2014 and following that I was seconded to IP&E Ltd from Shropshire Council in October 2014, at which I am a full time employee.
2. I recall the meeting on the 13 January 2014 as, unlike other board meetings, this one was held at Castle View, Oswestry. I recall the appointment of DRE & Co. and can confidently state that Keith Barrow did not encourage the Board to appoint DRE & Co. The decision to appoint DRE & Co. to IP&E (Trading) Ltd was made to be consistent with the decision to employ their services for IP&E Ltd. This proposal of consistency (albeit I stress that the two IP&E companies are entirely separate) was not put forward by Keith Barrow. Although I cannot recall who did suggest this.
3. I cannot recall whether Keith Barrow voted on this matter or not.
4. I can, however, confidently state that Keith Barrow exerted no pressure or influence the vote to appoint DRE & Co.
5. I was not aware at that time of any personal or professional connection that Keith Barrow may have with DRE & Co., or Tony Matthews.
6. I believe that the facts of this statement are true to the best of my knowledge and belief.



Signed

Dated 6 October 2015

Witness Statement of Mike Owen

Interviewed on Tuesday 29 September 2015 by Telephone

1. I, Mike Owen, am the Portfolio Holder for Resources, Finance and Support at Shropshire Council. I am also on the Board of Directors of IP&E.
2. I can categorically state that Keith had no influence at any of the meetings of which I was in attendance in relation to the appointment of DRE & Co as auditors and accountants for IP&E.
3. I remember that the nature of the appointment was not particularly formal at that stage. It was agreed previously that there was a need for an auditor and that Tom Roehricht would go out and look for suitable and local companies to provide the audit and accountancy functions of IP&E.
4. Tom Roehricht did this independently and he verbally presented his findings to the Board on 30 January 2013 following his meeting with several accountancy companies. Having considered Tom's presentation, the Board decided that DRE & Co should be appointed to provide the audit and accountancy functions of IP&E. In particular, I remember that Keith Barrow did not vote in relation to this appointment. Keith Barrow is a quiet, excellent chairman. He is not dominant, nor does he try to impose or lead the decisions of any meeting in which he chairs, including the meeting in which DRE & Co were appointed.
5. Once a decision was made by the Board, Keith mentioned at that point that he had dealt with the DRE & Co previously. Keith had been by and large silent up until this point and he had queried with the Board whether this was ok and whether it affected their decision. The Board agreed that it did not affect their decision.
6. I believe that the facts of this statement are true to the best of my knowledge and belief.

Signed:.....



Dated:.....

7/10/15

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Witness Statement of Tom Roehricht

Interviewed on Thursday 1 October 2015 by Telephone

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3.

4.

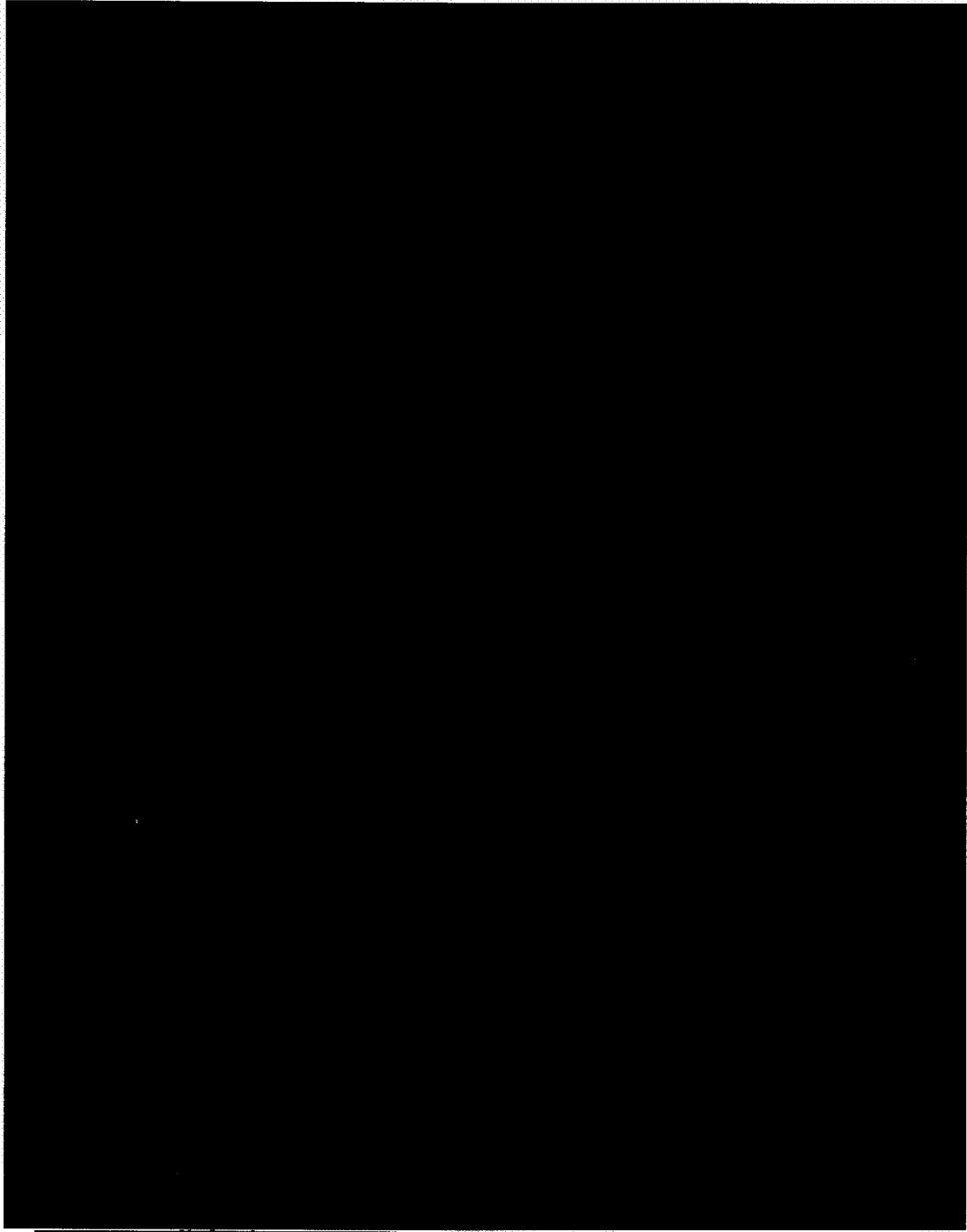
5.

6.

7.

8.

9.



Signed:



Dated: 6/10/2015

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(5)

**Witness Statement of Joanne Hardie**

**Interviewed on Thursday 8 October 2015 by Telephone**

1. I, Joanne Hardie, am the Personal Assistant to the Chief Operating Officer and I am informally seconded to IP&E.
2. Due to another Personal Assistant being on annual leave at the time, I took the notes of the meetings of the Board of Directors on 10 January 2013 and 30 January 2013.
3. I clearly recall that the meetings at that time were very informal. They have since become more formal and better documented after we received guidance in relation to this. It was not until we received this guidance, that making declarations of interest was on the agenda for each meeting. Prior to the guidance, I would not describe the meetings as Board meetings, given how informal they were.
4. I confirm that in my view, Keith Barrow exerted no influence over the conversations at either meeting, nor did he influence the vote in any way. I specifically recall, however, that one of the criteria for choosing the accountants, was that they must be a local company.
5. I believe that the facts of this statement are true to the best of my knowledge and belief.

Signed:.....

Dated:.....

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---

**From:** Jo Hardie <[REDACTED]>  
**Sent:** 09 October 2015 14:08  
**To:**  
**Subject:** Re: Amended statement

I can confirm approval of statement.

Many thanks.

**JO HARDIE**  
PA to Nicki Beardmore, Chief Operations Officer  
[REDACTED]  
[jo.hardie@ipande.co.uk](mailto:jo.hardie@ipande.co.uk)

ip&e Ltd  
Jupiter House  
Shrewsbury Business Park  
Shrewsbury  
Shropshire SY2 6LG

ip&e Ltd (a company registered in England and Wales) Company Number: 08089269, registered office: Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND.  
ip&e Ltd is a company controlled by Shropshire Council

---

**From:** [REDACTED]  
**Sent:** 09 October 2015 14:06  
**To:** Jo Hardie  
**Subject:** Amended statement

Dear Jo,

Sorry to bother you again. Please could let me know via email whether the amended wording in your statement (attached) is approved?

Many thanks and kind regards,

**Professional Practices & Employment Teams**

Email: [REDACTED]

**Aaron & Partners LLP, Solicitors**  
**Chester office:**  
Grosvenor Court, Foregate Street, Chester, CH1 1HG  
(Tel: 01244 405555; Fax: 01244 405566; DX: 19990 Chester)  
**Shrewsbury office:**  
Canon Court North, Abbey Lawn, Shrewsbury, SY2 5DE  
(Tel: 01743 443043; Fax 0844 471552; DX: 148563 Shrewsbury 14)

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**Manchester office:**

Pall Mall Court, 61-67 King Street, Manchester, M2 4PD

(Tel: 0844 800 8346; Fax 0844 800 8347)

Click [here](#) for a location map.

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Email: [enquiries@aaronandpartners.com](mailto:enquiries@aaronandpartners.com)

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(6)

Witness Statement of Alison Stack

Interviewed over Telephone on Monday, 28 September 2015

1. I am the Office Manager and Personal Assistant to the Chief Executive (Clive Wright) and Leader of the Shropshire Council (Keith Barrow). I was also the note taker at the IP&E Meeting of the Board of Directors on 23 August 2012.
2. I can categorically say that there was absolutely no pressure on anyone in attendance at that meeting to appoint DRE & Co as auditors for IP&E. I can also confirm that Keith Barrow did not influence in anyway which accountants IP&E should obtain quotes from.
3. From my recollection, there were several suggestions of accountants thrown into the hat at the meeting, one of which was DRE & Co. I recall that Keith Barrow mentioned DRE & Co as a possibility to obtain a quote from and that he mentioned at that time that DRE & Co did his personal annual tax return. I did not minute this as it was an informal discussion suggesting names.
4. There were several names suggested to obtain quotes from. However, I remember the emphasis at the time was to ensure that the accountants who were ultimately appointed were a local firm and therefore, the accountants who the Board agreed to obtain quotes from (which were Grant Thornton, [REDACTED] and DRE & Co) were chosen either on the basis of their local connections, or in the instance of Grant Thornton, because they were already the Shropshire Council's auditor.
5. I was not aware of, nor am I aware of now, any personal relationship between Keith Barrow and Anthony Matthews. Although, I do know that they have some connection in a professional capacity via Peakfast Limited.
6. I believe that the facts of this statement are true to the best of my knowledge and belief.

Signed:.....

Dated:.....

97 P.8

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**From:** P STACK <[REDACTED]>  
**Sent:** 05 October 2015 11:43  
**To:**  
**Subject:** Re: Private and Confidential

Dear

Thank you, that is fine.

Kind regards

Alison Stack

-----Original message-----

**From :** [REDACTED]  
**Date :** 05/10/2015 - 09:53 (GMTDT)  
**To :** [REDACTED]  
**Subject :** Private and Confidential

Dear Alison,

Please find attached a draft witness statement in relation to matters. Please carefully read through it and ensure it is completely accurate.

If you require any amendments you can either make them yourself or call me on [REDACTED] and I will be happy to do them on your behalf.

Kind regards,

**Professional Practices & Employment Teams**

**Email:** [REDACTED]

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(Tel: 01743 443043; Fax 0844 471552; DX: 148563 Shrewsbury 14)

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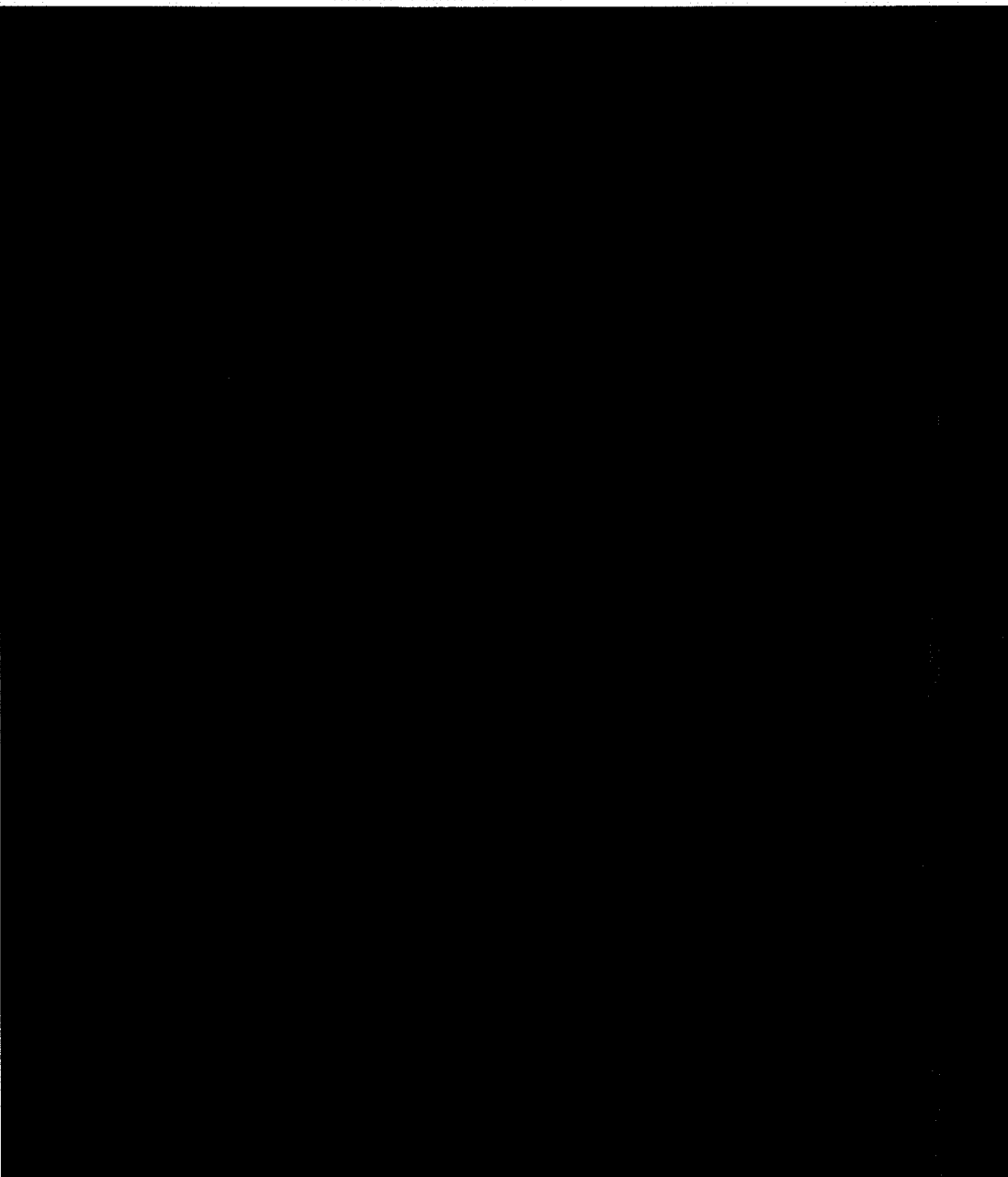
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7

Witness Statement of Anthony Matthews

Interviewed on Thursday 24 September 2015 by Telephone

- 1.
- 2.
- 3.
- 4.
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- 6.
- 7.
- 8.



Signed:.....

Dated:.....

100 P 11  
1

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**From:** Tony Matthews <[REDACTED]>  
**Sent:** 07 October 2015 09:14  
**To:**  
**Cc:** [REDACTED]  
**Subject:** Re: Witness statement attached

The wording is fine. [REDACTED]

Regards  
Tony

On 6 Oct 2015, at 17:40, [REDACTED] > wrote:

Dear Tony,

Apologies as I did not attach the amended witness statement to my previous email (please now find attached).

If you do approve the amended wording, I would be most grateful if you could return a signed version to me by Thursday of this week.

Many thanks and kind regards,

Professional Practices & Employment Teams

Email: [REDACTED]

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<D1 - Witness Statement of Anthony Matthews.docx>



Partners: Francis Nock, F.C.C.A. Martyn R Kent, A.C.A., C.T.A. Richard B Heath,  
Pareen Morjaria, F.C.C.A. Aled R Davies, F.C.C.A.

Offices: Oswestry (01691 654353), Shrewsbury (01743 241581), Ludlow (01584 875715),  
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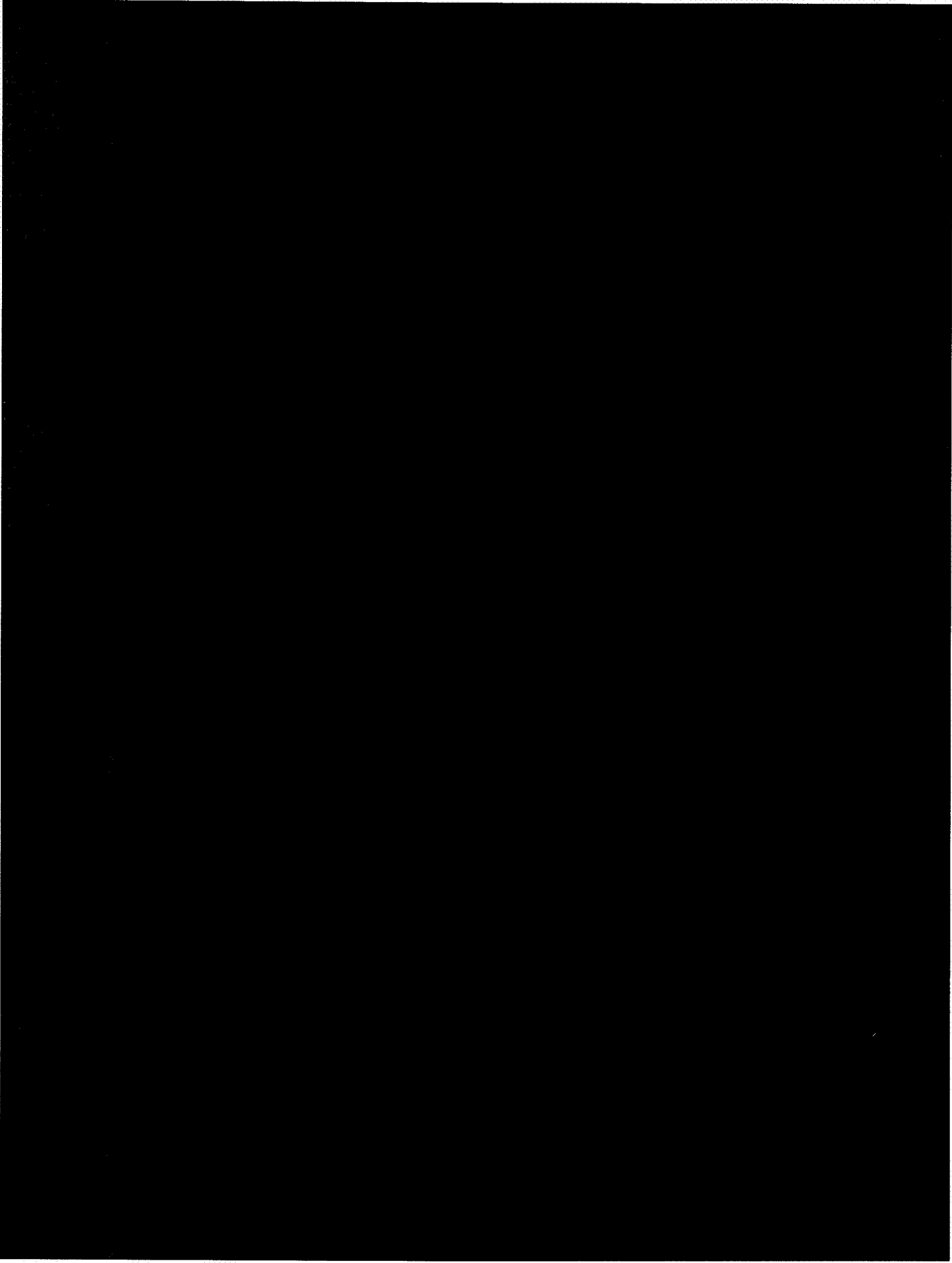
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**Appendix 2.**

**Incorporation of and Governance Arrangements for the New Company.**

1. Council agreed on 3 May 2012 that the following recommendations were to be returned to Cabinet for action:
  - 2.1 Agrees the creating of NEWCO, as a wholly owned Council company to act as the "umbrella" delivery vehicle for a range of new service provider solutions to better meet the needs of local people;**
  - 2.2 Approve the proposed legal and contractual arrangements for the direction and oversight of the new company, (as set out in Appendix 1 and sections 5-8 of the report), with the Cabinet acting as the owner's "shareholder" committee on behalf of the Council;
  - 2.3 That Cabinet receives and approves a detailed paper on the governance arrangements for the new company. This must take into account that the role of the Chairman is an elected Member, delivering guidance, direction, strategy and keeping the Board true to its democratic mandate. This report must be presented to the next Cabinet meeting.**
  - 2.4 Requests the Chief Executive, in consultation with the Leader of the Council, to bring forward to Cabinet for decision proposals on those current services which should be the first to transfer to the new company within the next 12 months, subject to consultation with staff, stakeholders and the trade unions;
  - 2.5. Requests the Chief Executive similarly, in consultation with the Leader of the Council, to bring forward to Cabinet for decision proposals on the future transfer of other Council services to NEWCO, progressively over the next 2-3 years, as well as identifying those current services that will remain in-house for the foreseeable future."
2. **This paper addresses recommendations 2.1 and 2.3 above with regard to the creation of the new company and its governance arrangements.**



**Formalities required to set up the new company in accordance with Council's recommendation 2.1 above**

3. The following decisions are required to action the initial incorporation of the Company:
  - i. Agree that the new company name will be ip&e Group Limited.
  - ii. Agree that the location of the registered office will be The Guildhall, Shrewsbury.
  - iii. Agree that, for the purposes of incorporation of the new company only, the sole director will be the Leader.
  - iv. Agree that the alternate for the Councillor Director is the Deputy Leader
  - v. Agree that the signatory on behalf of the Council as sole shareholder will be the Corporate Head of Legal and Democratic Services.
  - vi. Agree that the Articles of Association of the new company will be in the form as set out in Appendix 3.

**Governance Arrangements for the new company in accordance with the Council's recommendation 2.3 above**

**Councillors as Directors**

4. The shareholder has authority to decide on the appointment of the Chairman of the Board, which is set out in Article 13 of the Articles of Association. The Cabinet have agreed that the Leader undertake the role of councillor director and be the Chairman of the Board. In addition, members will find the details of the role of the Chairman of the Board at Appendix 4.
5. The Articles of Association set out that the Councillor and Officer Directors may appoint alternates to deputise when they are not available. Cabinet wish the alternate Councillor Director to be the Deputy Leader. This is important because the Articles emphasise, see Article 12, that the Councillor and Officer Directors must be present for a quorum to be formed for decision making by the Board.
6. There are a number of advantages in having councillors and council officers fulfilling a non-executive director role. These include giving greater comfort on leadership and oversight of the company's operation; allowing the company to benefit from their relevant experience and expertise; and being seen as a positive public statement about the importance of the company to the Council. At the same time, it is necessary to mitigate any potential risks involved in this approach, for example over potential conflicts of interest (or the perception of these); either professional or political; and over the

blurring of the respective established roles of councillors and staff regarding day-to-day operational matters. The detailed approach set out in this report is designed to reduce such potential risks.

7. At the conception and initial stages of the new company it would be appropriate for a member of the Cabinet to fulfil this role, because there is a common interest between the Council and the new company and no apparent conflicts at this present time. However, the situation will need to be reviewed as more detailed decisions are taken later by the Council with regard to the specific contractual arrangement between the Council and the new company.
8. The Local Government Act 1972 disqualifies, subject to certain exceptions, individuals who hold any employment in a company controlled by a Council (which would include the new company) from being a member of a local authority. Any councillor appointed to the board of the new company would, therefore, need to be a non-executive director.
9. This means that, in order to protect the councillor director, it is important they do not become involved in day-to-day operational management decisions, otherwise they may be considered to be a de facto employee of the company, which would create the likelihood of them being disqualified from being a councillor.
10. It should be noted that executive and non-executive directors are both 'directors' for the purposes of company law and owe the same legal duties in exercising their roles.

#### **Directors' duties and responsibilities**

11. It is important that the relevant duties and responsibilities of a Director of the company are highlighted, together with the personal liabilities of acting in that capacity as set out in below.

#### **Relevant duties of a director to the new company**

12. The Companies Act 2006 codified seven duties which all company directors must adhere to:
  - i. a duty to act within their powers;
  - ii. a duty to promote the success of the company for the benefit of the shareholder(s) (in this case, the Council);
  - iii. a duty to exercise independent judgement;

- iv. a duty to exercise reasonable skill, care and judgment;
  - v. a duty to avoid conflicts of interest;
  - vi. a duty to declare an interest in a proposed transaction or arrangement with the company.
13. It is very important to highlight that, where a councillor or officer is not formally a director, but the company is accustomed to following his / her guidance or instruction, then that person can become a "shadow director" and, where this is the case, that person would be subject to the same duties as formally appointed directors.

#### **Directors' - personal liability**

14. Directors act as agents of the company. The general principle, therefore, is that liability associated with the new company's operations will rest with the new company and its assets. There are, however, a number of exceptions to this principle which, when applicable, could result in a director being held personally liable for company debts. These include:

Wrongful Trading - A director could be found guilty of wrongful trading if, at some point prior to the company going into insolvent liquidation, he or she knew or ought to have concluded that the company would have no reasonable prospect of avoiding insolvent liquidation and did not comply with the duty to take every step which a reasonably diligent person would take to minimise potential loss to the company's creditors. If, after the company has gone into insolvent liquidation, it appears to the court that a director has failed to comply with this duty, the court can order the director to make such contribution to the company's assets as it thinks proper.

Fraudulent Trading - A director would be found guilty of fraudulent trading if it appeared to the liquidator that the company carried on business with the *intent* to defraud its creditors or for any other fraudulent purpose. It is not enough to show that the directors continued to run up debts whilst the company was insolvent, it must be shown that there was actual dishonesty, involving real moral blame.

Misfeasance or breach of fiduciary duty - A director has a duty to act in the best interests of the company. Therefore if, in the course of a winding up the company, it appears that a director has misapplied or retained, or become accountable, for any money or other property of the company; or been guilty of any misfeasance or breach of any fiduciary or other duty, the Court may order the director to restore money or property with interest or pay compensation to the company. Some examples include: where a director enters into a contract on behalf of the company, but fails to disclose the company's interest; or if

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a director signs a cheque or places an order without stating that they are acting on the company's behalf, the other party may hold him liable. If the company voids the transaction, the director may be left to deal with the financial consequences.

15. It is worth noting that the primary catalyst for directors' external personal liability is the imminent insolvency or winding up of the company. It is rare for directors to experience personal financial liability whilst the company is a going concern.

#### Protection for directors ( Councillors and Officers )

16. There are three principal ways to protect directors against the risk of personal liability:
- i. authority indemnity and insurance;
  - ii. company indemnity;
  - iii. directors' and officers' (D&O) liability insurance policy.

#### Authority indemnity and insurance

17. The Council appointing an individual to be a director of a company can provide indemnity and insurance in respect of loss suffered by that person as a result of their directorship. Further enquiries are being made with the Council's Insurers to ensure that appropriate insurance is in place for both members and officers in this capacity. The Council has already provided an indemnity in the following terms:

*"1.0 The Council has adopted a professional negligence indemnity for employees, in respect of claims made against them arising from any loss or damage caused by their neglect, act, error or omission whilst going about their duties on behalf of the Council.*

*2.0 The indemnity prevents the need for written consent of the Council to be obtained in every case where work is undertaken for outside bodies.*

*3.0 The terms of the present indemnity are as follows:*

*"The Council will, to the extent that it has power to do so and subject to the exceptions set out below, indemnify its employees and its councillors and its former employees and councillors against claims made against them (including costs awarded) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its employees under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the employee) occasioned by neglect, act, error or omission including any breach of trust, or duty of care or fiduciary or any other duty committed by them in or about the pursuit of their duties on behalf of the Council whilst acting within the scope of their employment or authority which shall include when they are acting for other*

*persons or other bodies of whatsoever nature."*

4.0 *The indemnity also covers actions / inactions outside of its power, as follows:*

*Where the action or inaction complained of is outside the powers of the Local Authority itself, or outside the powers of the officer or councillor individually (ultra vires), provided that the officer or councillor reasonably believes the matter was not outside those powers at the time at which he/she acted, the Council will indemnify him/her.*

5.0 **Exceptions**

*The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:*

- 5.1 *fraud, dishonesty or a criminal offence on the part of the employee or councillor whilst acting on the Council's business (except where the criminal offence is an offence under the provisions of the Health and Safety at Work Act 1974 or relevant statutory provisions within the meaning of the Act, or where it is alleged that the criminal offence arose due to the wrongful but not wilful act or default of any employee, in which case the indemnity will continue to apply)*
- 5.2 *liability in respect of losses certified by the District Auditor as caused by wilful misconduct."*

**Company indemnity**

18. Companies may indemnify directors against personal loss. However, a company may not generally exempt a director from, or indemnify him or her against, liability in connection with any negligence, default, breach of duty or breach of trust by the director in relation to the company.
19. Companies may indemnify a director against third party claims in certain circumstances. It should be noted that any company indemnity is only as valuable as the company's ability or willingness to pay and this could become problematic should the company become insolvent. Directors and officers insurance is usually taken out in conjunction with an indemnity to provide additional assurance to the directors and as a risk management strategy for the company.

**D&O Insurance liability policy**

20. The Companies Act 2006 allows a company to purchase insurance for its directors against any liability attaching to them in connection with

any negligence, default, breach of duty or breach of trust by them in relation to that company. Insurers will not cover matters which are criminal or dishonest in nature. Reckless acts may also not be covered.

21. For the directors, a D&O insurance policy provides personal asset protection if the employer's indemnification fails for any reason. For the company, a policy provides balance sheet protection where the company has indemnified its directors, as the policy will reimburse the company to the extent of such indemnification. Many prospective directors insist on a company having such a policy in place before agreeing to join the organisation and the Council could consider D&O insurance as part of establishing the new company.
22. The proposed details for Directors' Indemnity and Insurance can be found at Article 45 and 46 of the Articles of Association.

#### **Conflicts of interest for Councillors acting as directors of the new company**

23. The duty under company law to avoid conflicts of interests requires a director to avoid a situation in which he or she has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. It applies to a transaction between a director and a third party, such as the exploitation of any property, information or opportunity. However, conflicts of interest can be authorised by the non-conflicted directors on the board provided that: the director subject to the duty does not vote to authorise the conflict; the remaining authorising directors are quorate; and that there is nothing in the company's constitution which prohibits the directors from authorising the transactions.
24. The fact that a director is appointed by, and may also be a member or officer of the Council, may place him or her in a position of potential conflict between his or her loyalty to the Council and his or her duties to the new company (albeit that, as noted above, the duties to the company are essentially duties to the shareholder, which in this case is the Council). This has been dealt with by drafting the new company's articles (Article 20) to allow any conflicts of interest arising purely by virtue of a director being a member or officer of the Council to be automatically authorised and for that director to be able to participate in discussions on the matter in question and to vote on decisions concerning the matter.

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### **Conflict of interests within the Council**

25. Under the present Members' Code of Conduct, a councillor who is a director has to disclose a personal interest in any item of Council business which affects the company and register his directorship in the Register of Members' Interests.
26. Where the item of business affects the financial position of the company (i.e. anything to do with contracts or funding for the company including any significant expenditure) the individual is likely to have a prejudicial interest and so be required to withdraw from any participation in that item as a councillor.
27. As Members will be aware, under the Localism Act, the present Code of Conduct will cease to have effect. We are still awaiting the commencement of the relevant regulations to implement the new ethical governance regime that will replace the present Code. When the new regime is fully in force (it is still anticipated this will be 1 July 2012), the interests aspects will be replaced by new statutory requirements which will make it a criminal offence to fail to register or disclose, or to participate in discussions, meetings or votes in respect of, "Disclosable Pecuniary Interests" (DPs). It is understood that the definition of this is likely to be very similar to the present definition of a prejudicial interest.
28. However, the Localism Act provides that authorities may grant a dispensation, enabling a councillor to continue to partake in discussions, meetings and votes, despite a DPI in certain circumstances. Therefore, a member who sits as a director on the new company may be granted a dispensation by the Standards Committee, where appropriate, to enable that member to take part at meetings of the Council/Cabinet at which the business of the new company is discussed.

### **Bias**

29. Separate to the potential conflicts of interest identified above, there may be the perception of bias – that the councillor who is a director is likely to act in the best interests of the new company, rather than the best interests of the Council. If a dispensation has been as mentioned above, then Councillor directors will need to be mindful of this and act accordingly.

### **Remuneration**

30. As the Council will wholly own and control the new company, the new company may not pay the Councillor more for acting as a director than the special responsibility allowance (SRA) which he or she would have received had the activities of the Company still been discharged

directly by the company. In the case of Cabinet Members, this effectively means that they cannot receive additional remuneration from the company for acting as a director, as they are probably in receipt of an SRA within the Council which would not be increased had the company's activities remained in-house. In addition, he or she may only claim mileage, travel and subsistence in connection with their role in the company at the rates which he would have been able to claim as a councillor.

### Shareholding Governance

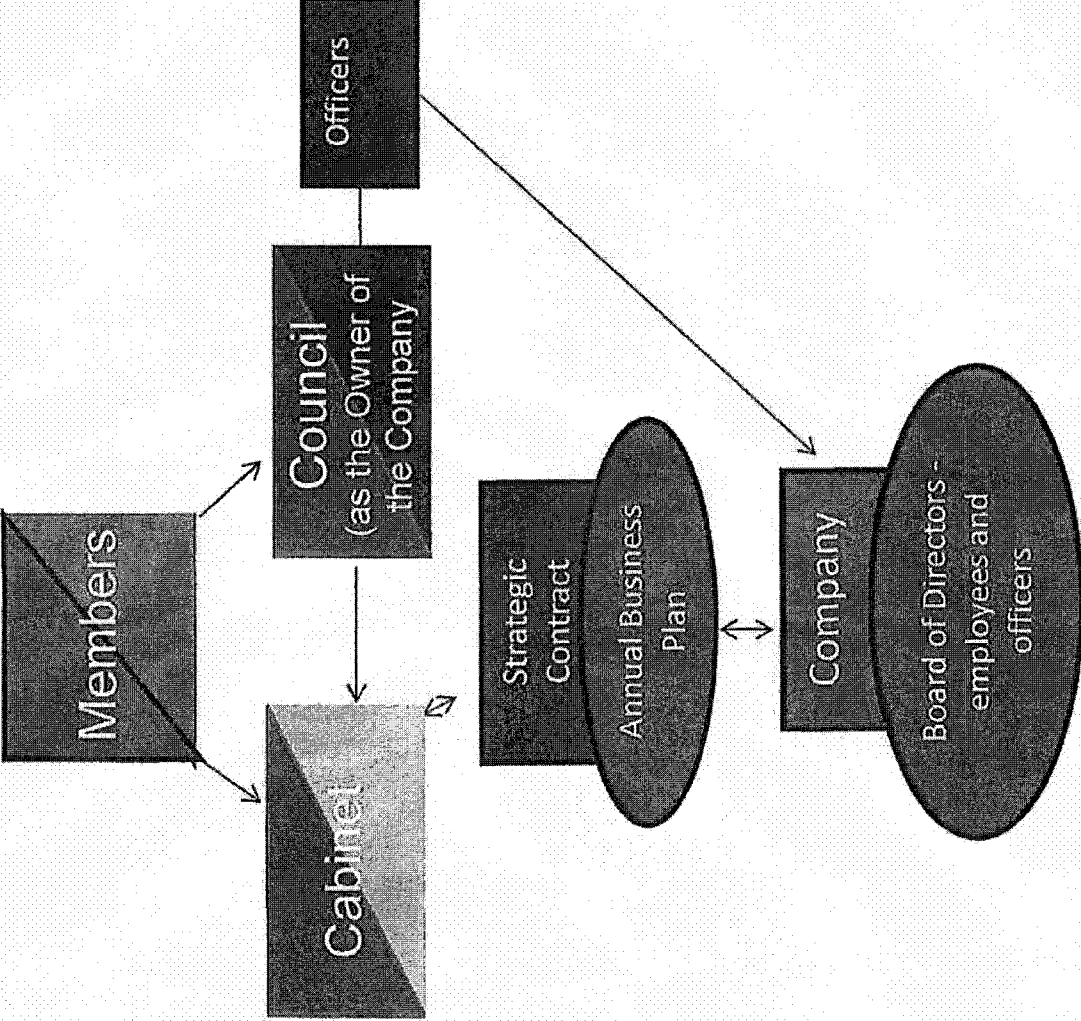
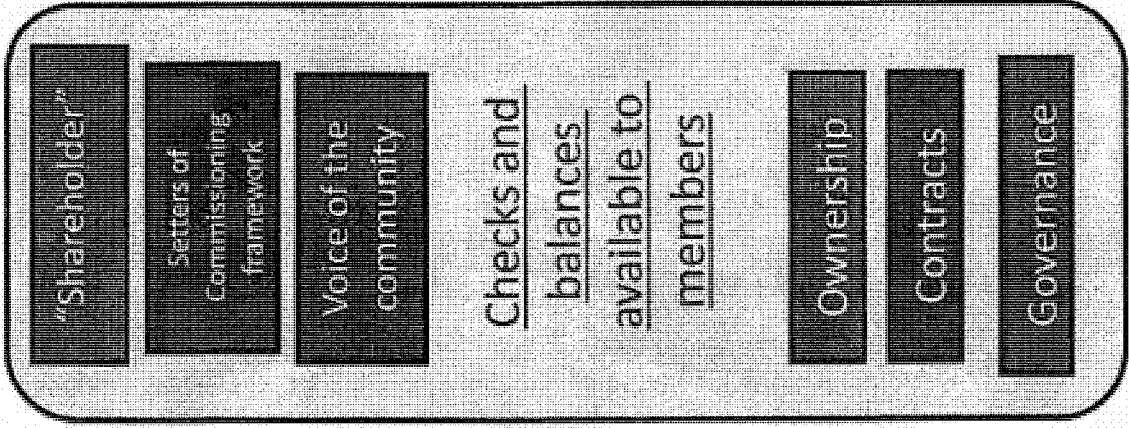
31. It was agreed by Council that the Cabinet act as the "shareholder" committee on behalf of the Council. Cabinet, therefore, exercises the delegated responsibility on behalf of the Council as the sole shareholder of the Company. The attached diagram outlines the proposed Governance Arrangements.

Shareholders own the company and are able to exercise a certain level of control through:

- i. the appointment and removal of directors;
  - ii. the appointment of the Chairman;
  - iii. certain statutory rights (such as the right to make amendments to the Articles of Association and voluntarily wind up the company);
  - iv. any rights within the Strategic Contract between the Council and the new company and
  - v. the agreement of the annual business plan
32. The main focus of the shareholder role would be to consider, negotiate and approve the annual business plan of the company. Once the shareholder has approved the business plan the board of directors of the new company would then have the role and authority to make decisions and implement the business plan.
33. It is perhaps appropriate to repeat the advice outlined above in paragraph 15 above regarding the possibility of becoming a shadow director in certain circumstances, and as a consequence, becoming subject to the same duties and requirements as those for formally appointed directors.



**Governance Arrangements**



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