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Councillor Conduct Committee

Tuesday, 11 December 2018 at 6.30 pm
Room 1, Civic Centre, Silver Street, Enfield,
EN1 3XA

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Secretary
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E-mail: Penelope.Williams@enfield.gov.uk
Council website: www.enfield.gov.uk

Councillors: Ergin Erbil (Chair), Glynis Vince (Vice-Chair), Christine Hamilton and Elaine Hayward

Independent Persons: Christine Chamberlain and Sarah Jewell

To Follow Papers

AGENDA – PART 1

5. APPEAL HEARING 1 (Pages 1 - 18)

To carry out a hearing in relation to an appeal against a Monitoring Officer decision on a councillor complaint.

A report on the complaint will follow.

6. APPEAL HEARING 2 (Pages 19 - 98)

To carry out a hearing in relation to an appeal against a Monitoring Officer decision on a councillor complaint.

A report on the complaint will follow.

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MUNICIPAL YEAR 2018/2019 REPORT NO. 127**MEETING TITLE AND DATE:**

Councillor Conduct
Committee 11 December
2018

REPORT OF:

Jeremy Chambers
Monitoring Officer &
Director of Law and
Governance

Agenda – Part: 1

Item: 5

**Subject: Appeal Against the Monitoring
Officer Decision on Recommended
Sanction for a Complaint**

Cabinet Member consulted: N/A

Contact officer and telephone number:

Jeremy Chambers Jeremy.chambers@enfield.gov.uk, 020 8379 4799

1. EXECUTIVE SUMMARY

1. This report sets out a complaint from four members of the public against Councillor Stephanos Ioannou received in July and August 2018. The complaint alleges several breaches of the Councillors' Code of Conduct ("the Code"), arising from a post on Facebook on about 20th July 2018.
2. The Monitoring Officer, Jeremy Chambers, instructed Jayne Middleton-Albooye, Head of Legal Services, London Borough of Enfield to investigate the complaint in accordance with the Code. The Monitoring Officer accepted the findings in the investigation report that the matters complained about did amount to breaches of the Code by Councillor Stephanos Ioannou and therefore the complaint was upheld. The Complaint Report is attached at Appendix A.
3. The Monitoring Officer asked the Complainants and the Councillor if they accepted the report and they all agreed to the findings in the report but two of the Complainants did not agree to the proposed sanctions.
4. Two of the Complainants have exercised their right to appeal my decision, to the Councillor Conduct Committee.

2. RECOMMENDATIONS

1. The Committee, having reviewed the Monitoring Officer's decision and the Independent investigation report, considers the appeal from Mrs S Mustafa and Farok Tinaz against the decision of the Monitoring Officer regarding the proposed sanctions against Councillor Ioannou.
2. If the Committee decide that other sanctions are more appropriate, the Committee will need to consider what sanctions, if any to apply as detailed in the procedure for Hearing Complaints set out in the Constitution.

3. BACKGROUND

- 3.1 The Investigation Report attached at Appendix A includes interviews with the Complainants, and with Councillor Ioannou
- 3.2 The Independent Person has been consulted throughout the process.
- 3.3 The Monitoring Officer agreed with the findings at page 6 to 8 of the report that, on the balance of probabilities, Councillor Ioannou's actions did amount to a breach of the Code of Conduct.
- 3.4 The Complainants and the Councillor accepted the findings but two of the Complainants disagreed with the proposed sanctions. Attached at Appendix B is the appeal from the two complainants and the Councillor's e-mailed response. The Committee must have regard to the appeal and its contents in making its decision.

4. ALTERNATIVE OPTIONS CONSIDERED

None

5. REASONS FOR RECOMMENDATIONS

As set out in the report

6. COMMENTS OF OTHER DEPARTMENTS

6.1 Financial Implications

None

6.2 Legal Implications

These are contained within the body of the report and the investigation reports.

6.3 Property Implications

None

7. KEY RISKS

None

8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

8.1 Good homes in well-connected neighbourhoods

8.2 Sustain strong and healthy communities

8.3 Build our local economy to create a thriving place

The ability to scrutinise the actions of Councillors, to have concerns investigated and addressed assists in enhancing transparency and good-decision making and in increasing the confidence of the Community in the Council.

9. EQUALITIES IMPACT IMPLICATIONS

Where applicable contained within the body of the reports and the Councillors' Code of Conduct as set out in the Council's Constitution

10. PERFORMANCE MANAGEMENT IMPLICATIONS

Where applicable contained within the body of the reports and the Councillors' Code of Conduct as set out in the Council's Constitution

11. HEALTH AND SAFETY IMPLICATIONS

Where applicable contained within the body of the reports and the Councillors' Code of Conduct as set out in the Council's Constitution

12. HR IMPLICATIONS

Where applicable contained within the body of the reports and the Councillors' Code of Conduct as set out in the Council's Constitution

13. PUBLIC HEALTH IMPLICATIONS

Where applicable contained within the body of the reports and the Councillors' Code of Conduct as set out in the Council's Constitution

14. Background papers

Appendix A
Investigation Report of Jayne Middleton-Albooye, Head of Legal Services

Appendix B

Appeal against sanction by Mrs S Mustafa and Faruk Tinaz and Councillor Ioannou's objection

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**REPORT INTO COMPLAINT DATED JULY AND AUGUST 2018
MADE BY SEVERAL RESIDENTS AGAINST COUNCILLOR STEPHANOS IOANNOU**

1. EXECUTIVE SUMMARY

This is a report into complaints dated 30th July 2018 by Mr. Omer Hassan, 8th August 2018 by Mr. Gorkem Ozsoy, 9th August 2018 by Mr. Faruk Tinaz and 10th August 2018 by Mrs. Serif Mustafa (The Complainants), (The complaints are attached at Appendix 1) about Councillor Stephanos Ioannou (Cllr SI). The Complainants allege breaches by Cllr SI of parts 8.3 and 8.8, 11 and 12 (1) AND 12.6 of the Code of Conduct, set out in full and addressed below. The Complaints are based on the content of a Facebook page alleged to have been posted by Cllr. SI on 20th July 2018. The post was of a Sun Newspaper article published on 5th August 1974, which stated that Turkish Cypriots are “Barbarians” and stating “Shame on them”. The Complainants allege that the posting of the newspaper front page article from the 1970s amounts to spreading hate speech and is deeply offensive to Turkish Cypriots. I recommend that the Council upholds all alleged breaches of the Code of Conduct (specifics of which are set out at section 6), with the exception of 8.3 which I do not consider is engaged here. The background to the Complaints, the evidence considered and the reasoning for my recommendations are set out in the body of the report.

1. INTRODUCTION

- 1.1. I am Head of Legal Services at Enfield Council. I was admitted to the Roll of Solicitors in July 2004.
- 1.2. On the dates outlined above, complaints were received by the Monitoring Officer Jeremy Chambers. Having consulted with the Independent Person, Jeremy Chambers has agreed that the complaints meet the criteria for investigation and has asked me to investigate. The outcome of my investigation has been reported to Jeremy Chambers who will consider whether he agrees or not with my recommendations.
- 1.3. I have interviewed the following people on the following dates. All my interviews were conducted by telephone:
 - Mr Hassan (25.09.18)
 - Mrs. Mustafa (2.10.18)
 - Mr. Ozsoy (2.10.18)
 - Mr. Tinaz (3.10.18)
 - Cllr Stephanos Ioannou (9.10.2018)
- 1.4. I sent the report to the Council’s Monitoring Officer on 19th October 2018.

2. BACKGROUND TO COMPLAINT

The factual background to the matter is not complex. On about 20th July 2018, as set out above, a post of a Sun Newspaper article published on 5th August 1974, which stated that Turkish Cypriots are “Barbarians” and stating “Shame on them” was seen on the Facebook page of Cllr SI. The Complainants allege that the posting of the newspaper front page article from the 1970s amounts to spreading hate speech and is deeply offensive to Turkish Cypriots. Several of the Complainants were aware that the post stayed on the Facebook page for several weeks, if not months.

3. RELEVANT LEGISLATION AND PROTOCOLS AND THE CODE OF CONDUCT

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is “expected of members and co-opted members of the authority when they are acting in that capacity.”

3.2 Section 28 of the Act provides that the Authority must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council, most recently, adopted a Code of Conduct on 17 July 2013 under the provisions of the Localism Act 2011, the Code is found on the Council’s website at <http://governance.enfield.gov.uk/documents/s67628/PART%205.pdf> .:

3.4 Paragraph 3 of the Code states:-

“The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.”

3.5 Due to paragraph 3 of the Code, and to the statutory provisions of s27(2) of the Localism Act 2011, as a preliminary issue, it is important to consider whether, or not the Code applied at the time of the incident complained of. The Code does not apply when an elected member is acting in his or her private capacity. This is an important initial consideration in this case as Facebook is used in both a private and a business context. Before I can be satisfied that the conduct complained of is a breach of the Code, I have to be satisfied that the Councillor was “acting as Member”

Despite the introduction of the Localism act 2011 and the changes to the Standards regime, the case of Ken Livingstone v Adjudication Panel for England 2006 is the starting authority to determine whether a councillor is acting in their capacity as a councillor. In this case the court was considering whether Ken Livingstone had acted in his “official capacity” as a councillor. The court held that a statement made by Ken Livingstone when leaving a venue did not amount to him acting in his official capacity. The question then considered by the court was whether Ken Livingstone’s behaviour was regarded as “in performing his functions”. The court felt these words extended beyond acting in an official capacity and must cover activities within performing a member’s function. The judgment went on to state:

“thus misuse of a position for personal advantage will appear to whoever is affected by it to have been in performance of functions....the expression should be used so as to apply to a member who is using his position in doing or saying whatever is said to amount to misconduct.....thus

where a member is not acting in his official capacity.....he will still be covered by the code if he misuses his position as a member.....the link with the membership of the authority is in my view needed..... . The Judge also considered article 10, right to freedom of expression and stated: “anyone is entitled to say whatever they like provided he does not act unlawfully and so commits an offence under... “ [another act]

The judgment was considered in detail in Bartlett, Milton Keynes Council [2008] APE 0401 in an appeal from the local standards committee. In the Case Tribunal’s view, the Livingstone judgment established that for a councillor to be acting in an official capacity-

- (a) the councillor should be engaged in business directly related to the Council or constituents;
- (b) the link between the councillor’s office and the conduct should have a degree of formality.

In *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC), the tribunal indicated that merely acting, claiming to act or giving the impression of acting as a member was insufficient for the conduct to be covered by the code. There had to be sufficient material for the tribunal to properly conclude that the member was in fact acting as a representative of the council.

In the decision notice concerning Cllr. Alan Ball issued by Basingstoke and Deane Borough Council following an investigation, the Council found that he had not acted in his capacity as a Councillor in posting on Facebook (which formed the basis of the Complaint). Part of the reasoning for the decision was that the post on his Facebook account appeared in the name of “alan ball”, and he used the words “I personally would like to thank”, with no reference to him being a councillor, although the content of the post relates to a matter that was being dealt with by the parish council.

In this case, I understand from Cllr SI that he has 2 Facebook accounts, one personal account and one political account. The political account was used for campaigning before the election and since the election the name on the account is Cllr Stephanos Ioannou. Cllr SI posts issues relating to national politics but his posts also include advertising Council services, reporting on his work as a Councillor by giving feedback on the responses he has received to Members’ enquiries he has made, and interacting with residents and offering to take up the issues they raise with the Council, commenting about local issues that affect the Council and about Council decisions and policies. From the screen shots I have seen of the post complained about, it was posted on Cllr SI’s political account, and Cllr SI confirmed this in his interview. Cllr SI’s Facebook account is an open account, meaning that everyone can access it and view the posts as you would expect from a public Facebook page. I therefore conclude that as Cllr SI, clearly identifies himself as a Councillor on this Facebook page, maintains a separate personal page, and discusses and even advertises Council business, on balance, he can be said to have been acting in his capacity as a Councillor when he posted the newspaper headline.

4. THE COUNCIL’S CODE OF CONDUCT

The relevant sections of the Code of conduct in relation to this Complaint are set out below:

Public Duties of Members

6. You have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in you. (alleged breach)

8.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. (alleged breach)

8.8 Respect for Others

You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. (alleged breach)

Expectations of Conduct

11. You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute. (alleged breach)

Rules of Conduct

12. You shall observe the following rules when acting as a Member or co-opted Member of the Authority:

(1) Treat others with respect and courtesy (alleged breach)

12.6

You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. (alleged breach)

5. EVIDENCE CONSIDERED

Telephone Interview with Mr. Hassan 25.09.2018

Mr. Hassan said he saw the post on Facebook at the end of July even though he is not a Facebook friend of Cllr SI. His view is that the post was wrong (he maintains that the Sun had apologised and retracted this headline), deeply offensive to the Turkish Cypriot community, very biased especially for a Councillor and could rekindle old animosities and cause big problems in the community.

Telephone Interview with Mrs. Mustafa 2.10.2018

Mrs. Mustafa became aware of this post at the end of July on social media. She also stated that this had been retracted and corrected by the Sun. She found the post to be racist and to be breeding hatred. Mrs. Mustafa was particularly concerned that the post had remained on social media for so long. On 2nd October, Mrs. Mustafa said that she had checked and it had remained on until at least the end of August.

Telephone Interview with Mr. Ozsoy (2.10.2018)

Mr. Ozsoy had complained about the post on 8th August shortly after he saw it. He found it very inappropriate especially in view of the Councillor's position. Mr. Ozsoy stated that Cllr SI should not be derogatory to others and cause distress. Mr. Ozsoy also confirmed his understanding that the Sun had apologised for the article. Mr. Ozsoy stated he was angry, upset and disappointed, he considers it can incite hate and cause division, especially in this day and age. Mr. Ozsoy said he had spoken to many others in the Turkish Cypriot community who had considered that it was not the right thing to do. Greek friends of Mr. Ozsoy also agreed.

Telephone Interview with Mr. Tinaz (03.10.2018)

Mr. Tinaz became aware of the post as it had been reported on a community website and was in the Turkish newspapers. Mr. Tinaz was shocked that this had been posted by a Councillor, especially as the ward (Southgate) where Cllr SI is a Councillor has a high proportion of Turkish Cypriot residents. He considers that even though Cllr SI is of Greek Cypriot origin, he represents all the community, and the post is discriminatory and racist. Mr. Tinaz also stated that he went back on the site about a week later and saw it was still there. In his view, he felt this compounded it as it appeared that Cllr SI does not care.

Telephone Interview with Cllr SI (09.10.2018)

Cllr SI explained that he has two Facebook accounts, one personal and one political and that he edits them. The political account was changed to Cllr Stephanos Ioannou after the election. Cllr SI agreed that he had posted the Sun headline on the account named *Cllr* Stephanos Ioannou, and that his reason was to commemorate an anniversary of a historic event that is important to residents in the community and he had written in Greek "Do not Forget". He likened this to commemorating the Second World War. Cllr SI stated that he was not responsible for the article as the Sun had used this wording and he was not aware that the newspaper had apologised. He also pointed out that MPs discuss the Cyprus issue. Cllr SI stated however that he did not intend to cause offence, and understands now that he has, and that he is not racist and did not intend it to be racist. On being asked if he would post it again, he stated he would not, and that he understands that he represents everyone, the whole community. He would be prepared offer a written apology for the offence caused and to state that this would not happen again

6. THE ALLEGATIONS AND FINDINGS

Public duties

6. You have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in you. (alleged breach).

The complainants state that Cllr SI has not uphold the law because he has been racist in posting the Sun headline and article, and he has incited hatred.

The act of posting a Facebook post such as this could, dependant on the facts, fall within the definition of racial harassment, which covers an incident or a series of incidents intended or likely to intimidate, offend or harm an individual or group because of their ethnic origin, colour, race, religion or nationality, and a racist incident is any incident that is perceived to be racist by the victim or any other person.

Such behaviour may include:

- Derogatory name calling.

- Verbal threats, insults and racist jokes.
- Display of racially offensive material.

On 24/02/2009 Bristol City Councillor Shirley Brown, was found guilty of an offence under the Public Order Act of racial harassment after calling a political opponent a 'coconut' during a debate. The Council's standards committee viewed the words as 'offensive and abusive' although did not consider the words to be racist.

The post, in this complaint, is aimed at one ethnic group, Turkish Cypriots and therefore the lack of respect is linked to race. Objectively I find that the post is offensive and has caused distress and can be considered racist.

Any findings of a breach of the Criminal law are matters that are the domain of the police and the criminal prosecution service and are outside of the remit of this investigation. I therefore make no finding on breach of the law but I do find that the Councillor has not acted in accordance with the trust placed in him.

8.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. (alleged breach). On the wording of this part of the Code, I do not find that there has been a breach.

8.8 Respect for Others

You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. (alleged breach).

In relation to the first part of this section of the code which prohibits discrimination, Cllr SI has not directly discriminated against Turkish Cypriots. Direct discrimination usually occurs when someone is treated 'less favourably' because of a protected characteristic (e.g race). Here the post could be deemed racist and offensive, however, there is nothing in the complaint which suggests that members of Turkish Cypriot background have been treated differently. I do not think he has discriminated against any person.

However, posting a newspaper headline with the words "Barbarians" in relation to Turkish Cypriots, with the words "Shame on them" in the article is clearly not treating other people with respect regardless of whether it is an article written by a third party, and regardless of whether you state that it was not your intention to cause offence. All four complainants spoken to, at separate times, expressed the same sentiments, the post had caused them great offence and they were distressed by it.

Cllr SI has not discriminated directly against any individual but neither has he "treated people with respect regardless of their race". He has treated one ethnic group disrespectfully. I find that Cllr SI has breached this part of the Code.

Expectations of Conduct

11. You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute. (alleged breach).

As I have found that Cllr SI has breached several parts of the code and his conduct has been offensive to members of the public, it follows that I would find that he taken an action that brings him into disrepute. This is strengthened by the fact that his conduct has been widely criticised and publicised in the Press.

Rules of Conduct

12. You shall observe the following rules when acting as a Member or co-opted Member of the Authority:

(1) Treat others with respect and courtesy (alleged breach)

12.6

You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. (alleged breach)

For the reasons given above, I recommend that the Council also finds that Cllr SI has breached this part of the Code.

CONCLUSION

For the reasons set out above, I recommend that the Council finds that Cllr SI has breached sections 6, 8.8, 11, 12.1, and 12.6 of the Code of Conduct.

The Monitoring Officer will need to consider the findings in this report. I note Cllr SI has offered to make a full public written apology and recommend that if the findings are agreed, that in any event Cllr SI is asked to attend race awareness training.

Jayne Middleton-Albooye

Head of Legal Services

0208379 6431

Jayne.Middleton-Albooye@enfield.gov.uk

19th October 2018

Penelope Williams

From: FARUK TINAZ <[REDACTED]>
Sent: 13 November 2018 17:30
To: Jeremy Chambers
Subject: Re: Complaint [SEC=OFFICIAL:PRIVATE AND CONFIDENTIAL CORRESPONDENCE]

Dear Jeremy

Thank you for your email/letter dated 6th November 2018.

I note your comments and agree that Mr Ioannou should attend a race awareness training course. However, although I accept a written personal apology I would like him to acknowledge his mistake and have a written public apology on his public social media accounts. I personally believe this is a reasonable solution and a good approach if he wants to be representing Turkish/Turkish Cypriot residents within his area. Otherwise he should step down as a councillor as this shows that he discredminates certain groups and I believe a councillor who discredminates is not fit for the role.

In the meantime, if you have any further questions, please do not hesitate to contact me.

I look forward to hearing from you.

Your sincerely

On Tue, 6 Nov 2018 at 17:32, Jeremy Chambers <Jeremy.Chambers@enfield.gov.uk> wrote:

Classification: OFFICIAL - PRIVATE AND CONFIDENTIAL CORRESPONDENCE

Dear Mr Tinaz

Please see attached letter and investigation report for your attention.

Regards

Rosa Cuffaro

PA to Director of Law & Governance

Chief Executive's Unit

Enfield Council

Silver Street

Enfield

EN1 3XY

0208 379 6892

Rosa.cuffaro@enfield.gov.uk

Working Days: Monday & Tuesday

Please contact Sevgi Ickin, on Wednesday, Thursday & Friday.

Sevgi.ickin@enfield.gov.uk

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From: "Rosa Cuffaro" <rosa.cuffaro@enfield.gov.uk>
Sent: 06 November 2018 17:23
To: Rosa Cuffaro <Rosa.Cuffaro@enfield.gov.uk>
Subject: Attached Image

Classification: OFFICIAL - PRIVATE AND CONFIDENTIAL CORRESPONDENCE



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Penelope Williams

From: [REDACTED]
Sent: 12 November 2018 19:40
To: Jeremy Chambers
Cc: Ali
Subject: Re: Complaint [SEC=OFFICIAL:PRIVATE AND CONFIDENTIAL CORRESPONDENCE]

Thank you for your letter of 8th November 2018, the contents of which I note along with the complaint report attached to your email dated July & August 2018 of the numerous complaints made by several residents against counsellor Stephanos Ioannou.

I am pleased to note that Enfield council has taken my complaint in the serious contention that it was written in and have found Councillor Ioannou has breached relevant sections of the code of conduct and as a result I understand he has now been suspended from his position as a Conservative party Councillor, although I am further aware that he is practicing as an independent Councillor.

I note your comments regarding resolution of this matter to the satisfaction of all the complainants. Even though I am in agreement with part of your proposals in respect of Mr Ioannou apologising to the complainants, I disagree that this should only be done by way of a personal apology.

Mr Ioannou took to post such an abusive, offensive and racist comment on to a public social media network. Therefore, Mr Ioannou's apology should be made publicly on the same social media, identifying the error he has made and the distress he caused to numerous residents. This I believe is the only way a sensible solution can be made and one that I would be prepared to accept along with a written personal apology to myself.

I can agree your proposal for Mr Ioannou to attend a race awareness training. In addition, I believe that Mr Ioannou should step down as a Councillor as I am of the view that he is not fit to be in such a responsible public position.

I trust that you will agree with my proposal as I can only see a resolution in this manner.

I look forward to hearing from you.

Kind regards

Mrs S Mustafa

Serif
Sent from my iPad

On 6 Nov 2018, at 5:24 pm, Jeremy Chambers <Jeremy.Chambers@enfield.gov.uk> wrote:

Classification: OFFICIAL - PRIVATE AND CONFIDENTIAL CORRESPONDENCE

Dear Mrs Mustafa

Please see attached letter and investigation report for your attention.

Regards

Rosa Cuffaro
PA to Director of Law & Governance
Chief Executive's Unit
Enfield Council
Silver Street
Enfield
EN1 3XY
0208 379 6892
Rosa.cuffaro@enfield.gov.uk

Working Days: Monday & Tuesday
Please contact Sevgi Ickin, on Wednesday, Thursday & Friday.
Sevgi.ickin@enfield.gov.uk

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From: "Rosa Cuffaro" <rosa.cuffaro@enfield.gov.uk>
Sent: 06 November 2018 17:06
To: Rosa Cuffaro <Rosa.Cuffaro@enfield.gov.uk>
Subject: Attached Image

Classification: OFFICIAL - PRIVATE AND CONFIDENTIAL CORRESPONDENCE



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Penelope Williams

From: Cllr Stephanos Ioannou
Sent: 13 November 2018 16:46
To: Jeremy Chambers
Subject: Re: Complaint [SEC=OFFICIAL]

Dear Mr. Chambers,

Thank you for forwarding the complainants response here. My response is this:

I am not prepared to post such an announcement on my social media account as I believe it will aggravate the situation further, as there is a significant number of Cypriots which follow my account here, both Turkish and Greek. I have been clear from the start, I will issue an apology to the complainants, as they are the people to my knowledge that took offence from this post.

Regards,
Stephanos Ioannou

From: Jeremy Chambers <Jeremy.Chambers@enfield.gov.uk>
Date: Tuesday, 13 November 2018 at 16:36
To: Cllr Ioannou <Cllr.Stephanos.Ioannou@enfield.gov.uk>
Cc: Jayne Middleton-Albooye <Jayne.Middleton-Albooye@enfield.gov.uk>
Subject: Complaint [SEC=OFFICIAL]

Classification: OFFICIAL

Dear Councillor Ioannou

One of the four complainants has responded as follows: -

Mr Ioannou took to post such an abusive, offensive and racist comment on to a public social media network. Therefore, Mr Ioannou's apology should be made publicly on the same social media, identifying the error he has made and the distress he caused to numerous residents. This I believe is the only way a sensible solution can be made and one that I would be prepared to accept along with a written personal apology to myself.

Please can you confirm if you are prepared to post such a statement on social media?

I look forward to hearing from you.

Regards

Jeremy Chambers
Director of Law & Governance
Enfield Council
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EN1 3XY
Tel: 0208 379 4799
Mob : 07966 177659

jeremy.chambers@enfield.gov.uk

MUNICIPAL YEAR 2018/2019 REPORT NO. **128**

MEETING TITLE AND DATE:

Councillor Conduct
Committee 11 December
2018

REPORT OF:

Monitoring Officer

Director of Law and
Governance

Contact officer and telephone number:

Jeremy Chambers Jeremy.chambers@enfield.gov.uk, 0208379 4799

Agenda – Part:1	Item: 6
Subject: Appeal Against the Monitoring Officer Decision on Investigation into Councillor Conduct Complaint	
Wards:	
Key Decision No:	
Cabinet Member consulted:	

1. EXECUTIVE SUMMARY

1. This report sets out a complaint from the Leader of the Opposition (“the Complainant”) against several Councillors, Councillor Elif Erbil, Councillor Susan Erbil, Councillor Guney Dogan and Councillor Huseyin Akpinar (the 4 Councillors).
2. The Complaint was received on 16th July 2018. The complaint breaches of the Councillors’ Code of Conduct (“the Code”), arising from an alleged failure to declare interests at a full Council meeting on 23rd May 2018.
3. The Monitoring Officer, Jeremy Chambers, instructed Wilkin Chapman LLP, a specialist firm of solicitors, to investigate the complaint in accordance with the Code. The Monitoring Officer accepted the findings in the investigation report that the matters complained about did amount to breaches of the Code in respect of two Councillors but did not amount to breaches of the Code in respect of the 4 Councillors. The two findings of breach are not disputed by the complainant or the councillors concerned and a mutually agreed resolution has been found.
4. The complainant has exercised her right to appeal, to the Councillor Conduct Committee, the decision that the 4 Councillors were not in breach of the Code.

2. RECOMMENDATIONS

1. The Committee, having reviewed the Monitoring Officer’s decision and the Independent investigation report, considers the appeal from the Complainant.
2. If the Committee decides that any of the 4 Councillors have breached the Code, the Committee will need to consider what sanctions, if any to apply as detailed in the procedure for Hearing Complaints set out in the Constitution.

3. BACKGROUND

- 3.1 The Investigation Reports attached at Appendix A includes interviews with the Complainant and with the 4 Councillors concerned.
- 3.2 The Independent Person has been consulted throughout the process.
- 3.3 The Monitoring Officer agreed with the findings at set out in the Executive Summary of each report that, on the balance of probabilities, the 4 Councillors' actions did not amount to a breach of the Code of Conduct.
- 3.4 The Complainant does not agree with the findings and an e-mail outlining her appeal is attached at Appendix B. The Committee must have regard to the appeal and its contents in making its decision.

4. ALTERNATIVE OPTIONS CONSIDERED

None

5. REASONS FOR RECOMMENDATIONS

As set out in the report

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

There are no relevant financial implications

6.2 Legal Implications

These are contained within the body of the report and the investigation reports.

6.3 Property Implications

There are no relevant financial implications

7. KEY RISKS

N/a

8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

8.1 Good homes in well-connected neighbourhoods

8.2 Sustain strong and healthy communities

8.3 Build our local economy to create a thriving place

The ability to scrutinise the actions of Councillors, to have concerns investigated and addressed assists in enhancing transparency and good-decision making and in increasing the confidence of the Community in the Council.

9. EQUALITIES IMPACT IMPLICATIONS

No EIA done as not relevant

10. PERFORMANCE AND DATA IMPLICATIONS

N/A

11. HEALTH AND SAFETY IMPLICATIONS

N/A

12. HR IMPLICATIONS

N/A

13. PUBLIC HEALTH IMPLICATIONS

N/A

Background Papers

Appendix A – Complaint of Cllr Laban and investigation reports

Appendix B – Request for Appeal

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CONFIDENTIAL DRAFT REPORT



PRIVATE AND CONFIDENTIAL

Report by Wilkin Chapman LLP, instructed by the Monitoring Officer of Enfield London Borough Council, into allegations concerning **Councillor Guney Dogan**, arising from a complaint made by Councillor Joanne Laban.

DATED: 2018

VOLUME 1 REPORT

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1. Executive Summary

- 1.1 Councillor Dogan is a member of Enfield Council (the Council).
- 1.2 He attended the Annual General Meeting held on 23 May 2018. The meeting considered the election of a Mayor for the municipal year 2018/19.
- 1.3 Councillor Saray Karakus was elected to the position of Mayor for the municipal year 2018/19.
- 1.4 Councillor Dogan participated in the election of Councillor Karakus to the position of Mayor. Councillor Dogan was not related to Councillor Karakus.
- 1.5 The Council's Code requires Members to register and declare certain interests both pecuniary and non-pecuniary.
- 1.6 The Council's Code also requires Members to declare to any meeting of the authority any interest they have in a matter under discussion and they are aware of that interest.
- 1.7 There is no evidence that Councillor Dogan was a relation or family member which was covered by the Council's Code of Conduct and therefore had no declarable interest in the election of Councillor Karakus as Mayor.
- 1.8 Our conclusion is that there has been a breach of the code of conduct of the authority concerned by Councillor Dogan.

CONFIDENTIAL DRAFT REPORT

2. Councillor Dogan official details

- 2.1 Councillor Dogan was elected to the Council on 23 May 2014. He is a member of the Labour Party, Cabinet Member for the Environment and represents the Lower Edmonton Ward.
- 2.2 Councillor Dogan also sits on the Primary Exclusions Scrutiny Workstream and represents the Council on the London Councils Associated Joint Committee Transport and Environment Committee, North London Waste Authority and North London Waste Planning Members group.
- 2.3 We understand that Councillor Dogan has received training on the Councillors' Code of Conduct.

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3. Relevant legislation and protocols

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.

3.2 Section 28 of the Act provides that the Authority must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council, most recently, adopted a Code of Conduct on 17 July 2013 (attached at WC 1) under the provisions of the Localism Act 2011.

3.4 Paragraph 3 of the Code states:-

" Scope of the Code

- 3. *The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives."*

3.5 Paragraphs 15 to 18 of the Code states:-

"Registration and Declaration of Interests

- 15. *You shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interests in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers.*
- 16. *Such disclosures must be made even if the interest has already been included on the register of interests or where there is a notification pending to the Monitoring Officer.*
- 17. *In accordance with this Code, you must keep the register up-to-date and refresh such interests as requested by the Monitoring Officer.*

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18. *These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest."*

3.6 Paragraph 22 and 23 of the Code states:-

"Registration of Interest

22. *You must comply with the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.*

23. *When considering registering or disclosing any interest, you should ask yourself:*

Would a member of the public, with knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest?"

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

a) *Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Town Clerk of the interest and must not take any steps or further steps in the matter."*

3.7 Paragraph 26 of the Code provides details of the interests which would constitute pecuniary interests for the purposes of Section 30(3) Of the Localism Act 2011. This covers Employment, office, trade, profession or vocation; Sponsorship; Contracts; Land; Licences; Corporate tenancies; and Securities.

3.8 Paragraph 31 of the Code states:-

Disclosure and Duties in Respect of Interests Held by Members

31. "Declaration of Interests not included in the Register

(1) *If you have an interest in a matter under discussion at a meeting of the authority and you are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest- see Paragraph 1 3 of this Code*

(2) *You must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is the subject of a pending notification)*

(3) *You must then act in accordance with paragraph 2 below*

CONFIDENTIAL DRAFT REPORT

3.9 Paragraph 32 of the Code states:-

32. Disclosable Pecuniary Interests

(1) *Where you*

(a) are present at a meeting of the authority and

(b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

(2) Where you are an executive member taking portfolio decisions and are aware you have a disclosable pecuniary interest, you must notify the Monitoring Officer of that interest within 28 days and take no action in respect of the matter other than refer to another executive member to take the decision.

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4. Evidence and facts

Our appointment

- 4.1 The Monitoring Officer (MO) of the London Borough of Enfield Council, in consultation with the Independent Person, identified potential breaches of the Code of Conduct.
- 4.2 In August 2018 the MO instructed Wilkin Chapman LLP to perform their investigatory functions in respect of the complaint by Councillor Laban.
- 4.3 The investigation was carried out by Jonathan Goolden, Dave Hayward and Alan Tasker.

The investigation

- 4.4 During the investigation the complainant, Councillor Laban, was contacted to confirm the details of her complaint and to seek any evidence of the alleged relationship between Councillor Dogan and Councillor Saray Karakus.
- 4.5 Councillor Dogan was contacted by letter and was asked to comment on the allegation, in particular his relationship with Councillor Karakus.

Background

- 4.6 The complaint submitted against Councillor Dogan alleged that he attended the Annual General Meeting of the Council on 23 May 2018. At the meeting the Council elected Councillor Saray Karakus to the position of Mayor for the 2018/19 municipal year.
- 4.7 Councillor Dogan, and a number of other Councillors, was related to Councillor Karakus. Councillor Dogan did not declare this relationship and voted on Councillor Karakus' appointment.

Councillor Laban's complaint

- 4.8 Councillor Laban submitted a complaint on 16 July 2018 (attached at WC 2).

Councillor Laban

- 4.9 Councillor Laban was contacted by letter for more details of the alleged relationship. In an email response to our letter Councillor Laban stated that:-
 - (a) the minutes of the meeting when the council appointed the Mayor, Deputy Mayor, Leader and Deputy and Leader show that no interests were declared by any councillor;
 - (b) the Mayor's role comes with a large SRA;
 - (c) Andrew Gilligan's article in The Times included the relationship between them all;
 - (d) she understood that Mr Gilligan talked to the councillors concerned in relation to the Mayor when he contacted them for a comment for the piece;

CONFIDENTIAL DRAFT REPORT

- (e) openness features in both the Enfield Code of Conduct and the Nolan Principles. The councillors in question failed to declare family ties when voting for councillors to take up appointments that came with financial increases.

Councillor Dogan

4.10 Councillor Dogan was contacted by letter and asked to comment on the allegations made by Councillor Laban. Councillor Dogan responded on 21 September 2018 and stated:-

- (a) he attended the Council meeting on 23 May 2018;
- (b) he did not declare any interests at the meeting;
- (c) he was not related to Councillor Karakus;
- (d) he had received training on the code of conduct.

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5. Summary of the material facts

- 5.1 Councillor Dogan was a member of the Council and attended the Annual General Meeting held on 23 May 2018. The meeting considered the election of a Mayor for the municipal year 2018/19.
- 5.2 Councillor Saray Karakus was elected to the position of Mayor for the municipal year 2018/19.
- 5.3 Councillor Dogan participated in the election of Councillor Karakus to the position of Mayor. Councillor Dogan was not related to Councillor Karakus.
- 5.4 The Council's Code requires Members to register and declare certain interests both pecuniary and non-pecuniary.
- 5.5 The Council's Code also requires Members to declare to any meeting of the authority any interest they have in a matter under discussion and they are aware of that interest.
- 5.6 There is no evidence that Councillor Dogan was a relation or family member which was covered by the Council's Code of Conduct and therefore had no declarable interest in the election of Councillor Karakus as Mayor.

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6. Reasoning as to whether there have been failures to comply with the Council's Code of Conduct

- 6.1 The allegations referred for investigation relate to whether Councillor Dogan should have been involved in the election of Councillor Karakus to the position of Mayor.
- 6.2 It was alleged that Councillor Dogan was related to Councillor Karakus.
- 6.3 The first issue to consider is whether Councillor Dogan was acting in an official capacity in relation to the alleged conduct.

Official capacity

- 6.4 Section 27(2) of the Localism Act 2011 requires a local authority to adopt a code "dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity".
- 6.5 Paragraph 3 of the Code states:-

"Scope of the Code

3. The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.

- 6.6 When a member is acting in an official capacity was one of the central issues in *Livingstone v APE* [2006] EWHC 2533. Collins J held that the then Mayor of London was not acting in an official capacity when responding to being "door stepped" by a journalist when leaving the offices of the GLA.
- 6.7 The judgment was considered in detail in *Bartlett, Milton Keynes Council* [2008] APE 0401 in an appeal from the local standards committee. In the Case Tribunal's view, the *Livingstone* judgment established that for a councillor to be acting in an official capacity:-
- (a) *the councillor should be engaged in business directly related to the Council or constituents;*
- (b) *the link between the councillor's office and the conduct should have a degree of formality.*
- 6.8 In *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC), the tribunal indicated that merely acting, claiming to act or giving the impression of acting as a member was insufficient for the conduct to be covered by the code. There had to be sufficient material for the tribunal to properly conclude that the member was in fact acting as a representative of the council.
- 6.9 The wording of s27(2) of the Localism Act 2011 refers to a requirement to adopt a code dealing with the conduct of members when they are acting in that capacity. *MC* indicates that merely actions, claiming to act or giving the impression of acting as a member is insufficient. The member must actually be acting as such. The second half of the wording at paragraph 2(b) of the

CONFIDENTIAL DRAFT REPORT

Council's Code does not therefore accord with the law and no account has been taken of it.

- 6.10 In this case there is no doubt that attendance at the Annual General Meeting of the Council was for the purpose of acting on Authority business. Therefore, for the purpose of this investigation we have concluded that Councillor Dogan was acting in an official capacity when participating in the election of Councillor Karakus as Mayor.

Disclosable Pecuniary Interest (DPI)

- 6.11 It was alleged that Councillor Dogan had a Disclosable Pecuniary Interest in the election of Councillor Karakus as the position of Mayor attracts a Special Responsibility Allowance of £14,000.

- 6.12 The Code states, at Paragraph 18 that members must register the interest of:-

"your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest."

- 6.13 In this case there are two issues to consider, first would any relationship between Councillor Karakus and Councillor Dogan be such that any employment, office, trade, profession or vocation carried on for profit or gain carried out by Councillor Karakus be an interest which the Code requires to be registered? The second consideration is whether the position of Mayor falls within the definition of 'employment' as set out in the Code.

- 6.14 On the first point Family members and close associates are not defined in the Code. In the absence of any other definition, regard may be had to guidance provided by the former Standards Board for England (SfE) in relation to similar wording in the former national model code. At Q88 on page 101 of SfE's publication the Case Review 2010 (2011 version), it is stated that "a member of your family" should be given a very wide meaning, including anybody related by birth, marriage or civil partnership to the councillor such as :-

Partner
Parent
Parent in law
Son or daughter
Stepson or stepdaughter
Child of partner
Brother or sister
Brother or sister of partner
Grandparent
Grandchild
Uncle or aunt
Nephew or niece
Their partners

- 6.15 At Q89 on page 101 - 102 of the same SfE guidance, it is stated that a close associate is a person that the councillor is in regular or irregular contact with over a period of time, who is more than an acquaintance. SfE suggested that a close associate was a person a reasonable member of the public might

CONFIDENTIAL DRAFT REPORT

think the councillor would be prepared to favour or disadvantage when discussing a matter that affected that person because of the connection with them. That might be a friend, colleague, business associate or someone the councillor knew through general social contacts, but a close relationship was implied rather than mere acquaintance.

- 6.16 SfE advised that members and Monitoring Officers should consider the following cumulative factors:-

How many times did the two people meet?
Where did they meet?
Did they regularly attend the same social events?
Did they know each other's families?
Did they visit one another's homes?
Did they have regular business dealings?
Did they work for the same organisation?
Were they close or connected in other ways?

- 6.17 At Q90, SfE advised that enemies might also be close associates
- 6.18 From this it is evident that the requirements of the Council's Code are quite wide ranging when dealing with the Disclosable Pecuniary Interests of Members. Whether this is intentional or in practice workable is questionable but that is the requirement.
- 6.19 We therefore conclude that if the position of Mayor was considered to fall within the categories defined as employment Councillor Dogan would be required to register and disclose any relationship as a Disclosable Pecuniary Interest.
- 6.20 We now must consider whether the position of Mayor could be considered to be an employment, office, trade, profession or vocation carried on for profit or gain.
- 6.21 The position of Mayor is not an employment, trade, profession or vocation. Neither is the position normally regarded as an "office" within the meaning of the first category of Disclosable Pecuniary Interests, even if it was, the Special Responsibility Allowance is intended to compensate the office holder not remunerate them. Therefore, we conclude that the position is not one carried on for profit or gain.
- 6.22 Having regard to the reasoning set out above we have concluded that the position of Mayor is not one that should be registered as a Disclosable Pecuniary Interest. Therefore, if Councillor Dogan was related to Councillor Karakus this did not constitute a pecuniary interest in the election of Councillor Karakus to the position of Mayor.

Other Non-Pecuniary Interests

- 6.23 The Council's Code of Conduct at Paragraph 28 defines other pecuniary interests as:-

"Other interests that would qualify as grounds for bias in an application to quash a decision of the Authority."

CONFIDENTIAL DRAFT REPORT

- 6.24 Bias is usually defined by reference to the definition in Porter v McGill [2001] UKLH 67 "*whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.*" Bias is a lack of an ability to come to a matter with an open mind derived from a connection with either the parties or the matter under consideration. It is usually exhibited as apparent rather than actual bias, where the mere fact of the connection is enough to give the appearance of bias.
- 6.25 Having regard to the requirements of the Code to register the interests of family members (and others) it is reasonable to conclude that an informed observer would think that a Councillor would be influenced by such a relationship.
- 6.26 However, Councillor Dogan has confirmed that he is not related to Councillor Karakus. Furthermore, when asked for details of the alleged relationship the complainant merely referred to what appears to be an unsubstantiated report in the Sunday Times of 15 July 2018. In this article it is alleged that Councillor Dogan is the nephew of a former Councillor who, it is also alleged, is related to Councillor Karakus through his cousins.
- 6.27 From this limited information it is difficult to establish what if any relationship may exist. However, from the guidance provided by the then Standards Board it is evident that once relationships get to cousins, or relations of cousins, it is so remote that the relationship itself would not be one that should be registered under the Council's Code.
- 6.28 We therefore conclude that the relationship between Councillor Dogan and Councillor Karakus was not one that constituted an 'Other Non-Pecuniary Interest'

Disclosure of interests

- 6.29 Paragraph 31 of the Code states:-

"Disclosure and Duties in Respect of Interests Held by Members**31. Declaration of interest not included in the Register**

(1) *If you have an interest in a matter under discussion at a meeting of the authority and are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest.....)"*

(2) Not relevant

(3) *You must then act in accordance with paragraph 2 below."*

- 6.30 From Paragraph 31. (1) it is clear that any interest, both pecuniary and non-pecuniary must be declared at a meeting of the authority when the matter is under discussion.

CONFIDENTIAL DRAFT REPORT

- 6.31 What is less clear is what the requirements of the Code are once an interest has been disclosed to the meeting. We have carefully considered the Code to interpret sub paragraph (3) of paragraph 31, that is 'You must act in accordance with paragraph 2 below'.
- 6.32 Paragraph 2 of the Code is at the commencement of the Code and refers to who the Code applies to. The only reference to 2 in the Code after Paragraph 31 is Paragraph 32. (2). This sub-paragraph relates to the action an executive member must take when taking a portfolio decision.
- 6.33 However sub-paragraph (1) of Paragraph 32 does deal with the action Members must take, this Paragraph states:-

32. Disclosable Pecuniary Interests

(1) Where you

(a) are present at a meeting of the authority and

(b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

- 6.34 We therefore consider that Councillor Dogan would have been required to declare to the meeting the existence of a non-pecuniary interest if one existed. We can conjecture what action Councillor Dogan should have taken following making any declaration however the Code is ambiguous on this point. First, in that there is no relevant paragraph 2 which Paragraph 31. (3) refers to. The sub-paragraph which starts 'You must' may be the paragraph referred to however this is clearly headed 'Disclosable Pecuniary Interests'.
- 6.35 On this basis, the Code is unclear whether Councillor Dogan would have been permitted to participate in the deliberation and vote on the election of Councillor Karakus to the position of Mayor if he did have an interest.
- 6.36 Our conclusion is that Councillor Dogan did not breach Paragraph 31. (1) of the Council's Code of Conduct by not making a declaration to the meeting on 23 May 2018 as any relationship to Councillor Karakus which may have existed was so remote.

CONFIDENTIAL DRAFT REPORT

7. Conclusion

- 7.1 Our conclusion is that there has not been a failure to comply with the code of conduct of the authority concerned.

Wilkin Chapman LLP

October 2018

CONFIDENTIAL DRAFT REPORT



PRIVATE AND CONFIDENTIAL

Report by Wilkin Chapman LLP, instructed by the Monitoring Officer of Enfield London Borough Council, into allegations concerning **Councillor Elif Erbil**, arising from a complaint made by Councillor Joanne Laban.

DATED: 2018

VOLUME 1 REPORT

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1. Executive Summary

- 1.1 Councillor Erbil is a member of Enfield Council (the Council).
- 1.2 She attended the Annual General Meeting held on 23 May 2018. The meeting considered the election of a Mayor for the municipal year 2018/19.
- 1.3 Councillor Saray Karakus was elected to the position of Mayor for the municipal year 2018/19.
- 1.4 Councillor Erbil participated in the election of Councillor Karakus to the position of Mayor. Councillor Erbil was not related to Councillor Karakus.
- 1.5 The Council's Code requires Members to register and declare certain interests both pecuniary and non-pecuniary.
- 1.6 The Council's Code also requires Members to declare to any meeting of the authority any interest they have in a matter under discussion and they are aware of that interest.
- 1.7 There is no evidence that Councillor Erbil was a relation or family member which was covered by the Council's Code of Conduct and therefore had no declarable interest in the election of Councillor Karakus as Mayor.
- 1.8 Our conclusion is that there has not been a breach of the code of conduct of the authority concerned by Councillor Erbil.

CONFIDENTIAL DRAFT REPORT

2. Councillor Erbil's official details

- 2.1 Councillor Erbil was elected to the Council on 18 May 2017. She is a Member of the Labour party and represents the Enfield Lock Ward.
- 2.2 Councillor Erbil is appointed to the Enfield Lock Ward Forum, Learning Difficulties Partnership Board and the Planning Committee.
- 2.3 Councillor Erbil represents the Council on the Health and Social Partnership Boards and the Royal Free Hospital NHS Foundation Trust – Council of Governors.
- 2.4 We are not aware whether Councillor Erbil has received any training on the Councils Code of Conduct.

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3. Relevant legislation and protocols

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.

3.2 Section 28 of the Act provides that the Authority must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council, most recently, adopted a Code of Conduct on 17 July 2013 (attached at WC 1) under the provisions of the Localism Act 2011.

3.4 Paragraph 3 of the Code states:-

“ Scope of the Code

- 3. *The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.”*

3.5 Paragraphs 15 to 18 of the Code states:-

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- 15. *You shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interests in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers.*
- 16. *Such disclosures must be made even if the interest has already been included on the register of interests or where there is a notification pending to the Monitoring Officer.*

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17. *In accordance with this Code, you must keep the register up-to-date and refresh such interests as requested by the Monitoring Officer.*
18. *These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest."*

3.6 Paragraph 22 and 23 of the Code states:-

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22. *You must comply with the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.*
23. *When considering registering or disclosing any interest, you should ask yourself:*

Would a member of the public, with knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest?"

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

- a) *Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Town Clerk of the interest and must not take any steps or further steps in the matter."*

3.7 Paragraph 26 of the Code provides details of the interests which would constitute pecuniary interests for the purposes of Section 30(3) Of the Localism Act 2011. This covers Employment, office, trade, profession or vocation; Sponsorship; Contracts; Land; Licences; Corporate tenancies; and Securities.

3.8 Paragraph 31 of the Code states:-

Disclosure and Duties in Respect of Interests Held by Members

31. *"Declaration of Interests not included in the Register*

- (1) *If you have an interest in a matter under discussion at a meeting of the authority and you are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest- see Paragraph 1 3 of this Code*
- (2) *You must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is the subject of a pending notification)*

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(3) *You must then act in accordance with paragraph 2 below*

3.9 Paragraph 32 of the Code states:-

32. Disclosable Pecuniary Interests

(1) *Where you*

(a) are present at a meeting of the authority and

(b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

(2) Where you are an executive member taking portfolio decisions and are aware you have a disclosable pecuniary interest, you must notify the Monitoring Officer of that interest within 28 days and take no action in respect of the matter other than refer to another executive member to take the decision.

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4. Evidence and facts

Our appointment

- 4.1 The Monitoring Officer (MO) of the London Borough of Enfield Council, in consultation with the Independent Person, identified potential breaches of the Code of Conduct.
- 4.2 In August 2018 the MO instructed Wilkin Chapman LLP to perform their investigatory functions in respect of the complaint of Councillor Laban.
- 4.3 The investigation was carried out by Jonathan Goolden, Dave Hayward and Alan Tasker.

The investigation

- 4.4 During the investigation the complainant, Councillor Laban, was contacted to confirm the details of her complaint and to seek any evidence of the alleged relationship between Councillor Erbil and Councillor Saray Karakus.
- 4.5 Councillor Erbil was contacted by letter and was asked to comment on the allegation, in particular her relationship with Councillor Karakus.

Background

- 4.6 The complaint submitted against Councillor Erbil alleged that she attended the Annual General Meeting of the Council on 23 May 2018. At the meeting the Council elected Councillor Saray Karakus to the position of Mayor for the 2018/19 municipal year.
- 4.7 Councillor Erbil was related to Councillor Karakus. Councillor Erbil did not declare this relationship and voted on Councillor Karakus' appointment.

Councillor Laban's complaint

- 4.8 Councillor Laban submitted a complaint on 16 July 2018 (attached at WC 2).

Councillor Laban

- 4.9 Councillor Laban was contacted by letter for more details of the alleged relationship. In an email response to our letter Councillor Laban stated that:-
 - (a) the minutes of the meeting when the council appointed the Mayor, Deputy Mayor, Leader and Deputy and Leader show that no interests were declared by any councillor;
 - (b) the Mayor's role comes with a large SRA;
 - (c) Andrew Gilligan's article in The Times included the relationship between them all;
 - (d) she understood that Mr Gilligan talked to the councillors concerned in relation to the Mayor when he contacted them for a comment for the piece;

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- (e) openness features in both the Enfield Code of Conduct and the Nolan Principles. The councillors in question failed to declare family ties when voting for councillors to take up appointments that came with financial increases.

Councillor Elif Erbil

4.10 Councillor Erbil was contacted by letter and asked to comment on the allegations made by Councillor Laban. Councillor Erbil responded on 20 September 2018 and stated:-

- (a) she was not related to Councillor Karakus;
- (b) she was related to Councillors Susan Erbil and Guney Dogan.

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5. Summary of the material facts

- 5.1 Councillor Erbil was a member of the Council and attended the Annual General Meeting held on 23 May 2018. The meeting considered the election of a Mayor for the municipal year 2018/19.
- 5.2 Councillor Saray Karakus was elected to the position of Mayor for the municipal year 2018/19.
- 5.3 Councillor Erbil participated in the election of Councillor Karakus to the position of Mayor. Councillor Erbil was not related to Councillor Karakus.
- 5.4 The Council's Code requires Members to register and declare certain interests both pecuniary and non-pecuniary.
- 5.5 The Council's Code also requires Members to declare to any meeting of the authority any interest they have in a matter under discussion and they are aware of that interest.
- 5.6 There is no evidence that Councillor Erbil was a relation or family member which was covered by the Council's Code of Conduct and therefore had no declarable interest in the election of Councillor Karakus as Mayor.

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6. Reasoning as to whether there have been failures to comply with the Council's Code of Conduct

- 6.1 The allegations referred for investigation relate to whether Councillor Erbil should have been involved in the election of Councillor Karakus to the position of Mayor.
- 6.2 It was alleged that Councillor Erbil was related to Councillor Karakus.
- 6.3 The first issue to consider is whether Councillor Erbil was acting in an official capacity in relation to the alleged conduct.

Official capacity

- 6.4 Section 27(2) of the Localism Act 2011 requires a local authority to adopt a code *"dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity"*.

- 6.5 Paragraph 3 of the Code states:-

"Scope of the Code

3. The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.

- 6.6 When a member is acting in an official capacity was one of the central issues in *Livingstone v APE* [2006] EWHC 2533. Collins J held that the then Mayor of London was not acting in an official capacity when responding to being "door stepped" by a journalist when leaving the offices of the GLA.
- 6.7 The judgment was considered in detail in *Bartlett, Milton Keynes Council* [2008] APE 0401 in an appeal from the local standards committee. In the Case Tribunal's view, the *Livingstone* judgment established that for a councillor to be acting in an official capacity:-
- (a) *the councillor should be engaged in business directly related to the Council or constituents;*
 - (b) *the link between the councillor's office and the conduct should have a degree of formality.*
- 6.8 In *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC), the tribunal indicated that merely acting, claiming to act or giving the impression of acting as a member was insufficient for the conduct to be covered by the code. There had to be sufficient material for the tribunal to properly conclude that the member was in fact acting as a representative of the council.
- 6.9 The wording of s27(2) of the Localism Act 2011 refers to a requirement to adopt a code dealing with the conduct of members when they are acting in that capacity. *MC* indicates that merely actions, claiming to act or giving the impression of acting as a member is insufficient. The member must actually be acting as such. The second half of the wording at paragraph 2(b) of the

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Council's Code does not therefore accord with the law and no account has been taken of it.

- 6.10 In this case there is no doubt that attendance at the Annual General Meeting of the Council was for the purpose of acting on Authority business. Therefore for the purpose of this investigation we have concluded that Councillor Erbil was acting in an official capacity when participating in the election of Councillor Karakus as Mayor.

Disclosable Pecuniary Interest (DPI)

- 6.11 It was alleged that Councillor Erbil had a Disclosable Pecuniary Interest in the election of Councillor Karakus as the position of Mayor attracts a Special Responsibility Allowance of £14,000.

- 6.12 The Code states, at Paragraph 18 that members must register the interest of:-

"your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest."

- 6.13 In this case there are two issues to consider, first would any relationship between Councillor Karakus and Councillor Erbil be such that any employment, office, trade, profession or vocation carried on for profit or gain carried out by Councillor Karakus be an interest which the Code requires to be registered? The second consideration is whether the position of Mayor falls within the definition of 'employment' as set out in the Code.

- 6.14 On the first point Family members and close associates are not defined in the Code. In the absence of any other definition, regard may be had to guidance provided by the former Standards Board for England (SfE) in relation to similar wording in the former national model code. At Q88 on page 101 of SfE's publication the Case Review 2010 (2011 version), it is stated that "a member of your family" should be given a very wide meaning, including anybody related by birth, marriage or civil partnership to the councillor such as :-

- Partner
- Parent
- Parent in law
- Son or daughter
- Stepson or stepdaughter
- Child of partner
- Brother or sister
- Brother or sister of partner
- Grandparent
- Grandchild
- Uncle or aunt
- Nephew or niece
- Their partners

- 6.15 At Q89 on page 101 - 102 of the same SfE guidance, it is stated that a close associate is a person that the councillor is in regular or irregular contact with over a period of time, who is more than an acquaintance. SfE suggested that a close associate was a person a reasonable member of the public might think

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the councillor would be prepared to favour or disadvantage when discussing a matter that affected that person because of the connection with them. That might be a friend, colleague, business associate or someone the councillor knew through general social contacts, but a close relationship was implied than mere acquaintance.

- 6.16 SfE advised that members and Monitoring Officers should consider the following cumulative factors:-

How many times did the two people meet?
Where did they meet?
Did they regularly attend the same social events?
Did they know each other's families?
Did they visit one another's homes?
Did they have regular business dealings?
Did they work for the same organisation?
Were they close or connected in other ways?

- 6.17 At Q90, SfE advised that enemies might also be close associates
- 6.18 From this it is evident that the requirements of the Council's Code are quite wide ranging when dealing with the Disclosable Pecuniary Interests of Members. Whether this is intentional or in practice workable is questionable but that is the requirement.
- 6.19 We therefore conclude that if the position of Mayor was considered to fall within the categories defined as employment Councillor Erbil would be required to register and disclose any relationship as a Disclosable Pecuniary Interest.
- 6.20 We now must consider whether the position of Mayor could be considered to be an employment, office, trade, profession or vocation carried on for profit or gain.
- 6.21 The position of Mayor is not an employment, trade, profession or vocation. Neither is the position normally regarded as an "office" within the meaning of the first category of Disclosable Pecuniary Interests, even if it was, the Special Responsibility Allowance is intended to compensate the office holder not remunerate them. Therefore, we conclude that the position is not one carried on for profit or gain.
- 6.22 Having regard to the reasoning set out above we have concluded that the position of Mayor is not one that should be registered as a Disclosable Pecuniary Interest. Therefore, if Councillor Erbil was related to Councillor Karakus this did not constitute a pecuniary interest in the election of Councillor Karakus to the position of Mayor.

Other Non-Pecuniary Interests

- 6.23 The Council's Code of Conduct at Paragraph 28 defines other pecuniary interests as:-

"Other interests that would qualify as grounds for bias in an application to quash a decision of the Authority."

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- 6.24 Bias is usually defined by reference to the definition in Porter v McGill [2001] UKLH 67 "*whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.*" Bias is a lack of an ability to come to a matter with an open mind derived from a connection with either the parties or the matter under consideration. It is usually exhibited as apparent rather than actual bias, where the mere fact of the connection is enough to give the appearance of bias.
- 6.25 Having regard to the requirements of the Code to register the interests of family members (and others) it is reasonable to conclude that an informed observer would think that a Councillor would be influenced by such a relationship.
- 6.26 However, Councillor Erbil has confirmed that she is not related to Councillor Karakus. Furthermore, when asked for details of the alleged relationship the complainant merely referred to what appears to be an unsubstantiated report in the Sunday Times of 15 July 2018. In this article it is alleged that Councillor Erbil is the niece of a former Councillor who, it is also alleged, is related to Councillor Karakus through his cousins.
- 6.27 From this limited information it is difficult to establish what if any relationship may exist. However, from the guidance provided by the then Standards Board it is evident that once relationships get to cousins, or relations of cousins, it is so remote that the relationship itself would not be one that should be registered under the Council's Code.
- 6.28 We therefore conclude that the relationship between Councillor Erbil and Councillor Karakus was not one that constituted an 'Other Non-Pecuniary Interest'

Disclosure of interests

- 6.29 Paragraph 31 of the Code states:-

"Disclosure and Duties in Respect of Interests Held by Members**31. Declaration of interest not included in the Register**

(1) *If you have an interest in a matter under discussion at a meeting of the authority and are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest.....)"*

(2) Not relevant

(3) *You must then act in accordance with paragraph 2 below."*

- 6.30 From Paragraph 31. (1) it is clear that any interest, both pecuniary and non-pecuniary must be declared at a meeting of the authority when the matter is under discussion.

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- 6.31 What is less clear is what the requirements of the Code are once an interest has been disclosed to the meeting. We have carefully considered the Code to interpret sub paragraph (3) of paragraph 31, that is 'You must act in accordance with paragraph 2 below'.
- 6.32 Paragraph 2 of the Code is at the commencement of the Code and refers to who the Code applies to. The only reference to 2 in the Code after Paragraph 31 is Paragraph 32. (2). This sub-paragraph relates to the action an executive member must take when taking a portfolio decision.
- 6.33 However sub-paragraph (1) of Paragraph 32 does deal with the action Members must take, this Paragraph states:-

32. Disclosable Pecuniary Interests

(1) Where you

(a) are present at a meeting of the authority and

(b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

- 6.34 We therefore consider that Councillor Erbil would have been required to declare to the meeting the existence of a non-pecuniary interest if one existed. We can conjecture what action Councillor Erbil should have taken following making the declaration however the Code is ambiguous on this point. First, in that there is no relevant paragraph 2 which Paragraph 31. (3) refers to. The sub-paragraph which starts 'You must' may be the paragraph referred to however this is clearly headed 'Disclosable Pecuniary Interests'.
- 6.35 On this basis, the Code is unclear whether Councillor Erbil would have been permitted to participate in the deliberation and vote on the election of Councillor Karakus to the position of Mayor if she did have an interest.
- 6.36 Our conclusion is that Councillor Erbil did not breach Paragraph 31. (1) of the Council's Code of Conduct by not making a declaration to the meeting on 23 May 2018 as any relationship to Councillor Karakus which may have existed was so remote.

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7. Conclusion

- 7.1 Our conclusion is that there has not been a failure to comply with the code of conduct of the authority concerned.

Wilkin Chapman LLP

October 2018

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PRIVATE AND CONFIDENTIAL

Report by Wilkin Chapman LLP, instructed by the Monitoring Officer of Enfield London Borough Council, into allegations concerning **Councillor Susan Erbil**, arising from a complaint made by Councillor Joanne Laban.

DATED: 2018

VOLUME 1 REPORT

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Volume 2

Appendix A	Schedule of evidence taken into account and list of unused material
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1. Executive Summary

- 1.1 Councillor Erbil is a member of Enfield Council (the Council).
- 1.2 She attended the Annual General Meeting held on 23 May 2018. The meeting considered the election of a Mayor for the municipal year 2018/19.
- 1.3 Councillor Saray Karakus was elected to the position of Mayor for the municipal year 2018/19.
- 1.4 Councillor Erbil participated in the election of Councillor Karakus to the position of Mayor. Councillor Erbil was not related to Councillor Karakus.
- 1.5 The Council's Code requires Members to register and declare certain interests both pecuniary and non-pecuniary.
- 1.6 The Council's Code also requires Members to declare to any meeting of the authority any interest they have in a matter under discussion and they are aware of that interest.
- 1.7 There is no evidence that Councillor Erbil was a relation or family member which was covered by the Council's Code of Conduct and therefore had no declarable interest in the election of Councillor Karakus as Mayor.
- 1.8 Our conclusion is that there has not been a breach of the code of conduct of the authority concerned by Councillor Erbil.

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2. Councillor Erbil's official details

- 2.1 Councillor Erbil was elected to the Council on 3 May 2018. She is a member of the Labour Party and represents the Ponders End Ward.
- 2.2 Councillor Erbil is appointed to the Deaf Community Forum, Overview & Scrutiny Committee, Ponders End Ward Forum and the Transition of Children Leaving Care Scrutiny Workstream.
- 2.3 Councillor Erbil represents the Council on the Crimstoppers Trust.
- 2.4 We understand that Councillor Erbil has received training on the Councillors' Code of Conduct.

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3. Relevant legislation and protocols

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.

3.2 Section 28 of the Act provides that the Authority must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council, most recently, adopted a Code of Conduct on 17 July 2013 (attached at WC 1) under the provisions of the Localism Act 2011.

3.4 Paragraph 3 of the Code states:-

" Scope of the Code

- 3. *The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives."*

3.5 Paragraphs 15 to 18 of the Code states:-

"Registration and Declaration of Interests

- 15. *You shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interests in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers.*
- 16. *Such disclosures must be made even if the interest has already been included on the register of interests or where there is a notification pending to the Monitoring Officer.*
- 17. *In accordance with this Code, you must keep the register up-to-date and refresh such interests as requested by the Monitoring Officer.*

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18. *These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest.*"

3.6 Paragraph 22 and 23 of the Code states:-

"Registration of Interest

22. *You must comply with the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.*

23. *When considering registering or disclosing any interest, you should ask yourself:*

Would a member of the public, with knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest?"

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

a) *Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Town Clerk of the interest and must not take any steps or further steps in the matter."*

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(2) *You must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is the subject of a pending notification)*

(3) *You must then act in accordance with paragraph 2 below*

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(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

(2) Where you are an executive member taking portfolio decisions and are aware you have an disclosable pecuniary interest, you must notify the Monitoring Officer of that interest within 28 days and take no action in respect of the matter other than refer to another executive member to take the decision.

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4. Evidence and facts

Our appointment

- 4.1 The Monitoring Officer (MO) of the London Borough of Enfield Council, in consultation with the Independent Person, identified potential breaches of the Code of Conduct.
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- 4.3 The investigation was carried out by Jonathan Goolden, Dave Hayward and Alan Tasker.

The investigation

- 4.4 During the investigation the complainant, Councillor Laban, was contacted to confirm the details of her complaint and to seek any evidence of the alleged relationship between Councillor Erbil and Councillor Saray Karakus.
- 4.5 Councillor Erbil was contacted by letter and was asked to comment on the allegation, in particular her relationship with Councillor Karakus.

Background

- 4.6 The complaint submitted against Councillor Erbil alleged that she attended the Annual General Meeting of the Council on 23 May 2018. At the meeting the Council elected Councillor Saray Karakus to the position of Mayor for the 2018/19 municipal year.
- 4.7 Councillor Erbil was related to Councillor Karakus. Councillor Erbil did not declare this relationship and voted on Councillor Karakus' appointment.

Councillor Laban's complaint

- 4.8 Councillor Laban submitted a complaint on 16 July 2018 (attached at WC 2).

Councillor Laban

- 4.9 Councillor Laban was contacted by letter for more details of the alleged relationship. In an email response to our letter Councillor Laban stated that:-
 - (a) the minutes of the meeting when the council appointed the Mayor, Deputy Mayor, Leader and Deputy and Leader show that no interests were declared by any councillor;
 - (b) the Mayor's role comes with a large SRA;
 - (c) Andrew Gilligan's article in The Times included the relationship between them all;
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- (e) openness features in both the Enfield Code of Conduct and the Nolan Principles. The councillors in question failed to declare family ties when voting for councillors to take up appointments that came with financial increases.

Councillor Erbil

4.10 Councillor Erbil was contacted by letter and asked to comment on the allegations made by Councillor Laban. Councillor Erbil responded on 14 September 2018 and stated:-

- (a) she attended the Council meeting on 23 May 2018;
- (b) she did not declare any interest as she did not see any issues arising in relation to interests at the meeting;
- (c) she was not related to the Mayor, the only Councillors she was related to were Councillors Elif Erbil and Guney Dogan;
- (d) she had received training on the code of conduct and had been given advice by Jeremy Chambers on declarations of interest.

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Council's Code does not therefore accord with the law and no account has been taken of it.

- 6.10 In this case there is no doubt that attendance at the Annual General Meeting of the Council was for the purpose of acting on Authority business. Therefore for the purpose of this investigation we have concluded that Councillor Erbil was acting in an official capacity when participating in the election of Councillor Karakus as Mayor.

Disclosable Pecuniary Interest (DPI)

- 6.11 It was alleged that Councillor Erbil had a Disclosable Pecuniary Interest in the election of Councillor Karakus as the position of Mayor attracts a Special Responsibility Allowance of £14,000.

- 6.12 The Code states, at Paragraph 18 that members must register the interest of:-

"your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest."

- 6.13 In this case there are two issues to consider, first would any relationship between Councillor Karakus and Councillor Erbil be such that any employment, office, trade, profession or vocation carried on for profit or gain carried out by Councillor Karakus be an interest which the Code requires to be registered? The second consideration is whether the position of Mayor falls within the definition of 'employment' as set out in the Code.

- 6.14 On the first point Family members and close associates are not defined in the Code. In the absence of any other definition, regard may be had to guidance provided by the former Standards Board for England (SfE) in relation to similar wording in the former national model code. At Q88 on page 101 of SfE's publication the Case Review 2010 (2011 version), it is stated that "a member of your family" should be given a very wide meaning, including anybody related by birth, marriage or civil partnership to the councillor such as :-

Partner
Parent
Parent in law
Son or daughter
Stepson or stepdaughter
Child of partner
Brother or sister
Brother or sister of partner
Grandparent
Grandchild
Uncle or aunt
Nephew or niece
Their partners

- 6.15 At Q89 on page 101 - 102 of the same SfE guidance, it is stated that a close associate is a person that the councillor is in regular or irregular contact with over a period of time, who is more than an acquaintance. SfE suggested that a close associate was a person a reasonable member of the public might

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think the councillor would be prepared to favour or disadvantage when discussing a matter that affected that person because of the connection with them. That might be a friend, colleague, business associate or someone the councillor knew through general social contacts, but a close relationship was implied than mere acquaintance.

- 6.16 SfE advised that members and Monitoring Officers should consider the following cumulative factors:-

How many times did the two people meet?
Where did they meet?
Did they regularly attend the same social events?
Did they know each other's families?
Did they visit one another's homes?
Did they have regular business dealings?
Did they work for the same organisation?
Were they close or connected in other ways?

- 6.17 At Q90, SfE advised that enemies might also be close associates.
- 6.18 From this it is evident that the requirements of the Council's Code are quite wide ranging when dealing with the Disclosable Pecuniary Interests of Members. Whether this is intentional or in practice workable is questionable but that is the requirement.
- 6.19 We therefore conclude that if the position of Mayor was considered to fall within the categories defined as employment Councillor Erbil would be required to register and disclose any relationship as a Disclosable Pecuniary Interest.
- 6.20 We now must consider whether the position of Mayor could be considered to be an employment, office, trade, profession or vocation carried on for profit or gain.
- 6.21 The position of Mayor is not an employment, trade, profession or vocation. Neither is the position normally regarded as an "office" within the meaning of the first category of Disclosable Pecuniary Interests, even if it was, the Special Responsibility Allowance is intended to compensate the office holder not remunerate them. Therefore we conclude that the position is not one carried on for profit or gain.
- 6.22 Having regard to the reasoning set out above we have concluded that the position of Mayor is not one that should be registered as a Disclosable Pecuniary Interest. Therefore if Councillor Erbil was related to Councillor Karakus this did not constitute a pecuniary interest in the election of Councillor Karakus to the position of Mayor.

Other Non-Pecuniary Interests

- 6.23 The Council's Code of Conduct at Paragraph 28 defines other pecuniary interests as:-

"Other interests that would qualify as grounds for bias in an application to quash a decision of the Authority."

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- 6.24 Bias is usually defined by reference to the definition in Porter v McGill [2001] UKLH 67 "*whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.*" Bias is a lack of an ability to come to a matter with an open mind derived from a connection with either the parties or the matter under consideration. It is usually exhibited as apparent rather than actual bias, where the mere fact of the connection is enough to give the appearance of bias.
- 6.25 Having regard to the requirements of the Code to register the interests of family members (and others) it is reasonable to conclude that an informed observer would think that a Councillor would be influenced by such a relationship.
- 6.26 However, Councillor Erbil has confirmed that she is not related to Councillor Karakus. Furthermore, when asked for details of the alleged relationship the complainant merely referred to what appears to be an unsubstantiated report in the Sunday Times of 15 July 2018. In this article it is alleged that Councillor Erbil is the daughter of a former Councillor who, it is also alleged, is related to Councillor Karakus through his cousins.
- 6.27 From this limited information it is difficult to establish what if any relationship may exist. However, from the guidance provided by the then Standards Board it is evident that once relationships get to cousins, or relations of cousins, it is so remote that the relationship itself would not be one that should be registered under the Council's Code
- 6.28 We therefore conclude that the alleged relationship between Councillor Erbil and Councillor Karakus was not one that constituted an 'Other Non-Pecuniary Interest'.

Disclosure of interests

- 6.29 Paragraph 31 of the Code states:-

"Disclosure and Duties in Respect of Interests Held by Members

31. Declaration of interest not included in the Register

- (1) *If you have an interest in a matter under discussion at a meeting of the authority and are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest.....)"*
- (2) Not relevant
- (3) *You must then act in accordance with paragraph 2 below."*

- 6.30 From Paragraph 31. (1) it is clear that any interest, both pecuniary and non-pecuniary must be declared at a meeting of the authority when the matter is under discussion.
- 6.31 What is less clear is what the requirements of the Code are once an interest has been disclosed to the meeting. We have carefully considered the Code to

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interpret sub paragraph (3) of paragraph 31, that is 'You must act in accordance with paragraph 2 below'.

- 6.32 Paragraph 2 of the Code is at the commencement of the Code and refers to who the Code applies to. The only reference to 2 in the Code after Paragraph 31 is Paragraph 32. (2). This sub-paragraph relates to the action an executive member must take when taking a portfolio decision.
- 6.33 However sub-paragraph (1) of Paragraph 32 does deal with the action Members must take, this Paragraph states:-

32. Disclosable Pecuniary Interests

(1) *Where you*

(a) are present at a meeting of the authority and

(b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

- 6.34 We therefore consider that Councillor Erbil would have been required to declare to the meeting the existence of a non-pecuniary interest if one existed. We can conjecture what action Councillor Erbil should have taken following making the declaration however the Code is ambiguous on this point. First, in that there is no relevant paragraph 2 which Paragraph 31. (3) refers to. The sub-paragraph which starts 'You must' may be the paragraph referred to however this is clearly headed 'Disclosable Pecuniary Interests'.
- 6.35 On this basis, the Code is unclear whether Councillor Erbil would have been permitted to participate in the deliberation and vote on the election of Councillor Karakus to the position of Mayor if she did have an interest.
- 6.36 Our conclusion is that Councillor Erbil did not breach Paragraph 31. (1) of the Council's Code of Conduct by not making a declaration to the meeting on 23 May 2018 as any relationship to Councillor Karakus which may have existed was so remote.

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7. Conclusion

- 7.1 Our conclusion is that there has not been a failure to comply with the code of conduct of the authority concerned.

Wilkin Chapman LLP

October 2018

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PRIVATE AND CONFIDENTIAL

Report by Wilkin Chapman LLP, instructed by the Monitoring Officer of Enfield London Borough Council, into allegations concerning **Councillor Huseyin Akpinar**, arising from a complaint made by Councillor Joanne Laban.

DATED: 2018

VOLUME 1 REPORT

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Volume 2

Appendix A	Schedule of evidence taken into account and list of unused material
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1. **Executive Summary**
- 1.1 Councillor Akpinar is a member of Enfield Council (the Council).
- 1.2 He attended the Annual General Meeting held on 23 May 2018. The meeting considered the election of a Mayor for the municipal year 2018/19.
- 1.3 Councillor Saray Karakus was elected to the position of Mayor for the municipal year 2018/19.
- 1.4 Councillor Akpinar participated in the election of Councillor Karakus to the position of Mayor. Councillor Akpinar was not related to Councillor Karakus.
- 1.5 The Council's Code requires Members to register and declare certain interests both pecuniary and non-pecuniary.
- 1.6 The Council's Code also requires Members to declare to any meeting of the authority any interest they have in a matter under discussion and they are aware of that interest.
- 1.7 There is no evidence that Councillor Akpinar was a relation or family member which was covered by the Council's Code of Conduct and therefore had no declarable interest in the election of Councillor Karakus as Mayor.
- 1.8 Our conclusion is that there has not been a breach of the code of conduct of the authority concerned by Councillor Akpinar.

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2. Councillor Akpinar's official details

- 2.1 Councillor Akpinar was elected to the Council on 3 May 2018. He is a member of the Labour party and represents the Upper Edmonton Ward.
- 2.2 Councillor Akpinar is appointed to the Health Scrutiny Panel, Overview & Scrutiny Committee, Safer Neighbourhood Board and the Upper Edmonton Ward Forum.
- 2.3 Councillor Akpinar represents the Council on the following outside bodies, Barnet, Enfield & Haringey Mental Health Trust Foundation, Enfield racial Equality Council, Joint Health Overview Scrutiny Committee for North London Sector and the Safer Neighbourhood Board.
- 2.4 We understand that Councillor Akpinar has received training on the Councillors' Code of Conduct.

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3. Relevant legislation and protocols

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.

3.2 Section 28 of the Act provides that the Authority must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council, most recently, adopted a Code of Conduct on 17 July 2013 (attached at WC 1) under the provisions of the Localism Act 2011.

3.4 Paragraph 3 of the Code states:-

" Scope of the Code

- 3. *The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives."*

3.5 Paragraphs 15 to 18 of the Code states:-

"Registration and Declaration of Interests

- 15. *You shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interests in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers.*
- 16. *Such disclosures must be made even if the interest has already been included on the register of interests or where there is a notification pending to the Monitoring Officer.*

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17. *In accordance with this Code, you must keep the register up-to-date and refresh such interests as requested by the Monitoring Officer.*
18. *These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest."*

3.6 Paragraph 22 and 23 of the Code states:-

"Registration of Interest

22. *You must comply with the requirements of the law and the Council in registering your interests in the Register of Members' Interests. These are explained on the following pages. These interests extend to those of your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship.*

23. *When considering registering or disclosing any interest, you should ask yourself:*

Would a member of the public, with knowledge of the relevant facts, reasonably regard your interest as so significant that it is likely to prejudice your judgement of the public interest?"

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

- a) *Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Town Clerk of the interest and must not take any steps or further steps in the matter."*

3.7 Paragraph 26 of the Code provides details of the interests which would constitute pecuniary interests for the purposes of Section 30(3) Of the Localism Act 2011. This covers Employment, office, trade, profession or vocation; Sponsorship; Contracts; Land; Licences; Corporate tenancies; and Securities.

3.8 Paragraph 31 of the Code states:-

Disclosure and Duties in Respect of Interests Held by Members

31. *"Declaration of Interests not included in the Register*

- (1) *If you have an interest in a matter under discussion at a meeting of the authority and you are aware of that interest, you must disclose the interest to the meeting (unless the Authority's Monitoring Officer considers that it is a sensitive interest- see Paragraph 1 3 of this Code*
- (2) *You must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is the subject of a pending notification)*

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(3) *You must then act in accordance with paragraph 2 below*

3.9 Paragraph 32 of the Code states:-

32. Disclosable Pecuniary Interests

(1) *Where you*

(a) are present at a meeting of the authority and

(b) have, or become aware that you have, a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

You must

(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

(2) *Where you are an executive member taking portfolio decisions and are aware you have a disclosable pecuniary interest, you must notify the Monitoring Officer of that interest within 28 days and take no action in respect of the matter other than refer to another executive member to take the decision.*

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4. Evidence and facts

Our appointment

- 4.1 The Monitoring Officer (MO) of the London Borough of Enfield Council, in consultation with the Independent Person, identified potential breaches of the Code of Conduct.
- 4.2 In August 2018 the MO instructed Wilkin Chapman LLP to perform their investigatory functions in respect of the complaint of Councillor Laban.
- 4.3 The investigation was carried out by Jonathan Goolden, Dave Hayward and Alan Tasker.

The investigation

- 4.4 During the investigation the complainant, Councillor Laban, was contacted to confirm the details of her complaint and to seek any evidence of the alleged relationship between Councillor Akpinar and Councillor Saray Karakus.
- 4.5 Councillor Akpinar was contacted by letter and was asked to comment on the allegation, in particular his relationship with Councillor Karakus.

Background

- 4.6 The complaint submitted against Councillor Akpinar alleged that he attended the Annual General Meeting of the Council on 23 May 2018. At the meeting the Council elected Councillor Saray Karakus to the position of Mayor for the 2018/19 municipal year.
- 4.7 Councillor Akpinar was related to Councillor Karakus. Councillor Akpinar did not declare this relationship and voted on Councillor Karakus' appointment.

Councillor Laban's complaint

- 4.8 Councillor Laban submitted a complaint on 16 July 2018 (attached at WC 2).

Councillor Laban

- 4.9 Councillor Laban was contacted by letter for more details of the alleged relationship. In an email response to our letter Councillor Laban stated that:-
 - (a) the minutes of the meeting when the council appointed the Mayor, Deputy Mayor, Leader and Deputy and Leader show that no interests were declared by any councillor;
 - (b) the Mayor's role comes with a large SRA;
 - (c) Andrew Gilligan's article in The Times included the relationship between them all;
 - (d) she understood that Mr Gilligan talked to the councillors concerned in relation to the Mayor when he contacted them for a comment for the piece;

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- (e) openness features in both the Enfield Code of Conduct and the Nolan Principles. The councillors in question failed to declare family ties when voting for councillors to take up appointments that came with financial increases.

Councillor Akpinar

- 4.10 Councillor Akpinar was contacted by letter and asked to comment on the allegations made by Councillor Laban. Councillor Akpinar responded on 28 August 2018 and stated:-
 - (a) he attended the Council meeting on 23 May 2018;
 - (b) he did not declare any interests at the meeting;
 - (c) he was not related to Councillor Karakus nor any other Councillors;
 - (d) he had a fair understanding of the code of conduct

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5. Summary of the material facts

- 5.1 Councillor Akpinar was a member of the Council and attended the Annual General Meeting held on 23 May 2018. The meeting considered the election of a Mayor for the municipal year 2018/19.
- 5.2 Councillor Saray Karakus was elected to the position of Mayor for the municipal year 2018/19.
- 5.3 Councillor Akpinar participated in the election of Councillor Karakus to the position of Mayor. Councillor Akpinar was not related to Councillor Karakus.
- 5.4 The Council's Code requires Members to register and declare certain interests both pecuniary and non-pecuniary.
- 5.5 The Council's Code also requires Members to declare to any meeting of the authority any interest they have in a matter under discussion and they are aware of that interest.
- 5.6 There is no evidence that Councillor Akpinar was a relation or family member which was covered by the Council's Code of Conduct and therefore had no declarable interest in the election of Councillor Karakus as Mayor.

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6. Reasoning as to whether there have been failures to comply with the Council's Code of Conduct

- 6.1 The allegations referred for investigation relate to whether Councillor Akpinar should have been involved in the election of Councillor Karakus to the position of Mayor.
- 6.2 It was alleged that Councillor Akpinar was related to Councillor Karakus.
- 6.3 The first issue to consider is whether Councillor Akpinar was acting in an official capacity in relation to the alleged conduct.

Official capacity

- 6.4 Section 27(2) of the Localism Act 2011 requires a local authority to adopt a code *"dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity"*.
- 6.5 Paragraph 3 of the Code states:-

"Scope of the Code

3. The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.

- 6.6 When a member is acting in an official capacity was one of the central issues in *Livingstone v APE* [2006] EWHC 2533. Collins J held that the then Mayor of London was not acting in an official capacity when responding to being "door stepped" by a journalist when leaving the offices of the GLA.
- 6.7 The judgment was considered in detail in *Bartlett, Milton Keynes Council* [2008] APE 0401 in an appeal from the local standards committee. In the Case Tribunal's view, the *Livingstone* judgment established that for a councillor to be acting in an official capacity:-
- (a) *the councillor should be engaged in business directly related to the Council or constituents;*
- (b) *the link between the councillor's office and the conduct should have a degree of formality.*
- 6.8 In *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC), the tribunal indicated that merely acting, claiming to act or giving the impression of acting as a member was insufficient for the conduct to be covered by the code. There had to be sufficient material for the tribunal to properly conclude that the member was in fact acting as a representative of the council.
- 6.9 The wording of s27(2) of the Localism Act 2011 refers to a requirement to adopt a code dealing with the conduct of members when they are acting in that capacity. *MC* indicates that merely actions, claiming to act or giving the impression of acting as a member is insufficient. The member must actually be acting as such. The second half of the wording at paragraph 2(b) of the

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Council's Code does not therefore accord with the law and no account has been taken of it.

- 6.10 In this case there is no doubt that attendance at the Annual General Meeting of the Council was for the purpose of acting on Authority business. Therefore for the purpose of this investigation we have concluded that Councillor Akpinar was acting in an official capacity when participating in the election of Councillor Karakus as Mayor.

Disclosable Pecuniary Interest (DPI)

- 6.11 It was alleged that Councillor Akpinar had a Disclosable Pecuniary Interest in the election of Councillor Karakus as the position of Mayor attracts a Special Responsibility Allowance of £14,000.

- 6.12 The Code states, at Paragraph 18 that members must register the interest of:-

"your spouse, partner, civil partner, family members or persons with whom you have a close association or personal relationship and you are aware that they have the interest."

- 6.13 In this case there are two issues to consider, first would any relationship between Councillor Karakus and Councillor Akpinar be such that any employment, office, trade, profession or vocation carried on for profit or gain carried out by Councillor Karakus be an interest which the Code requires to be registered? The second consideration is whether the position of Mayor falls within the definition of 'employment' as set out in the Code.

- 6.14 On the first point Family members and close associates are not defined in the Code. In the absence of any other definition, regard may be had to guidance provided by the former Standards Board for England (SfE) in relation to similar wording in the former national model code. At Q88 on page 101 of SfE's publication the Case Review 2010 (2011 version), it is stated that "a member of your family" should be given a very wide meaning, including anybody related by birth, marriage or civil partnership to the councillor such as :-

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Parent
Parent in law
Son or daughter
Stepson or stepdaughter
Child of partner
Brother or sister
Brother or sister of partner
Grandparent
Grandchild
Uncle or aunt
Nephew or niece
Their partners

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Did they know each other's families?
Did they visit one another's homes?
Did they have regular business dealings?
Did they work for the same organisation?
Were they close or connected in other ways?

- 6.17 At Q90, SfE advised that enemies might also be close associates
- 6.18 From this it is evident that the requirements of the Council's Code are quite wide ranging when dealing with the Disclosable Pecuniary Interests of Members. Whether this is intentional or in practice workable is questionable but that is the requirement.
- 6.19 We therefore conclude that if the position of Mayor was considered to fall within the categories defined as employment Councillor Akpinar would be required to register and disclose any relationship as a Disclosable Pecuniary Interest.
- 6.20 We now must consider whether the position of Mayor could be considered to be an employment, office, trade, profession or vocation carried on for profit or gain.
- 6.21 The position of Mayor is not an employment, trade, profession or vocation. Neither is the position normally regarded as an "office" within the meaning of the first category of Disclosable Pecuniary Interests, even if it was, the Special Responsibility Allowance is intended to compensate the office holder not remunerate them. Therefore we conclude that the position is not one carried on for profit or gain.
- 6.22 Having regard to the reasoning set out above we have concluded that the position of Mayor is not one that should be registered as a Disclosable Pecuniary Interest. Therefore if Councillor Akpinar was related to Councillor Karakus this did not constitute a pecuniary interest in the election of Councillor Karakus to the position of Mayor.

Other Non-Pecuniary Interests

- 6.23 The Council's Code of Conduct at Paragraph 28 defines other pecuniary interests as:-

"Other interests that would qualify as grounds for bias in an application to quash a decision of the Authority."

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- 6.25 Having regard to the requirements of the Code to register the interests of family members (and others) it is reasonable to conclude that an informed observer would think that a Councillor would be influenced by such a relationship.
- 6.26 However, Councillor Akpinar has confirmed that he is not related to Councillor Karakus. Furthermore, when asked for details of the alleged relationship the complainant merely referred to what appears to be an unsubstantiated report in the Sunday Times of 15 July 2018. In this article it is alleged that a number of Councillors were related to a former Councillor who, it is also alleged, is related to Councillor Karakus through his cousins. Councillor Akpinar is not mentioned in the newspaper article.
- 6.27 From this it is clear there is no evidence presented which identifies any relationship between Councillor Akpinar and Councillor Karakus.
- 6.28 We therefore conclude that Councillor Akpinar did not have an ‘Other Non-Pecuniary Interest’ in the election of Councillor Karakus to the position of Mayor.

Disclosure of interests

- 6.29 Paragraph 31 of the Code states:-

“Disclosure and Duties in Respect of Interests Held by Members

31. Declaration of interest not included in the Register

- (1) *If you have an interest in a matter under discussion at a meeting of the authority and are aware of that interest, you must disclose the interest to the meeting (unless the Authority’s Monitoring Officer considers that it is a sensitive interest.....)”*
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- 6.33 However sub-paragraph (1) of Paragraph 32 does deal with the action Members must take, this Paragraph states:-

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(1) Where you

(a) are present at a meeting of the authority and

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You must

(c) not participate, or participate further, in any discussion of the matter at the meeting

(d) not participate in any vote, or further vote, taken on the matter at the meeting

(e) leave the room until the conclusion of the matter under discussion

- 6.34 We therefore consider that Councillor Akpinar would have been required to declare to the meeting the existence of a non-pecuniary interest if one existed. We can conjecture what action Councillor Akpinar should have taken following making the declaration however the Code is ambiguous on this point. First, in that there is no relevant paragraph 2 which Paragraph 31. (3) refers to. The sub-paragraph which starts 'You must' may be the paragraph referred to however this is clearly headed 'Disclosable Pecuniary Interests'.
- 6.35 On this basis, the Code is unclear whether Councillor Akpinar would have been permitted to participate in the deliberation and vote on the election of Councillor Karakus to the position of Mayor if he did have an interest.
- 6.36 Our conclusion is that Councillor Akpinar did not breach Paragraph 31. (1) of the Council's Code of Conduct by not declaring to the meeting on 23 May 2018 a relationship to Councillor Karakus when her election to the position of Mayor was discussed.

CONFIDENTIAL DRAFT REPORT

7. Conclusion

- 7.1 Our conclusion is that there has not been a failure to comply with the code of conduct of the authority concerned.

Wilkin Chapman LLP

October 2018

Penelope Williams

From: Joanne Laban <joanne.enfieldconservatives@gmail.com>
Sent: 24 October 2018 11:17
To: Jeremy Chambers
Subject: Re: complaint

Dear Jeremy

That is correct.

regards
Joanne

On Wed, 24 Oct 2018 at 10:51, Jeremy Chambers <Jeremy.Chambers@enfield.gov.uk> wrote:

Dear Joanne

Thank you for your email. Can I confirm the following: -

1. You are content with my finding that Cllrs Ergin Erbil and Alev Cazimoglu have breached the Code of Conduct and an apology to the Council is appropriate;
2. You are appealing my determination of no breach of the Code of Conduct by all the other councillors referred to in your complaint?

I look forward to hearing from you as soon as possible.

Regards

Jeremy Chambers

Director of Law & Governance

Enfield Council

Civic Centre

Silver Street

Enfield

EN2 3XY

From: Joanne Laban <joanne.enfieldconservatives@gmail.com>

Sent: 18 October 2018 12:02

To: Jeremy Chambers <Jeremy.Chambers@enfield.gov.uk>

Subject: complaint

Dear Jeremy,

I will be appealing my complaint for the following reasons.

Ergun Erbil when a complaint went to councillor code of conduct committee declared that Goney Dogan was his cousin. You are very aware of that.

Susan Erbil declared at OSC on the night of the parking charges call in that she was in fact Goney's cousin. She said this in front of the whole committee.

Elif Erbil is related to them all.

However, according to the report they are not related to the Mayor. Saray Karakus's maiden name is Erbil as she is the sister of Ergun's father.

I will not be taking the case about the leader's mother any further in relation to this complaint but that will not stop me taking it further up the chain of local government.

We have a governance issue at Enfield Council. People cannot scrutinise their relatives when public expenditure is being decided upon. We need transparency and I am afraid at Enfield Council it is not.

regards

Joanne



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