

# Public Document Pack



## **Councillor Conduct Committee**

Wednesday, 4 September 2019 at 6.30 pm  
Room 1, Civic Centre, Silver Street, Enfield,  
EN1 3XA

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

Independent Persons: Christine Chamberlain and Sarah Jewell

## **AGENDA – PART 1**

### **1. WELCOME AND APOLOGIES**

### **2. SUBSTITUTIONS**

Any members who wishes to appoint a substitute for this meeting must notify the Monitoring Officer in writing, before the beginning of the meeting, of the intended substitution.

Any notifications received will be reported at the meeting.

### **3. DECLARATION OF INTERESTS**

Members are asked to declare any interests relating to items on the agenda.

### **4. APPEAL HEARING (Pages 1 - 50)**

To carry out a hearing in relation to an appeal against a Monitoring Officer decision on a councillor complaint. (Report No: 86)

### **5. MINUTES OF PREVIOUS MEETING (Pages 51 - 56)**

To receive and agree the minutes of the previous meeting.

### **6. DATES OF FUTURE MEETINGS**

To note the dates agreed for future meetings of the committee:

- Wednesday 4 December 2019
- Tuesday 3 March 2020



## MUNICIPAL YEAR 2019/2020 REPORT NO. **86**

**MEETING TITLE AND DATE:**

Councillor Conduct  
Committee 4<sup>th</sup> September  
2019

**REPORT OF:**

Jeremy Chambers  
Monitoring Officer &  
Director of Law and  
Governance

<b>Agenda – Part: 1</b>	<b>Item: 4</b>
<b>Subject: Appeal Against the Monitoring Officer Decision on breach of Code of Conduct</b>	
<b>Cabinet Member consulted: N/A</b>	

Contact officer and telephone number:

Jeremy Chambers [Jeremy.chambers@enfield.gov.uk](mailto:Jeremy.chambers@enfield.gov.uk), 020 8379 4799

### 1. EXECUTIVE SUMMARY

1. This report sets out a complaint from Councillor Yasmin Brett against Councillor Nesil Caliskan received. The complaint alleged several breaches of the Councillors' Code of Conduct ("the Code"), arising from Councillor Caliskan's decision to remove Councillor Brett from her Cabinet position for a period of 2 weeks. The alleged breaches related to the manner in which she was removed and Councillor Caliskan's behaviour at a meeting with Councillor Brett relating to the reasons why she had been removed.
2. The Monitoring Officer, Jeremy Chambers, instructed Frances Woodhead 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 Nesil Caliskan and therefore the complaint was upheld. The Complaint Report dated April 2019 is attached at Appendix A.
3. Councillor Caliskan has appealed the decision to the Councillor Conduct Committee. and her reasons are set out in correspondence at Appendix B. The response of the Monitoring Officer is attached as Appendix C.

### 2. RECOMMENDATIONS

1. The Committee, having reviewed the Monitoring Officer's decision, the independent investigation report and the representations in support of the appeal, decides whether or not to grant the appeal.
2. If the Committee decides not to grant the appeal and to uphold the decision then, 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, and attached at Appendix D.

### **3. BACKGROUND**

- 3.1 The Investigation Report attached at Appendix A includes interviews with Councillor Brett and Councillor Caliskan and several witnesses.
- 3.2 The Independent Person has been consulted throughout the process.
- 3.3 The Monitoring Officer agreed with the findings at page 2 and 3 of the report, and specifically at paragraph 1.2 that, on the balance of probabilities, Councillor Caliskan's actions did amount to a breach of the Code of Conduct.
- 3.4 Councillor Caliskan does not accept the findings of the report or the decision of the Monitoring Officer. 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 report.

#### **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 Frances Woodhead

Appendix B - Representations in support of the appeal by Councillor Caliskan of the decision.

Appendix C - Response of the Monitoring Officer

Appendix D - Appeal Hearing procedure

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# Appendix A

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**Dated:** April 2019

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**STRICTLY CONFIDENTIAL – Independent Report of Frances Woodhead**

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Complaint of Councillor Brett – Enfield Council

**Report of Frances Woodhead in respect of complaint of Councillor Brett, Enfield Council.**

**1. Background**

- 1.1 Councillor Brett complained to Mr Jeremy Chambers, the Council's Monitoring Officer, about the behaviour of Councillor Caliskan, the Leader of the Council. The complaint is set out in detail in the standard form of complaint dated 11 January 2019. A copy of the complaint and supporting documents is attached at Appendix 1.
- 1.2 Councillor Brett has complained that Councillor Caliskan has undermined her in front of officers and members, has written to her and behaved in an intimidating manner and made it very difficult for Councillor Brett to perform her role as Cabinet Member for Public Health. Councillor Brett considers that Councillor Caliskan has breached a number of the expectations of the Members Code of Conduct, particularly paragraphs 8.8 (respect for others), 11 (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 members or officers generally into disrepute), 12.1 (treat others with respect and courtesy) and 12.2(b) (not bully any person).
- 1.3 Councillor Brett submitted a second related complaint about the Leader's treatment of her in an informal Cabinet meeting on 21 January 2019.

**2. Methodology**

- 2.1 On 25 February 2019, I interviewed Councillors Brett, Caliskan, Orhan, Erbil, Pite and Anderson. I have also spoken on the telephone on 1 March and 18 April 2019 to Mr Jeremy Chambers, the Council's Monitoring Officer. Notes of the interviews were prepared and have been seen and where appropriate amended by the individual Councillors and officers.
- 2.2 I have reviewed the information in the complaint form and supporting documents and I was provided with additional documents during the interview process by Councillor Brett, Councillor Caliskan and Councillor Pite.

**3. Summary of Findings**

- 3.1.1 It is unusual for councillors to make complaints under the Code of Conduct in respect of the behaviour of other councillors and particularly where the complaint is by a councillor about a member of their own party. In this case the complaint is about the conduct of the leader of the party and is set against the background of a change in the leadership in 2018. Based on the interviews I have conducted, it is clear that this change has caused upset within the Labour party councillors and damaged the working relationships between the Leader and some councillors. I sincerely hope that the recommendations I have made in this report enable Councillor Caliskan and Councillor Brett to develop a relationship based on mutual trust and respect so they can focus on what they both say are priorities – serving the communities in Enfield well.
- 3.1.2 That Councillor Caliskan failed to treat Councillor Brett with respect in removing her from her role as Cabinet member prematurely and prior to meeting with her to discuss the concerns Councillor Caliskan had about collective Cabinet decision making. This was contrary to principles in the Member Code of Conduct about treating others with respect (paragraphs 8 and 12) I have also concluded that the way the Leader made and communicated decisions about this, how arrangements for a meeting with Councillor Brett were made and the conduct of the meeting on 19 November 2018 amounted to bullying of Councillor Brett by the Leader of the Council, Councillor Caliskan. This behaviour was in breach of paragraph 12.2(b) of the Code of Conduct.
- 3.1.3 Councillor Brett clearly felt bullied during the process for the meeting with the Chief Whip on 11 September 2018 and she said that this complaint was driven by a complaint initiated by Councillor Caliskan and as such she was responsible

for the bullying. Whilst I am satisfied it is likely the matter was referred to the Chief Whip by the Leader, I have not seen conclusive evidence this was the case. I do not think it is fair for the way the Chief Whip dealt with the process to be the responsibility of the Leader of the Council.

- 3.1.4 I accept that Councillor Brett genuinely felt bullied and victimised by the Leader of the Council over a period of time and this has caused her distress and upset. Councillor Caliskan has also expressed upset and frustration about some of the things Councillor Brett has said or done. Rather than make a specific finding about the general allegations of bullying, I strongly recommend that this concern is dealt with through an informal mediated meeting between the 2 Councillors to include apologies and a better understanding about appropriate behaviours and communication styles.
- 3.1.5 I have not found any evidence that Councillor Caliskan has brought the Council into disrepute or damaged public confidence as a result of the matters complained about here.
- 3.1.6 I have not found any evidence that the complaints of Councillor Brett are politically motivated or vexatious.
- 3.1.7 I have not found evidence that a counter complaint of Councillor Caliskan (made during the interview process but not a formal complaint ) that Councillor Brett instigated a smear campaign against Councillor Caliskan and used bullying tactics is made out.

#### 4. **Recommendations**

- 4.1 That an informal mediated meeting takes place between Councillor Brett and Councillor Caliskan with a view to facilitating understanding about improved effective and respectful communication, behavioural styles and the interplay between party discipline and a councillors duty and right to declare an interest in an item of business.
- 4.2 That Councillor Caliskan offers a written apology to Councillor Brett about removing her from Cabinet.
- 4.3 That a confidential statement is issued by Councillor Caliskan to all Cabinet members acknowledging that the decision to remove Councillor Brett from Cabinet was done with undue haste and in an inappropriate fashion which was contrary to the Code of Conduct for Members.

#### 4.4 **Information Considered and Views Reached**

- 4.5 Councillor Brett set out her complaints in detail in the complaint form and summarised them as:-
  - 4.5.1 repeated, unexplained and surprising changes to my portfolio;
  - 4.5.2 emails that are unreasonably challenging in tone;
  - 4.5.3 attacks in front of officers and other members;
  - 4.5.4 encouraging the Chief Whip to investigate my actions without foundation;
  - 4.5.5 the precipitate, public and disproportionate removal of my Cabinet post, including termination of my SRA, all without warning or debate or seeking advice from Labour Group officers.
- 4.6 Councillor Brett has complained about incremental occurrences of behaviour since May 2018 and in particular about the removal of her Cabinet post in November 2018. She has also made the point that her dual heritage is significant.

- 4.7 Most of the councillors I interviewed referred to the change in Leadership of the Labour party in May 2018, when Councillor Caliskan took over as Leader of the Council. This change has caused upset and disruption to relationships within the Labour party and has created a background of general tension as context for the complaint of Councillor Brett and also other complaints I have been asked to investigate.
- 4.8 I have set out below each of the matters of complaint and my views about each of them:-
- 4.8.1 **Repeated, unexplained and surprising changes to my portfolio; Encouraging the Chief Whip to investigate my actions without foundation.**
- 4.8.1.1 One element of this part of the complaint is that the Chief Whip investigated a vexatious complaint against Councillor Brett, who believes this complaint was initiated by Councillor Caliskan, the Leader of the Council. Councillor Caliskan has not confirmed one way or the other whether she initiated the complaint. The matter was investigated under Labour Party rules. The investigation began in early September 2018 and concluded on 10 October 2018 when the Chief Whip, Councillor Erbil wrote to Councillor Brett to say there had been no breach of party rules and the case was now closed. Councillor Brett felt the process and investigation was discriminatory and part of a pattern of deliberate victimisation.
- 4.8.1.2 I have been provided with agreed notes of the meeting on 11 September taken by Councillor Pite, the Deputy Whip. There were questions from Councillor Erbil to Councillor Brett about whether she felt she had strayed into the portfolio areas of other cabinet members. Councillor Brett referred to examples of meetings she had attended where she had spoken about mental health issues which were the responsibility of a different portfolio holder, albeit mental health did fall within her overall responsibility for Public Health. Councillor Brett also indicated that the changes she felt had been made to her portfolio made her feel insecure and uncomfortable and less effective as a Cabinet member. She said she felt victimised by the process and the email correspondence between her and the Leader trying to confirm her role.
- 4.8.1.3 I have also been provided with copies of emails asking about the nature of the complaint and the procedures to be followed at the hearing on 11 September. It is my view that the procedures and the purpose of the meeting could have been articulated more clearly and as a result there would have been less tension at the hearing and a better outcome. The poor process led to further mistrust on the part of Councillor Brett and other Councillors present. It is important to note that the procedures followed were internal Labour Party procedures and as such not a matter for complaints under the Member Code of Conduct.
- 4.8.1.4 Councillor Brett has provided me with a number of emails about the changes to Cabinet portfolios in spring and early summer 2018. The Cabinet portfolio roles are set out on the Council website. It is acknowledged by both Councillor Brett and Councillor Caliskan that after the roles were published, there was a change to allocate Welfare Reform, Policy and Advice to Councillor Brett from Councillor Keazor.
- 4.8.1.5 There was an exchange of emails between the Leader and Councillor Brett and Councillor Keazor reflecting confusion about some of the roles. On 3 October Councillor Brett raised her concerns with the Chief Whip and other Councillors saying she

found "the insecurity being created around her role undermining". In her email she says she feels she is being singled out for harassment and refers to speaking at a pre Cabinet meeting where she was jeered at by the Leader. Councillor Brett also described to me in her interview how she was side-lined at external public meetings and there was a lack of clarity about whether she was able to speak at those meetings or not. There were particular issues for Councillor Brett about responsibility for the portfolios for Art, Animal Welfare and Anti-Poverty.

- 4.8.1.6 Councillor Caliskan has told me that the role for Animal Welfare was not a Cabinet portfolio role, rather it was a party role. She also said that no other Cabinet member was confused about their role and also that Councillor Brett herself caused confusion. I have seen an email which Councillor Caliskan provided, from Councillor Keazor to Councillor Brett which reflects this frustration. Councillor Caliskan said other Cabinet members had also raised concerns with her that Councillor Brett drifted into their portfolio areas. She also said Council officers raised concerns with her because it made their job difficult.
- 4.8.1.7 Councillor Caliskan said she had several one to one meetings with Councillor Brett (as she does with all Cabinet members) about priorities and focus. She does not think Councillor Brett has "stuck to what we have agreed or demonstrated progress." Councillor Caliskan says that Councillor Brett has refused to meet with her since she was removed from Cabinet. (Councillor Caliskan describes this as "suspension").
- 4.8.1.8 It is for the Leader of the Council to determine responsibility for Cabinet portfolios. There is inevitably some overlap and an expectation that Cabinet members work together to avoid duplication and also work seamlessly and effectively on areas of shared responsibility. I have concluded that the uncertainty and its consequences had a significant and adverse impact on Councillor Brett and uncertainty about what her responsibilities were. I have seen email exchanges between Councillors about some of the consequences of the respective allocations which reflect the uncertainties, sometimes using heated language.
- 4.8.1.9 I have not found a breach of the Code of Conduct by Councillor Caliskan in respect of how Cabinet Portfolios were allocated or changed. I can nonetheless understand this created distress and confusion for Councillor Brett. I also conclude that there were understandable frustrations for Councillor Caliskan and other councillors. I think it would be helpful for lessons to be learned from this when portfolios are allocated in the new municipal year so that responsibilities are clearly allocated and appropriately recorded.
- 4.8.1.10 I have concluded that Councillor Brett felt victimised during the investigation and also that there was overlap and possible confusion about her portfolio and role, particularly where there was an overlap with other portfolios.
- 4.8.1.11 I do not consider that the exercise of Labour party disciplinary processes are matters which should be considered as issues of complaint under the Member Code of Conduct. Matters about procedural fairness should be dealt with under the Labour Party procedures or principles of general law.

#### 4.8.2 **Emails that are unreasonably challenging in tone.**

- 4.8.2.1 The emails from Councillor Caliskan to Councillor Brett about the concerns the leader had about Councillor Brett declaring an interest at the Cabinet meeting on 14 November are focused and clear about expectations. They are formal in nature, probably more formal than usual exchanges between a Leader and Cabinet member. In some instances, text is underlined.
- 4.8.2.2 I have not reviewed other emails between Councillor Caliskan and Councillor Brett in detail. I have seen emails which could be seen as naming and shaming individual Cabinet members, including Councillor Brett, for not submitting regular updates to other Cabinet members. Councillor Brett clearly feels upset by the tone and content of emails from Councillor Caliskan.
- 4.8.2.3 Councillor Brett described how her one to one meetings with the Leader felt like performance management with targets being set.
- 4.8.2.4 Councillor Brett also said there was discrimination and racial tension in some of the actions taken against her.
- 4.8.2.5 It is clear that Councillor Brett was distressed by the communication style of the Leader, Councillor Caliskan, who was also frustrated with Councillor Brett's behaviour. Councillor Caliskan raised concerns about Councillor Brett recording meetings.
- 4.8.2.6 I have concluded that this is a concern of both parties which should be dealt with by apology and mediation. I conclude that this is largely about misunderstanding, the Leaders style in exercising authority and lack of sensitivity and suspicion of both parties about each other's motive. I have not found clear evidence of a breach of the Code of Conduct in respect of this element of the complaint.

4.8.3 **Attacks in front of officers and other members.**

- 4.8.3.1 Councillor Brett cited a number of examples of Councillor Caliskan belittling her in meetings. For example, the pre Cabinet meeting of 14 November 2018, an informal Cabinet meeting on 21 January 2019 and public meetings. She describes being bullied on a daily basis and said that the unpleasantness started when Councillor Caliskan was elected as Leader. She said that prior to that they had a reasonable relationship. Councillor Anderson said that Councillor Brett was singled out by the Leader.
- 4.8.3.2 Councillor Caliskan felt that the issue Councillor Brett was questioning had been subject to many months debate and also that the item should have been placed on the agenda.
- 4.8.3.3 I have concluded that the evidence I have seen about this element of the complaint and the response of Councillor Caliskan setting out her views about what happened are symptomatic of the breakdown in trust and respect between the 2 Councillors. I have not found clear evidence of a breach of the Code of Conduct in respect of this complaint.

4.9 **The precipitate, public and disproportionate removal of my Cabinet post, including termination of my SRA, all without warning or debate or seeking advice from Labour Group officers.**

- 4.9.1.1 Councillor Brett said this was the thing she had found most distressing. She described it as "the most awful thing was being thrown off Cabinet" and spoke about how she felt it had damaged her good reputation and her good name. Other Councillors have also said they felt it was inappropriate and disproportionate to suspend her from Cabinet and also tried to persuade the Leader not to do so.
- 4.9.1.2 I have been provided with email correspondence which sets out the background to the decision of the Leader of the Council, Councillor Caliskan, to remove Councillor Brett from her Cabinet role for a 2 week period in November 2018.
- 4.9.1.3 Councillor Brett declared an interest at the Cabinet meeting on 14 November 2018 when the report about the North London Waste Project was discussed. She did this after taking advice from the Council's legal department because she felt she had a lot of difficulty supporting the report and had particular concerns about using the Pinkham Way site.
- 4.9.1.4 Councillor Caliskan, the Leader of the Council wrote an email to Councillor Brett after the meeting (15 November 2018) expressing concerns about her view that it was unnecessary to declare an interest and that this undermined the agreed part position, leaving her Cabinet colleagues in a difficult position. Councillor Caliskan asked for a meeting with Councillor Brett to explain why she decided to declare an interest and before she decided "what the appropriate step is for me to ensure I protect the integrity of Cabinet structure for this Labour Council".
- 4.9.1.5 There was an exchange of emails about the time of the meeting and it was agreed it would take place on Monday 19 November. Councillor Caliskan was keen for the meeting to take place on Friday 16 November but diary commitments of other councillors who were attending meant that was not possible.
- 4.9.1.6 Councillor Caliskan sent a further email to Councillor Brett asking for a written apology "for breaking an agreed position" and suggesting a meeting between 9am and 10am on Monday 19 November. Councillor Brett replied to say she would attend on Monday 19 November if Councillor Orhan is able to join her. She also offered an apology. Councillor Caliskan and Councillor Erbil told me they were not sure that the meeting was going ahead at 9am on Monday 19 November and other priorities meant they were away from the Council building. Councillors Brett, Orhan and Anderson turned up at 9 am and were upset that the Leader and Whip had not turned up as expected. Councillor Anderson said in interview he considered this was a power game by the Leader.
- 4.9.1.7 Councillor Caliskan replied by email at 16.02 on 16 November to say that since Councillor Brett had not provided an explanation about why she "took a decision to break the previously agreed collective decision by Cabinet" she felt she had no choice but suspend her until they were able to meet. She also said she hoped to be able to reappoint her within 2 weeks "once we've had the opportunity to discuss your actions and reflect upon them together". Immediately before sending that email to Councillor Brett, Councillor Caliskan had sent emails to Jeremy Chambers and all Cabinet members informing them about the suspension of Councillor Brett.

- 4.9.1.8 Councillor Orhan and Councillor Anderson indicated in their interviews with me that they felt that the Leader victimised Councillor Brett. Councillor Brett commented that in the pre Cabinet meeting on 14 November, the Leader “showed a complete lack of empathy and demonstrated immature leadership”. He said that under the previous Leader, councillors could be accommodated and abstention from voting was facilitated. He said that the Leader spoke to Councillor Anderson (the Deputy Leader) after the meeting about punishing Councillor Brett by suspending her for abstaining from the vote about the Waste Project at the meeting. Councillor Caliskan refers to Councillor Brett being “suspended ” from her Cabinet role, which is incorrect – she is either on Cabinet or removed. The language Councillor Caliskan uses when describing her decision to remove Councillor Brett from her role is in the context of punishment and maintaining control, rather than for objective reasons.
- 4.9.1.9 Councillor Pite said she considered the meeting process was badly handled and that she and others had advised the Leader it was not appropriate to suspend Councillor Brett for her decision to declare an interest. Councillor Pite confirmed her view in an email on 19 November 2018 about the rights of members to declare an interest and also the importance of a reminder to Cabinet members about the importance of collective decision making. The email is balanced and thoughtful, recognising the right of the Leader to remove and reinstate Cabinet members but also making the point she felt it was regrettable and unnecessary.
- 4.9.1.10 Councillor Anderson also made the point to me in interview that Councillor Brett could have dealt with the matter in a better way but also that her views about environmental issues were well known and implied that the likelihood of her declaring an interest should be understood and respected.
- 4.9.1.11 Jeremy Chambers made the point in an email to Councillor Brett on 18 November, that the Leader was entitled to determine the make-up of Cabinet and the portfolio allocation.
- 4.9.1.12 Councillor Caliskan considers that the complaint is vexatious and politically motivated. Councillor Caliskan has provided me with a statement setting out how she also feels victimised and unfairly treated because she is the first young, female mixed race Leader of the Council. She also made the point that the email exchanges between her and Councillor Brett about arranging a meeting to discuss the declaration of interest are an example of the lack of commitment and communication from Councillor Brett and why she felt she had no choice within the powers she has as Leader of the Council.
- 4.9.1.13 I am of the view that removing Councillor Brett from her role as Cabinet member, albeit temporarily, caused considerable and understandable upset to Councillor Brett. She felt victimised, bullied and humiliated. In everyday language, bullying, victimisation and harassment can be used almost interchangeably to mean similar things. Victimisation is defined as “the action of singling someone out for cruel or unjust treatment”. Bullying can be defined as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power that undermines, humiliates, denigrates or injures the recipient (emotionally or physically).



4.10      **General Comments**

- 4.10.1.1      There is frustration and upset on the part of both Councillor Brett and Councillor Caliskan about the approach each of them had to the allocation of Cabinet responsibilities, the general ongoing relationship, conduct in meetings and the removal of Councillor Brett as a Cabinet member in 2018.
- 4.10.1.2      I am convinced that Councillor Brett felt she had been bullied over a long period of time and she and others provided evidence to support this assertion. Councillor Caliskan also provided a rational reason for some of the events given as examples and was frustrated with Councillor Brett's actions, at times. Councillor Caliskan says Councillor Brett has "orchestrated with others a campaign to smear me and bully me out of my role" and "Councillor Brett has been on a mission to be disruptive and undermining. She has used psychological pressure on me to retreat from being Leader".
- 4.10.1.3      Councillor Orhan and Councillor Anderson felt that Councillor Brett had been unfairly treated and singled out by the Leader of the Council.
- 4.10.1.4      I have listened carefully to the councillors I have spoken to and on balance I have concluded that Councillor Caliskan should have behaved differently towards Councillor Brett following her appointment as Leader of the Council. Councillor Caliskan was in a position of control and it is my view that her drive to deliver change and adopt a new approach to leading the Council meant she did not take sufficient account of how her approach and behaviour had an impact on Councillor Brett. I also think that Councillor Brett did not always behave appropriately, for example by recording meetings or in the use of social media about her removal from Cabinet. These are issues which can be explored in mediation and apology.

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# Appendix B

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Rahman Lowe Solicitors  
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**FAO Zillur Rahman**

Please reply to: Jeremy Chambers  
(See below)  
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Phone: 0208 379 4799  
Textphone:  
Fax:  
My Ref:  
Your Ref:  
Date: 4 July 2019

Dear Mr Rahman

### **Complaint of Councillor Brett**

I refer to your letter dated 21 June 2018 indicating that you act for Councillor Nesil Caliskan in respect of "all matters" concerning the complaint of Councillor Brett. Please can you confirm that you are instructed in respect of Councillor Caliskan's appeal and provide written authority from Councillor Caliskan to that effect. I will respond to your letter in the order in which it is set out.

It is not accepted that the investigation was fundamentally flawed or that there was bias. Nor is it accepted that there are grounds for judicial review. The current process is not exhausted until the end of the appeal process and any application would therefore be premature at this stage. In any event, you will be more than aware that you are required to follow the Judicial Review Pre-Action Protocol. Furthermore, any application will be strenuously defended on the basis that a lawful and fair process has been followed and there is no reasonable basis for judicial review. If an application for judicial review is made please ensure that this correspondence is placed before a judge considering an application for leave and also notify me of any application you make so that appropriate representations can be made on behalf of the Council.

The Council's Code of Conduct is consistent with the Localism Act 2011 and fit for purpose and your contention that it is not is rejected. Section 28(8) of the Localism Act 2011 requires that the Council's arrangements under which decisions on allegations can be made must include taking account of the views of an independent person before a decision is taken on an allegation it has decided to investigate. There is a discretion on the authority to consider the views of the independent person in other instances (for example on general matters relating to conduct or whether or not to proceed with an investigation)

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Enfield EN1 3XY

[www.enfield.gov.uk](http://www.enfield.gov.uk)

Section 28(8) also says that the views of the independent person “may” be sought “by a member ...of the authority if that persons behaviour is the subject of an allegation”. I agree that Councillor Caliskan was entitled to seek the views of the independent person about the matter and she was advised of this by me in an email dated 4 February 2019 that she could speak to the independent person. The Council has appointed 2 independent persons to preserve fairness and so that conflicts of interest can be avoided. The process of seeking the views of the independent person is not a preliminary investigation stage, its purpose is to ensure account is taken from an independent source about whether or not a complaint should be taken forward and as part of my role in ensuring high standards of conduct are promoted and maintained and that their input is considered by me in respect of decisions to investigate allegations.

### **Abuse of Process**

The Council Procedures do not have flaws. They refer to the Localism Act 2011, key principles, eligibility criteria, a requirement that complaints are made in writing and procedures for the Councillor Conduct Committee. There is a discretion for the Committee to invite the complainant and the member complained about to attend. If Councillor Caliskan wishes to attend the appeal hearing to make oral representations please let me know so that the Committee can be asked about this request in good time before the hearing. I have no part in that decision and it is a matter for the Committee. It would therefore be helpful if you could write a letter to me explaining the reasons for your request so that I can put this to the Committee as soon as possible.

The process the Council followed in deciding to investigate this complaint was consistent with the Localism Act 2011 and the Council’s Code of Conduct and related procedures. I consulted with the independent person in accordance with Section 28(7)(b) of the Localism Act 2011. The process does not involve seeking information from interested parties or gathering evidence; that is for the next stage of an investigation. There is no right of appeal at that preliminary stage. Your client was provided with an opportunity to consult the independent person, as set out in my email dated 4 February 2019.

### **Council’s complaint process used for political purposes**

Your comments about Councillor Caliskan’s hard work to progress her career and delight in being appointed as Leader of the Council and her comments that she has been subjected to a witch hunt and smear campaign are noted. These were considered by the investigator and reflected in Mrs Woodhead’s report

and findings at paragraphs 4.7 and 4.9.1.12. The concerns about a smear campaign and party political dispute were also considered by me in making my findings. I also consulted with the independent person about this matter when considering Mrs Woodhead's report before making a decision about the allegations, in accordance with sections 27 and 28 of the Localism Act 2011.

The concerns which were raised by Councillor Caliskan and further set out in your letter can also be considered again at the appeal hearing. I am saddened to hear that there has been further press coverage about the complaint and that the details about the investigation have been shared with the press. I asked all those involved to respect the confidentiality of the process and hoped that request would be respected. However, I could not compel them to do so.

I do not agree with your conclusion that paragraph 3.1.1 of Mrs Woodhead's report (that a complaint by a councillor about another member of their party is unusual) supports the contention that Councillor Brett is seeking to use all means at her disposal to target your client for political motives.

Turning to your point about using dual processes, I am obliged to deal with complaints where a breach of the Councillor Code of Conduct is alleged in accordance with the arrangements the Council has set up under the Localism Act 2011. I have no control over or involvement in any separate political or party disciplinary processes. The case of *Harvey v Ledbury Town Council* [2018] EWHC 1151 makes it clear that the Code of Conduct process rather than a grievance process should operate in cases where there is a potential breach of the Councillor Code of Conduct.

My letter to Councillor Caliskan dated 21 May 2019 sets out the process I followed in considering the report of the investigator, the consultation process with the independent person, and careful consideration and my independent view about the appropriate findings and conclusion that there had been a breach of the Councillor Code of Conduct. I followed the correct procedures fairly and do not accept there was any abuse of process. It would not have been appropriate or a fair process to refer my conclusions and decision to the Chief Whip or the Labour Party for action. That would have been a potential breach of data protection principles and inconsistent with my responsibilities under the Localism Act 2011 and wider general responsibilities as Monitoring Officer. I cannot think of another regulatory or litigation process where different procedures are amalgamated in the way you suggest.

Your comments about the long documented history in this matter are noted. The complaint of Councillor raised a number of serious allegations about bullying and breach of the Councillor Code of Conduct. These were set out in detail in the complaint form and it would not have been reasonable or in accordance with the Procedures for Handling Complaints to reject those on the basis of the context and history of the relationship between the councillors involved. I carefully considered whether this matter was suitable for informal resolution or no further action. There was no basis to reject the complaints in accordance with paragraph 3.2 of the Council Procedure for Handling Complaints against Councillors and Co Opted Members. I do not consider they were frivolous or vexatious, rather they were serious allegations. Since they related to councillor conduct, the correct forum for their consideration was the Conduct procedures rather than court or other independent procedures. The decision was made in the context of serious incidents as alleged in the complaint form.

The reference to determination of the complaint within 3 months in paragraph 4.2 of the Procedure for Handling Complaints against Councillors and Co-opted members refers to the initial assessment as to the options and whether the matter should be referred for investigation or for a decision of the Councillor Conduct Committee. I carefully considered the criteria including whether further action was warranted or whether a local settlement was possible. Given the nature of the allegations I did not think a local settlement was appropriate or likely prior to investigation. I spoke to Councillor Caliskan informally after I had made my decision following receipt of the independent report and she indicated that she was unwilling to apologise to Councillor Brett, confirming my view that local settlement was unlikely given that was the outcome Councillor Brett was seeking. If Councillor Caliskan is now willing to consider local settlement I can explore that possibility with Councillor Brett.

### **Fairness**

#### **Our client acted within her powers.**

I accept that your client was entitled to remove and appoint Cabinet members and have previously advised Councillor Caliskan about that power. The conclusions I reached in this case were focussed on how that power was used and the behaviour of Councillor Caliskan at the time of her decision. I have asked the investigator, Mrs Woodhead to comment on this and also the comments you make on pages 6 -9 of your letter. I enclose a copy of Mrs



Woodhead's letter which amplifies the reasoning for her findings. The purpose of the investigation was to assess whether there was a breach of the Code of Conduct not the process for removing Cabinet members.

### **Witnesses**

Mrs Woodhead comments on this in her letter. I am satisfied that relevant witnesses to the incident were spoken to and their credibility assessed. I have read the additional witness statements provided with the appeal and alluded to in your letter and do not think they add significantly to the investigators report and findings or are persuasive in changing the conclusions I reached. These statements will of course be considered fully as part of the appeal process.

There is no requirement for the councillor who is complained about to be provided with copies of the witness interview notes or for those to be made generally available. Similarly, your clients notes of interview are not provided to the complainants. The complaint form was provided to Councillor Caliskan and the issues raised were raised in the interview and in email correspondence with Mrs Woodhead. The procedures are not analogous to employment law procedures and there is no requirement to follow ACAS Codes of Practice.

### **Our client's complaints**

Section 28(9) and The Council Procedures for Handling Complaints against Councillors and Co-opted Members requires complaints to be made in writing. I have previously advised (but not "instructed" as you say in your letter on page 8) Councillor Caliskan that a formal written complaint needs to be submitted if she wants a matter to be investigated. I do not agree with the view in your letter that my attitude is to use the complaints procedure to settle internal political disputes. Mrs Woodhead has commented in her letter on the issues you raise about the rationale for her conclusions.

It is noted that Councillor Caliskan does not seek findings to be made against Councillor Brett and that she considers these are party political matters. I considered this carefully before initiating an investigation and concluded, as stated previously, that these were serious allegations where the Councillor Code of Conduct was engaged.

Mrs Woodhead's report indicates that she took account of Councillor Caliskan's comments that she had been bullied, that Councillor Brett caused her upset and at times behaved inappropriately. Those factors being taken into account is

reflected in the findings in respect of a number of the allegations of bullying where there was no finding of a breach of the Councillor Code of Conduct.

I strongly rebut the assertion that I have simply accepted the independent report and rubber stamped it without fully considering the methodological robustness of the investigation and report. I also refute your suggestion that the investigation was biased or that I used Council processes and procedures to be used for political purposes. These are serious allegations without foundation, which call in to question my professionalism and integrity. I am deeply offended at the suggestions you make in your letter in this respect and ask you to apologise and retract these unfounded comments.

### **Next steps**

I am not able to retract the findings or withdraw my letter and recommendations, as you request. I have acted impartially and considered the matter carefully in accordance with the law and established procedures. I appreciate Councillor Caliskan disagrees with the conclusions reached but do not accept that I have defamed her or that my findings are misplaced and misconceived. I will make arrangements for an appeal hearing as soon as practicable for all parties involved.

Yours sincerely



Jeremy Chambers  
**Director of Law & Governance**

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16<sup>th</sup> June 2019

Dear Jeremy

Whilst I thank you for your letter dated to Mr Rahman on dated 4<sup>th</sup> July 2019, regrettably, I do not believe you have stated anything that changes my views as set out in the letter to you from Mr Rahman dated 21<sup>st</sup> June 2019. Nor does your response convincingly address the key issues with the investigation.

The complaint is a party-political matter and indeed was already being dealt with by my political party. It was never appropriate for it to be considered by the Council's Councillor Conduct process. I have consulted with the previous Chair of the Councillor Conduct Committee who has informed me that, during the previous administration working alongside the previous Monitoring Officer, complaints that were about party-political decisions and were already being dealt with by a political party, were kept out of the Councillor Conduct Committee.

I kindly ask that the Councillor Conduct Committee have sight of this letter from me to you so that they are aware of my opinion, along-side Mr Rahman's letter which sets out in detail the reasons why I am appealing your decision. I do not intend on setting out all the reasons again in this letter. However, there are a few points that arise in your letter to me on the 4<sup>th</sup> July 2019 which I would like to respond to.

### **No rationale or example provided to explain investigations judgement for bullying**

Your letter to me states that your conclusions are based on '*how*' I made my decision to remove the Cabinet member and my '*behaviour*' when I used powers that I was entitled to exercise. You do not provide any detail or examples of any particular behaviour but instead refer to Ms Woodhead's letter. I have read Ms Woodhead letter from the 28<sup>th</sup> June 2019.

There seem to be two aspects of the investigation: my decision itself and the process leading to the removal of the Cabinet Member; and my conduct at a meeting on the 19<sup>th</sup> November following my decision to remove the Cabinet Member from her post.

### **My decision to remove the Cabinet Member**

Both you and Ms Woodhead refer to my decision to remove Cllr Brett as '*premature*'. It is not the role of council officers or an Independent Investigator to pass judgment as to what is a serious political matter and as such, the speed and process a political leader chooses to use in response. Moreover, both you and the Independent Investigator do not acknowledge that my decision to remove Cllr Brett from her post was upon advice from yourself as Chief Monitoring officer that was '*you have the authority to remove and appoint Cabinet members as you see fit*'.

Central to any Cabinet Member's role is an understanding of the importance of collective decision making. Therefore, it was entirely reasonable for me to expect that Cllr Brett fully understood that her decision to walk out of a Cabinet meeting to avoid voting on a report was a deliberate act to break an agreed collective decision. I took the decision to remove Cllr Brett from her Cabinet post following a series of emails during which I provided the opportunity for Cllr Brett to apologise for her action which broke an agreed Cabinet and Labour Group decision. My decision to remove Cllr Brett from her Cabinet role was after I discussed the matter with the Labour Group Whip, whom is a Labour Group Officer.

Timeline leading to my decision to remove Cllr Brett from the Cabinet:

7pm Wednesday 14 <sup>th</sup> November	Cabinet meeting when Cllr Brett breaks an agreed collective political decision.
10am Thursday 15 <sup>th</sup> November	<p>I wrote to Cllr Brett expressing my concern about her decision and stated that:</p> <p><i>'I would like to give you the opportunity to meet and explain why you took the decision to break a collective position by Cabinet to support the NLWA plan, before I decide what the appropriate step is for me to ensure I protect the integrity of the Cabinet structure for this Labour Council.'</i></p>
12.02pm Friday 16 <sup>th</sup> November	Cllr Brett responds to my above email and states that she is not available to meet until the 19 <sup>th</sup> or 26 <sup>th</sup> November.
12.08pm Friday 16 <sup>th</sup> November	<p>I write to Cllr Brett:</p> <p><i>'Thank you for responding to me. I would prefer to meet you today, with Daniel and the Chief Whip. Given the severity of the matter, and that I first emailed you yesterday morning following the public Cabinet meeting on Wednesday 14<sup>th</sup> November, I do not think my request is unreasonable. The integrity of the Cabinet structure of this Labour Council has upmost importance in allowing us to effectively run the administration.</i></p> <p><i>The meeting I am requesting with you should also include Daniel, as he is Deputy Leader, and the Chief Whip. This is a Cabinet matter and therefore it is not appropriate for non-cabinet members to attend.</i></p> <p><i>I hope you are able to email me, Daniel and Ergin back today before 4pm to confirm what time you are able to meet. I am also very happy to receive your explanation via email if you prefer. If I do not receive a response today, I will be considering the appropriate steps I need to take.'</i></p>
1.18pm Friday 16 <sup>th</sup> November	<p>I wrote to Cllr Brett:</p> <p><i>'Dear Yasemin</i></p> <p><i>I am willing to receive a written apology from you today, before 4pm, addressed to Cabinet, for breaking an agreed position, as well as a commitment that you will not demonstrate such behaviour going forward (walking out of a public cabinet meeting in order to avoid voting on a report). I deem an adequate written statement from you necessary before the weekend, in order to show we have a strong Cabinet structure. I am unwilling to allow the situation to fester over the weekend.'</i></p>

	I did not receive a written apology address to the Cabinet.
13.33pm Friday 16 <sup>th</sup> November	<p>Cllr Brett responded to my above email:</p> <p><i>'Dear Nesil</i></p> <p><i>I am happy to meet with you Monday morning if my colleague Ayfer Orhan is able to join me.</i></p> <p><i>In addition, I am not aware of having broken any agreed Cabinet decision and apologise if this is how it is being perceived by all. This was not my intention. I hope to explain my actions with relevant information in full.'</i></p> <p>I felt that Cllr Brett's unwillingness to meet before the weekend and her clear lack of recognition that she had broken an agreed Cabinet position, despite having served in the Cabinet for many years and as a Labour Councillor for many more, demonstrated her complete disregard to her fellow Cabinet Members, Labour colleagues and the importance of collective responsibility. Her action was damaging to a Labour Council. I had already made it clear that I was expecting a written apology addressed to Cabinet, for breaking an agreed position, as well as a commitment from Cllr Brett that she would not demonstrate such behaviour going forward.</p>
4.02pm Friday 16 <sup>th</sup> November	<p>I wrote to Cllr Brett:</p> <p><i>'Dear Yasemin</i></p> <p><i>Sadly, since our public Cabinet Meeting on Wednesday evening you have not provided an adequate explanation to myself as Council Leader and Chair of Cabinet, as to why you took a decision to break the previously agreed collective position by Cabinet to support the NLWP. As I have previously said, the integrity of the Cabinet structure of this Council has upmost importance in allowing us to effectively run the Labour Administration.</i></p> <p><i>Unfortunately, you have left me with no choice but to suspend you from the Cabinet until we are able to meet, at which point I hope you will provide a full explanation and a willingness to demonstrate that you understand the way collective decision making works, and your role within that. I would also hope that you be able to reflect on how important it is to protect the integrity of the Cabinet structure for the Council and how your actions earlier this week, may well have been viewed by our political opponents.</i></p> <p><i>I will be informing Jeremy Chambers shortly via email. I do not intend to appoint anyone else to your position as Cabinet</i></p>

	<p><i>Portfolio Holder for Public Health; as I would hope to be able to reappoint you into your post within the next two weeks, once we've had the opportunity to discuss your actions and reflect upon them together.</i></p> <p><i>Regards,</i></p> <p><i>Nesil'</i></p>
<p>On Friday 16<sup>th</sup> November 4.07pm</p>	<p>I wrote to you, Jeremy Chambers:</p> <p><i>'Dear Jeremy</i></p> <p><i>I am writing to inform you that I am removing Cllr Yasemin Brett from her Cabinet post for Public Health from immediate effect.</i></p> <p><i>I will not be appointing anyone else to replace her. I intend to reappoint Cllr Brett within two weeks. In the meantime, I will take responsibility for the Public Health portfolio.</i></p> <p><i>Regards,</i></p> <p><i>Cllr Caliskan'</i></p>

Ms Woodhead states that *'Although Councillor Caliskan was entitled to select members of her Cabinet and remove them if she wishes, this was done in an inappropriate way'*. Neither the Independent Investigator's report or any of the letter from you and Ms Woodhead have provided an explanation as what constituted as *'inappropriate'* and why it constitutes as bullying. The series of emails in which Cllr Brett demonstrates a lack of willingness to provide an adequate apology to Cabinet member led to my decision to remove her from the Cabinet. You have been unable to explain what aspect of my emails were *'inappropriate'*. I would kindly ask that the Councillor Conduct Committee takes this into account when considering my appeal.

The manner of removing a Cabinet Member, whether it is by email or in person, is not detailed anywhere nor should it be a factor in the Councillor Code of Conduct which is not tended to govern the relationship between Cabinet Members. Nor should the Councillor Code of Conduct be allowed to dictate how the political Leader undertakes his or her relationship with Cabinet Members.

Ms Woodhead's letter states:

*"On balance, I concluded the decision was made using that power as a punishment, particularly since it was for a 2 week period."*

*"The power of a Leader to remove a Cabinet member usually used as a process to reallocate Portfolio responsibilities and managed in a timely way to ensure continuity."*

I am obliged to challenge the findings because it cannot be allowed to diminish the authority of the Leader of the Council to select his or her Cabinet, nor should it damage or dilute the expectation of any political party that Cabinet Members abide by collective responsibility. The purpose of removing a councillor from Cabinet is not just to change portfolios. It can be a

punishment and often is if that councillor cannot accept collective responsibility or is not conducting portfolio work in line with the overall political and strategic direction as set out by the Leader of the Council. Ms Woodhead is right to note that my decision to remove Cllr Brett from her cabinet position was with the intention to reoffer Cllr Brett the opportunity to once again serve in Cabinet after her punishment of two weeks, or before the two weeks was up if she apologised to cabinet colleagues for breaking an agreed position.

It is entirely inappropriate for council officers to pass political judgment as to what political issues or councillor conduct, such as breaking an agreed cabinet position, are serious enough to warrant political party discipline. Furthermore, your advice to me did not provide any caveats whatsoever about what the process of removing Cabinet Members is '*usually used*' for and nor can Ms Woodhead's opinion on this be retrospectively applied to this case.

#### Conduct of the meeting on the 19<sup>th</sup> November 2019

Please note, the meeting on the 19<sup>th</sup> November between myself, Cllr Brett, Cllr Erbil, Cllr Anderson and Cllr Orhan took place after I had removed Cllr Brett from the Cabinet. The meeting was held by me with the view of re-appointing Cllr Brett to the Cabinet if she was able to demonstrate to me that, having reflected on the matter, she understood the importance of collective decision-making. At this meeting Cllr Brett did not acknowledge that she understood she had broken an agreed Cabinet position; therefore, I was unwilling to appoint her back to the Cabinet any sooner than the 2 weeks I had already stated.

The Investigator's report does not state that my email correspondence in the lead up to removing Cllr Brett had breached a Code. Therefore, despite there being a distinct lack of detail as to what constitutes as to my '*behaviour*' being a breach of the Code, I can only conclude that it is my '*behaviour*' towards Cllr Brett at the meeting on the 19<sup>th</sup> November 2019, following my decision to remove her that is being judged. Therefore, it is unclear why you are asking me to apologise for removing a Cabinet Member when you did not conclude that the email correspondence between me and Cllr Brett that led to my decision to remove the Cabinet member breached the Code.

In her letter to you on the 28<sup>th</sup> June 2019, Ms Woodhead refers to 4.9 in her substantive report and the three individuals she interviewed which has influenced the conclusions of her report: Cllr Anderson, Cllr Orhan and Cllr Pite. It is unclear why Cllr Pite has been interviewed given she did not attend the meeting on the 19<sup>th</sup> November. It is also important for the Councillor Conduct Committee to be aware that Cllr Orhan has also been a complainant about my conduct at the meeting on the 19<sup>th</sup> November 2019. In relation to Cllr Orhan's complaint, Ms Woodhead did not find that I breached the Code of Conduct. I explained to the Investigator that I found Cllr Orhan's manner aggressive and intimidating during the meeting on the 19<sup>th</sup> November 2019. Orhan's behaviour was deliberately disruptive, which is an opinion I believe was shared and expressed by the Labour Group Whip who was present at the meeting.

Cllr Brett was present at this same meeting and refused to speak. I had no interaction with Cllr Brett during this meeting. It is curious therefore that Ms Woodhead was able to conclude that my '*behaviour*' at this meeting, in contrast to her judgment about the complaint from Cllr Orhan, breached the Code. Ms Woodhead's letter does not adequately articulate what exactly about my '*behaviour*' during this particular meeting she concluded constitutes as bullying and why she concluded a different judgement in relation to Cllr Orhan complaint about the exact same meeting.





**Guidance used by Independent investigator to inform conclusions are wholly inappropriate**

Ms Woodhead refers to the 'ACAS Code of Conduct'. This is entirely inappropriate as it is not a document of guidance for a political context. Furthermore, Ms Woodhead sites the following cases:

- Harvey v Ledbury Town Council [2018] EWCH 1151;
- Heesom v Public Services Ombudsman for Wales[2014] 4 AllER 269.

The cases cited are not relevant because they are dealt with councillor / officer disputes and not disputes between two Councillors of the same political party. Both these examples are cases of council officers making complaints against Councillors.

**Council's complain process used for political purposes**

You point out in your letter that I was entitled to seek the views of the independent person about the matter and was advised by you on the 4<sup>th</sup> February 2019. As my solicitor's letter points out, this was after your original letter to my on the 21<sup>st</sup> January 2019 in which you confirm that you had already decided to appoint an external investigator to consider the matter. Thus, you had already taken the decision, in consultation with the Council's Independent Persons, to appoint an external investigator. You did so without providing me with the opportunity to speak to the Council's Independent Persons. You state in your letter that the process did not involve seeking information from interested parties or gathering information. However, it is my strong opinion that had you have done so you would have been provided evidence to suggest that this matter was and had been dealt with by another independent complaints process. Indeed, Cllr Brett in November 2018 made the same complaint to both the local Labour Party and national Labour Party. Her local Labour Party considered a motion on this very complaint, which did not pass. It received press and social media attention – resulting in attacks on my character. Her complaint to the national party is still being considered. These complaints pre-date the complaint you received from Cllr Brett in January 2018 and therefore it is clear that the Council process has been used to gain more publicity for her attack on me.

Thank you for noting your disappointment that despite the fact you asked all those involved to respect the confidentiality of the process relating to this complaint, details about the investigation have been shared with the press and the complainant has been quote. This was done so despite the fact the appeal process has not yet been completed. It is further evidence in my view that the Councillor Complaint's procedure has been used to further a personal and political attack on me – the recent press coverage has now compounded the enduring smear campaign – the active participants of which are the complainant and the witnesses approached in the investigation.

As the letter from Mr Rahman states, there is no evidence that you in your position as Chief Monitoring Officer, on behalf of the Council, used your best endeavours to resolve this matter, which is a further breach in the process. You say in your letter to my solicitor that you did not think that a local settlement was appropriate or likely prior to an investigation, based on as you put it the '*nature of the allegations*'. It seems therefore you accept that you did not seek an informal resolution to the satisfaction of all parties before you appointed the Independent Investigator and made your recommendations following the Ms Woodhead's report.

I am unsurprised that both you and Ms Woodhead continue to hold the opinion that the Council Procedures do not have flaws. However, given that you have previously expressed concern

over the robustness of the Council's Constitution which I understand you have been carrying a review of over the past 12 months, I would like to formally request that you also seek the opinion of another independent person in relation to our Council Procedures with the view of proposing any amendments if necessary, alongside changes to the Council Constitution. I am content for this work to be completed after my appeal's process has been completed.

### **Use of Council resources**

Finally, I am aware that over the last few months that as Chief Monitoring Officer you have had to oversee a complaints procedure that councillors have attempted to use for their own politically motivated attack of councillors. I can imagine this has created additional and unnecessary pressure of you and your team, as well as a cost to the Council during what are extremely difficult budgetary constraints. It saddens me that tax payers' money is being wasted in this way. I look forward to the Councillor Conduct Committee hearing the appeal and bringing this matter to a close.

I would like this case to conclude as soon as possible and for the appeal meeting of the Councillor Conduct Committee to be scheduled before the August summer period begins. I am happy to attend the appeal and answer any questions Committee Members might have.

Regards

Cllr Nesil Caliskan

# Appendix C

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Councillor N Caliskan

Via email

Please reply to: Jeremy Chambers  
(See below)

E-mail: [jeremy.chambers@enfield.gov.uk](mailto:jeremy.chambers@enfield.gov.uk)

Phone: 0208 379 4799

Textphone:

Fax:

My Ref:

Your Ref:

Date: 26 July 2019

Dear Councillor Caliskan

### **Code of Conduct Complaint – Councillor Brett**

Thank you for your letter dated 16 June and for clarifying your views about the findings in the investigation. I thought it would be helpful if I replied to the specific points you are making so that the appeal hearing can have as much information as possible in advance of the hearing and so that we are both clear on the key issues which will need to be considered. I will reply to the points you make in the order set out in your letter.

Please can you confirm whether your solicitors are still acting for you in this matter and whether you want me to also correspond with them? I need to be clear about this so that I comply with professional rules about corresponding directly with you when you have instructed lawyers.

I note your view that this was a party disciplinary matter and as such inappropriate for consideration under the Code of Conduct. As I have said previously, I am of the view that the Council Code of Conduct applies to the complaint and therefore needs to be dealt with in accordance with the procedures in the Code. The complaint was about decisions you made in your role as a Councillor and raised serious issues about behaviour which is contrary to the Code of Conduct.

I confirm that all correspondence will be provided to the Conduct Committee and will also published in advance of the meeting in the usual way.

No rationale or example provided to explain investigations judgment for bullying

The rationale for the conclusions reached by Mrs Woodhead and my decision based on her report have been set out in the previous correspondence and can be examined in further detail at the appeal hearing. I agree with your view that the decision to remove Councillor Brett as a Cabinet member and also the process for doing so are the key issues.

My decision to remove the Cabinet Member

I note the points you make and have already commented on this in my previous letter. I have always acknowledged that you have the right to remove a Cabinet member and confirm I have advised you about that generally on previous occasions. You refer in your timeline to your email on 16<sup>th</sup> November at 4.07pm where you informed me that you intended to remove Councillor Brett from her Cabinet role. Prior to the email you sent me "WhatsApp" messages asking if I was available to advise you on the process for removing a Cabinet member. I replied to explain that you needed to let the Councillor know but there was no need (although it would be good practice) to inform Cabinet. I also replied to your email at 4.30pm to confirm that the appropriate practical steps would be taken to change the website. I also wrote to Councillor Brett to confirm this and that her special responsibility allowance would be removed. The matter was therefore inevitably in the public domain and was a factor in the decisions about whether there was a breach of the Code of Conduct.

Your points about the rationale for your decision are clearly set out and noted. These were taken account of by Mrs Woodhead and by me in making my decision. Thank you for setting out a timeline which led to your decision. Mrs Woodhead has confirmed that you and other Councillors helpfully provided the details you refer to during the investigation and that she was aware of the sequence of events when she considered the matter. Mrs Woodhead has confirmed that she found it understandable that you were keen to meet at an early stage with Councillor Brett; she did not think that Councillor Brett was being deliberately evasive about setting a time for the meeting. Mrs Woodhead took account of the fact that Councillor Brett offered to apologise in her email at 13.33pm on 16 November and concluded that continuing to send emails which did not acknowledge the apology together with the general tone of those emails could amount to bullying behaviour. Mrs Woodhead will be able to comment further on her views about this at the appeal hearing.

I do not agree with the point you make about the Councillor Code of Conduct not being “ [in] tended to govern the relationship between Cabinet members.” The Code of Conduct applies to and regulates the behaviour and actions of all Councillors.

I note your challenge to the view of Mrs Woodhead that using the power to remove a Cabinet member as a punishment is inappropriate because it has the potential to diminish the role of the Leader and the need to abide by collective responsibility. I do not agree with the point you make because the way in which you exercise that power as Leader and as a Councillor do fall within the Code of Conduct. If the power is exercised in an aggressive manner (albeit through understandable frustrations or concerns) that is conduct which can be seen as bullying.

I do not agree with your view that I was “passing political judgment” and have not made any decisions about party disciplinary matters. As Monitoring Officer, I have a legal responsibility to deal with complaints.

I am grateful that in the penultimate paragraph of your letter that you recognise the pressure the team and I have been under in dealing with the increase in investigations in the last year. I do feel however that I need to draw your attention to something that I consider is missing in your letter, which I need to have a response to. One of the final statements of your solicitor’s letter of 16<sup>th</sup> June 2019, is to ask me to” discontinue using Council resources for political purposes.” I must take issue with this and ask for a written retraction of that statement because as it stands it is a serious attack on my professional integrity. As a Solicitor, and more importantly as the statutory Monitoring Officer, the ability to remain impartial underpins my role and any suggestion that I am not impartial could have serious professional consequences for me. I would be grateful therefore if you, or your solicitor would retract this statement and any suggestion that I lack impartiality in my role.

Yours sincerely



Jeremy Chambers  
**Director of Law & Governance**  
**Monitoring Officer**

**IMPORTANT** - Enfield residents should register for an online Enfield Connected account. Enfield Connected puts many Council services in one place, speeds up your payments and saves you time - to set up your account today go to **[www.enfield.gov.uk/connected](http://www.enfield.gov.uk/connected)**



**Private and Confidential**

Mr Jeremy Chambers  
Enfield Council  
Civic Centre  
Silver Street  
Enfield  
EN1 3XY

**Date:** 28 June 2019

**Your ref:**

**Our ref:** WOODHEFZ\075727-New

**Direct:**

**Email:** franceswoodhead@eversheds-sutherland.com

Dear Mr Chambers,

**Re – Appeal by Councillor Caliskan in respect of complaint of Councillor Brett.  
Strictly Confidential and Legally Privileged**

Thank you for letting me know that Councillor Caliskan has appealed against your decision that there was a breach of the Councillor Code of Conduct following my investigation. I have read the complaint form dated 21 June 2019 and the accompanying documents, including your decision letter, a letter from Rahman and Lowe dated 21 June 2019 and the supporting letters in Appendix 3 of the complaint.

I thought it would be helpful if I set out my comments on the appeal form and the letter from Rahman and Lowe so that you can respond to that as part of your considerations about the issues set out in the letter and to clarify understanding in advance of the appeal hearing. I will use the headings in the appeal form and letter to try and make the points easy to follow:-

**Flawed Procedures and process not followed in line with national legislation.**

I have read the Council's procedures for handling complaints against councillors and these are consistent with the requirements in the Localism Act 2011. A particular point is made about the lack of opportunity for Councillor Caliskan to consult with the independent person prior to any decision to investigate. Section 28(7) of the Localism Act 2011 requires the Council to consult the independent person before making a decision about an allegation it has decided to investigate. There is a discretion for the Council to consult the independent person in other circumstances. This often includes general matters or discussion about decisions whether or not a matter should be investigated, as in this case. The decision about whether or not a matter is investigated is for the Monitoring Officer after any consultation. The process is not an initial or preliminary hearing where wider views are considered or comments sought from the individual complained about.

Section 28(7) of the Localism Act 2011 also provides that a member who is complained about may also seek the views of the independent person. The usual process for dealing with this is for a second independent person to offer views, not the independent person who is consulted by the Monitoring Officer. This is to ensure that the integrity of the process is preserved.

**The Investigation is fundamentally flawed.**

There is a concern expressed in the appeal and letter that interviews were only conducted with individuals who were long standing opponents to Councillor Caliskan and that this

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indicates bias. Councillor Caliskan raised this concern with me during the interview process and it was also evident from the documents I was given and the interviews I undertook. This influenced my decision about a number of the complaints which alleged bullying and in respect of which I concluded there had not been a breach of the Code of Conduct, as set out in paragraph 8 of my report. I considered the broad allegations of bullying separately from the allegation about removal of Councillor Brett as a Cabinet member. It was in respect of those general alleged incidents where interviews with others may have assisted, not in respect of the incident where I found there was a breach of the Code. Furthermore, I had sight of email correspondence which gave a picture of the wider context about the general allegations and views of other councillors, for example Councillor Keazor.

In respect of the complaint about the decision to remove Councillor Brett from her Cabinet role, I interviewed those involved in the meetings, you in respect of the advice you gave and the Chief Whip. My decision was made after careful consideration of all the relevant information, mindful of the context and background as well as usual practice in local authorities.

**No rationale or example provided to explain investigations judgement for bullying.**

I gave very careful consideration to the allegation of bullying in respect of Councillor Caliskan's decision to remove Councillor Brett as a Cabinet member. The following particular factors were taken into account: -

- There is no legal definition of bullying and each case is considered on its own facts.
- I have reflected upon some of the examples given in an employment law context and considered the definition of bullying in the ACAS Code of Conduct and also where it has been referred to in cases under the Localism Act 2011.
- I was mindful of the provisions in the Localism Act 2011 which require the Council to have a Code of Conduct which reflects the requirement to promote and maintain high standards of conduct and in particular the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, set out in Section 28 of the Localism Act 2011. These are referred to in the Code of Conduct for Enfield Council, together with other requirements, including an expectation that there is respect for others, not to bully others, a duty to uphold the law, ensuring conduct maintains and strengthens public trust and confidence and not bringing the Council into disrepute.
- I considered relevant caselaw where the Localism Act has been applied, including the following cases: -
  - Harvey v Ledbury Town Council [2018] EWCH 1151;
  - Heesom v Public Services Ombudsman for Wales[2014] 4 AllER 269.
- I considered the specific allegation of bullying in respect of the decision and actions to remove Councillor Brett from her Cabinet role and whether that was beyond what it was reasonable for Councillor Brett to tolerate and concluded it was.
- I found Councillor Brett and other witnesses credible in their account and have summarised the information provided and which I found highly persuasive in section 4.9 of my report.
- That although Councillor Caliskan was entitled to select members of her Cabinet and remove them if she wished, this was done in an inappropriate way.
- I noted the way Councillor Brett described how she was treated, which she identified as bullying behaviour.

- Other witnesses to the incident described it in a similar way.
- I was satisfied that Councillor Brett was subjected to unwelcome, unwarranted treatment which caused a detrimental effect to her.
- As Leader, Councillor Caliskan is in a position of authority and power and I concluded on balance that she had abused that power which humiliated and caused distress to Councillor Brett.
- I took account of the statement by the Leader of the Council that she decided to remove Councillor Brett from Cabinet because she refused to offer a satisfactory apology for declaring an interest at a recent Cabinet meeting.
- Councillor Caliskan did not acknowledge that Councillor Brett may have felt bullied or distressed and referred to feeling she had no choice within the powers she had as Leader of the Council. Councillor Caliskan also referred to the decision as "suspension" which has connotations of disciplinary action being taken and is also not consistent with the way the power is described in the legislation.
- On balance, I concluded the decision was made using that power as a punishment, particularly since it was for a 2 week period.
- The power of a Leader to remove a Cabinet member usually used as a process to reallocate Portfolio responsibilities and managed in a timely way to ensure continuity.

#### **Biased Investigation – Selection of Witnesses.**

I spoke to all relevant witnesses in respect of the decision to remove Councillor Brett from her role as Cabinet member. As well as speaking to Councillor Caliskan, Councillor Brett, Councillor Orhan, Councillor Anderson and Councillor Pite, I spoke to Councillor Erbil, the Chief Whip and Mr Jeremy Chambers, the Council's Monitoring Officer. As Whip, Councillor Erbil was independent as was Mr Jeremy Chambers in his role and Monitoring Officer. These were all individuals involved in the meeting and events which led to the decision by Councillor Caliskan to remove Councillor Brett from her Cabinet role. I accepted the point made by Councillor Caliskan that her view was that she felt the actions of Councillor Brett were politically motivated and a smear campaign. I accepted the view of Mr Jeremy Chambers that a councillor is entitled to declare an interest in a matter and also that it is not usual for councillors to decide not to vote on a matter which is sensitive to their locality or a matter of concern in principle to them. I also accepted Mr Jeremy Chambers view that whether or not a councillor has an interest in a matter is something for them to decide as individuals, rather than something to be prescribed by others.

There was no need to interview others to say that the actions of Councillor Brett were politically motivated and a smear campaign. I was well aware of that general view but did not agree that this possibility justified the behaviour of Councillor Caliskan.

I was provided with email correspondence from Councillor Keazor which influenced my decision that the other allegations of bullying referred to in paragraph 4.8 of my report were unfounded. The way Councillor Caliskan behaved in the removal of Councillor Brett's Cabinet role was evidenced by those present at the meetings and involved in the decision making. There was no need to interview any other councillors who could not provide relevant evidence about that.

I do not accept that my investigation was biased or flawed and I was well aware of the political context for the complaints. I have over 30 years' experience in local government, having worked as a Monitoring Officer in a large Council as well as advising Council's nationally on governance and standard issues. My report was written in the hope that this matter could be dealt with in a spirit of compromise with goodwill on both the part of Councillor Caliskan and Councillor Brett. The suggested mediation and apology process

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would amount to an informal resolution of this matter which could form part of the record of the decision making.

**Frances Woodhead**

*Consultant*

For Eversheds Sutherland (International) LLP  
07710 478838

# Appendix D

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## London Borough of Enfield

### **Procedure for Hearing Complaints against Councillors and Co-opted Members and for Appeals against Monitoring Officer Decisions on Complaints**

#### **1. General Principles**

- 1.1 The Councillor Conduct Committee will decide, on a balance of probabilities, whether the allegation(s) is or are upheld. They will be able to call on the advice of relevant council officers and the Independent Person, who had not previously been consulted on the complaint. (where we have two independent persons)
- 1.2 Papers will be sent out in advance of the hearing, including the Monitoring Officer/Investigating Officer report with all the evidence gathered, and representations from both the complainant and the member complained against. They will both have the opportunity to comment, in advance, on the report and evidence put forward. Any comments will be provided for the committee in advance of the meeting.
- 1.3 The Committee will make a decision by considering the Monitoring Officer/Investigating officer's report and any representations by the Monitoring/Investigating officer or their representative and the written representations made by the complainant or member complained against, and any information provided at a hearing. Both parties will have the opportunity to make written representations, irrespective of whether they are invited to attend the hearing.
- 1.4 There will be no requirement for either the complainant or the member(s) complained against, to attend committee hearings unless the committee decides otherwise. All parties will be advised of this beforehand.
- 1.5 If the Committee does decide to invite them to attend, the complainant and the member complained against may be accompanied during the investigation hearing.
- 1.6 The public and press will be excluded for those parts of the hearing where confidential or exempt information under Schedule 12A of the Local Government Act 1972, as amended, is disclosed. At the start of the hearing, the Committee will make a decision as to whether or not all or part of the hearing should be held in public.

#### **2. Procedure at Investigation Hearings**

The Legal Representative will be the advisor to the Committee and may seek further information or ask questions at any point in these proceedings. During

the hearing all questions and other proceedings shall be addressed through the chair.

## **2.1 Presentation of the Monitoring Officer Report**

- a. The Monitoring/Investigating Officer will present his/her report and any relevant information to the committee members.
- b. The Independent Person, who has been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of the Monitoring Officer and the Independent Person.

## **2.2 If the Complainant and Member Complained Against are Invited to Attend the Hearing**

- a. The Committee will consider the merits of each case, individually, when deciding if they feel it is necessary to invite the complainant and member complained about to attend the hearing.
- b. If the Committee require the attendance of the member complained against and complainant, they will specify the reasons for their attendance in advance.
- c. In these cases the chair will decide how to manage any contributions to be made at the meeting, including any representations and make this clear to all present at the beginning of the meeting.

## **2.3 Consideration of the Outcome**

- a. The Monitoring/Investigating Officer, Independent Person and any other relevant parties will all withdraw. The Legal Representative and Committee Administrator will remain.
- b. The Committee will consider all the information and make a decision as to whether or not there has been a breach of the code of conduct.
- c. If it is decided that there had been a breach of the code, the Committee will then consider and agree what sanctions should be imposed. A list of possible sanctions is set out in Appendix A.

## **2.4 Outcome of the Hearing**

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the hearing.



## **2.5 General Recommendations from the Hearing**

After the hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

## **3. Procedure at an Appeal Hearing Against a Decision by the Monitoring Officer**

The attendance of the complainant and member complained against will not be required unless the Committee decides otherwise.

### **3.1 Presentation of the Monitoring Officer Report**

- a. The Monitoring/Investigating Officer will present his report and any other information to the committee members along with any comments submitted in writing by the complainant or member(s) complained against.
- b. The Independent Person, who had been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of both the Monitoring Officer and the Independent Person.

### **3.2 Consideration of the Evidence**

- a. The Monitoring/Investigating Officer and Independent Person will then withdraw. The Legal Representative and Committee Administrator will remain in the appeal hearing.
- b. The Committee will consider all the information and make a decision as to whether or not to uphold the Monitoring/Investigating Officer decision.

### **3.3 Agree Outcome**

If the outcome of the appeal results in Committee confirming that a breach of the code has occurred then it will need to consider what sanctions it wishes to impose as a result. A list of sanctions is attached as Appendix A.

### **3.4 Outcome of Hearing**

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the appeal hearing.

### **3.5 General Recommendations from the Hearing**

After the appeal hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

## Appendix A

In the event of a finding of a breach of the Code, the Committee will have the option of recommending a sanction against the member concerned. This can include:

- Reporting the findings to full Council.
- Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member.
- Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities.
- Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access.
- Excluding the member from the Council's offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member.
- Publishing the findings in the local media.

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**COUNCILLOR CONDUCT COMMITTEE - 3.7.2019****MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE  
HELD ON WEDNESDAY, 3 JULY 2019****COUNCILLORS**

**PRESENT** Ergin Erbil, Glynis Vince, Christine Hamilton and Elaine Hayward

**OFFICERS:** Jeremy Chambers (Director of Law and Governance) and Jayne Middleton-Albooye (Head of Legal Services) Penelope Williams (Secretary)

**1  
WELCOME AND APOLOGIES**

The Chair welcomed everyone to the meeting. There were no apologies.

**2  
SUBSTITUTIONS**

There were no substitutions.

**3  
DECLARATION OF INTERESTS**

There were no declarations of interest.

**4  
INDEPENDENT PERSON - EXTENSION OF TERM OF APPOINTMENT**

The Committee received a report from Jeremy Chambers (Monitoring Officer and Director of Law and Governance) on the extension of Christine Chamberlain's term of appointment as an Independent Person. (Report No: 55)

**NOTED**

1. Jeremy Chambers' advice to members that Christine Chamberlain had served the council well and that he felt that this was not a good time to make changes.
2. Christine Chamberlain had indicated that she was willing to continue in the role.
3. That the report had been included on the agenda for consideration at the 10 July 2019 Council meeting.

### **COUNCILLOR CONDUCT COMMITTEE - 3.7.2019**

**AGREED** unanimously to recommend to full Council that Christine Chamberlain's term of appointment, as Independent Person, be extended by two years to 30 June 2021.

## **5**

### **ANNUAL REPORT 2018/19**

The Committee received a draft copy of the Councillor Conduct Committee Annual Report for 2018/19.

NOTED

1. That Jeremy Chambers advised members that the report was short and informative covering the committee's work over the preceding year, including details of the two appeal hearings.
2. That the report had been included on the agenda for consideration at the 10 July 2019 Council meeting.
3. The number of complaints considered would be included and circulated to members of the committee after the meeting.
4. It was likely that there would be further hearings in the current year.

**AGREED** to accept the report as the Annual Report of the Councillor Conduct Committee for 2018/19.

## **6**

### **DISPENSATIONS**

NOTED

1. That no additional dispensations had been granted in 2018/19.
2. Members were advised that all councillors had a statutory dispensation allowing them to vote on setting of the Council Tax and Council housing rents.

## **7**

### **UPDATE ON COMPLAINTS**

Members received a brief report of complaints currently under consideration.

NOTED

1. Only a brief outline had been provided, so as not to prejudice any outcome, if the committee were asked to hear the complaint or an appeal at a later date.
2. The first complaint concerning the alleged disclosure of confidential information had been discussed with Sarah Jewell as Independent Person and was being investigated.
3. The second complaint concerning social media postings had been discussed with Sarah Jewell as Independent Person and further action was being considered.
4. The third complaint concerning non-attendance at meetings had been investigated internally and no breach found.

**COUNCILLOR CONDUCT COMMITTEE - 3.7.2019**

5. It was acknowledged that this complaint had taken a long time to be resolved. The aim was that all complaints should be resolved within 3 months, but these were often complicated issues and could take a long time to thoroughly investigate.
6. The fourth complaint concerned failure to treat with respect and bullying. An external investigation had been carried out, a breach of the code of conduct found, and an appeal lodged. An appeal hearing of the committee was to be arranged.
7. Complaints 5 and 8 concerned failure to treat with respect and bullying. Further detail was awaited on the fifth complaint and the eighth complaint had been considered by Sarah Jewell and would be investigated.
8. The sixth complaint concerned failure to treat with respect and bullying and equalities duties. The complaint had been investigated, partially upheld and the councillor been asked to apologise to full Council. It had taken a long time due to failure of the councillor to fully engage with the process.
9. The seventh complaint concerning a failure of openness, honesty, respect and the duty to uphold the law was being investigated.
10. The ninth complaint concerning media comments had been closed following an initial determination.
11. The tenth complaint concerning failure to uphold the law by interfering in the scrutiny process had been investigated and partially upheld. An apology was to be sent to the complainant. The matter is now closed, as no appeal had been received.
12. The eleventh complaint concerned an alleged inappropriate intervention in a planning matter. An investigation was being carried out and would be speeded up.
13. The twelfth complaint concerning various matters including failure to treat with respect had been investigated, no breach found, no appeal received and so the matter had been closed.
14. The thirteenth complaint concerning alleged failure to treat with respect, bullying, intimidation, compromises to impartiality, conferring disadvantage and disrespect was being investigated externally.
15. The fourteenth complaint concerning comments on facebook had been closed following initial determination.
16. The fifteenth complaint concerning failure to treat with respect, discourteous behaviour and bullying had been closed following initial determination.
17. Concern from Councillor Hamilton that as several of the complaints concerned internal political matters she felt that they should have been dealt with within the political group and not have been brought to the Councillor Conduct Committee.
18. The advice that although political groups had their own rules and procedures, if the Monitoring Officer received a complaint about a councillor, he had a duty to follow the complaint process.
19. Some of the complaints had been discussed in public by members but the Council had not and would not make public comments on these issues.

**COUNCILLOR CONDUCT COMMITTEE - 3.7.2019**

20. When considering breaches of the code of conduct, consideration had to be given as to whether the councillor, when the incident took place, had been acting in their capacity as a councillor.
21. The process for considering complaints involved initial determination, consultation with the independent person, if judged serious, an investigation would be undertaken and a decision made on whether or not a breach of the councillor code of conduct had occurred.
22. Sarah Jewell made clear that she was not related to Councillor Rick Jewell.
23. Officers aimed to carry out as many investigations as possible in house. Only serious complaints were investigated externally. Hiring external investigators involved extra costs, but the Council had to provide the necessary resources to ensure complaints were investigated appropriately.
24. Councillor Christine Hamilton suggested that a process should be developed whereby complaints were considered informally by the political groups before being referred to the Councillor Conduct Committee.

**AGREED** to note the information provided on complaints currently under consideration.

**8**

**WORK PROGRAMME 2019/20**

The Committee received a draft copy of the work programme for 2019/20.

**NOTED**

1. Jeremy Chambers advised that he wanted to add two items to the work programme for the October meeting: a detailed training programme and a briefing on a recent report from the Committee in Standards in Public Life on local council standard's regimes.
2. The new proposals from the Committee in Standards in Public Life report included assuming that a councillor was acting in his official capacity unless he could prove otherwise and bringing in a sanction, which had existed under the pre 2012 Standard's regime, that a councillor could be suspended for 6 months for breaches of the code of conduct.
3. Reserve members would be invited to any training.
4. A social media training session had been held for all councillors on the preceding Monday. This had been poorly attended and it was felt had not included enough information on how members should conduct themselves on social media.
5. It was suggested that a short video on social media conduct should be produced which could be included on the Members Portal. Jayne Middleton-Albooye and Jeremy Chambers also agreed to provide a session for members of each group at future group meetings.



**COUNCILLOR CONDUCT COMMITTEE - 3.7.2019**

**9**

**MINUTES OF THE MEETING HELD ON 11 DECEMBER 2018**

The minutes of the meeting held on 11 December 2019 were approved subject to the amendment to the following sentence: Councillor Erbil clarified that he was not related to any of the four councillors in the second appeal case “as Councillor Vince had indicated that Councillor Erbil had no need to declare an interest. This was purely for clarity to prevent any possible future misunderstanding”. (Minute 888 Declarations of Interest).

**10**

**DATES OF FUTURE MEETINGS**

**AGREED** to note the dates agreed for future meetings:

- Wednesday 4 December 2019
- Tuesday 3 March 2020

The October meeting date would be re-arranged.

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