

**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE  
HELD ON WEDNESDAY, 30 APRIL 2014**

**COUNCILLORS**

**PRESENT** Tom Waterhouse (Vice Chair), Tahsin Ibrahim, Michael Rye OBE and Derek Levy and Christine Chamberlain (Independent Person)

**ABSENT** Yasemin Brett

**OFFICERS** John Austin (Monitoring Officer), Asmat Hussain (Assistant Director Legal Services) Jill Bayley (Principal Lawyer) Penelope Williams (Committee Secretary)

**Also Attending:** One member of the press.

**996**

**WELCOME AND APOLOGIES**

In the absence of the Chair, the Vice Chair, Councillor Tom Waterhouse chaired the meeting.

The Monitoring Officer reported that Councillor Yasemin Brett had advised him that she was unable to attend the meeting due to a family funeral and that she had nominated a substitute, Councillor Levy, to attend in her place.

**997**

**DECLARATIONS OF INTEREST AND ORDER OF THE AGENDA**

Councillor Waterhouse declared an interest in item 5 on the part 1 agenda and item 13 on the part 2 agenda as he had been involved in the Group investigation into the behaviour of the councillor, who had been subject to the complaint which was to be considered under these items. He left the meeting room when these items were discussed and took no part in the discussion.

**AGREED** that items 5 and 13 would be considered at the end of each part of the meeting on account of Councillor Waterhouse's declaration of interest.

The minutes reflect the order of the items as they were considered at the meeting.

Councillor Ibrahim was appointed chair by the committee in place of Councillor Waterhouse for items 5 and 13.

**998**

**PRE AND POST ELECTION ARRANGEMENTS**

## **COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

John Austin, Monitoring Officer, presented a report which had been discussed at the Corporate Management Board and at the Member and Democratic Services Group setting out the arrangements for members' induction pre and post elections.

He highlighted the following from the report:

- A pre-election event which had been arranged for all prospective candidates had been well received.
- A session for all councillors on the roles and responsibilities of members including the importance of the Councillor Code of Conduct had been set up for 5 June 2014. The Labour Group had also asked John to attend a group meeting to talk about these issues. He indicated that he would also be happy to attend a Conservative Group meeting if asked.
- The session would also focus on the Member/Officer Protocol and include some case studies, exploring issues that could have been handled better.
- There would also be a general introductory session about the Council and the Borough of Enfield as well as a tour of the Borough on 7 June 2014.
- Special training for members appointed to the planning, licensing, audit and councillor conduct committees would be held.
- The Council was also in the process of agreeing an e-learning package, designed specifically for members, and setting up a members' portal which would include useful information about the council which they could access as needed.
- All members would be issued with new IT devices, primarily an Ipad and a smart phone. The use of these devices had been piloted among existing members and proved popular. Initial IT training would be provided, with more tailor made training available as required.
- These provisions had been agreed by the Member and Democratic Services Group.

### **Question/Comments**

1. Councillor Levy raised the fact that a Licensing Sub Committee had been scheduled for 18 June and that the training had not been organised until the evening of that day. John Austin agreed to consider this and would ensure that members attending that meeting would be trained beforehand.

**Post Meeting Note:** The Licensing Sub Committee meeting originally scheduled for 18 June 2014 had now been rearranged to allow for member training.

2. Provision for those with visual impairments would be considered.

**999**

**REVIEW OF TERMS OF REFERENCE**

The Committee received a copy of the Committee's Terms of Reference.

NOTED

1. The Terms of Reference had been added to the agenda to enable the retiring committee to consider any changes that they thought might be necessary.
2. Members suggested that the terms of reference should make clear that the two opposition members of the committee would need to be drawn from either the minority party or parties depending on the outcome of the future elections.
3. No further comments were received.

**AGREED** that the clarification in wording relating to membership of the committee in the Terms of Reference be referred on to Council for formal adoption.

**1000**

**UPDATE ON OTHER COMPLAINTS RECEIVED**

John Austin, Monitoring Officer, informed members that he was currently investigating four complaints against councillors. Further detailed information on the complaints was notified to the committee in the Part 2 section of the meeting. (Min 1010 refers).

**1001**

**INDEPENDENT PERSON RECRUITMENT**

NOTED

1. The position of Independent Person had been advertised in Our Enfield and on the Council website.
2. The closing date for applications was 28 April 2014.
3. Ten applications had been received.

## **COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

4. Officers would shortlist against the criteria, in the person specification, in order to produce a list for interview and send those details to members for their consideration.

### **1002 ANNUAL REPORT 2013/14**

The Committee received a draft copy of the Annual Report for 2013/14.

#### **AGREED**

1. That the report represented a fair and accurate summary of the work of the Committee in 2013/14.
2. To recommend the report on to Council.

### **1003 WORK PROGRAMME 2013/4**

The Committee reviewed the work programme for 2013/14.

**AGREED** that it was useful to have a work programme and that the Committee would recommend that this practice should continue next year.

### **1004 MINUTES OF THE MEETING HELD ON 3 FEBRUARY 2014**

The minutes of the meeting held on 3 February 2014 were agreed as a correct record.

### **1005 DATES OF FUTURE MEETINGS**

**NOTED** that dates for future meetings will be agreed at full Council on 11 June 2014, after the local council elections.

### **1006 INVESTIGATION OF A COMPLAINT AGAINST A COUNCILLOR**

As Councillor Waterhouse had declared an interest in this item he withdrew from the meeting at this point and did not take part in the discussion.

In Councillor Waterhouse's absence Councillor Ibrahim was appointed Chair for this item.

Councillor Rye made a statement regarding the case:

"Members will be aware that the councillor, under investigation, has been subject to disciplinary action by both the Conservative Group and the Conservative Party.

## COUNCILLOR CONDUCT COMMITTEE - 30.4.2014

I attended the relevant group meetings and was part of the decision making in relation to the Conservative Group's disciplinary process which was determined by secret ballot based upon three possible options. I took no action in relation to the Conservative Party's disciplinary process.

Whilst the subject matter on tonight's agenda is clearly related, I regard the specific issues within the investigating officer's report to be sufficiently different to enable me to take part in the discussion with an open mind and to comment on the basis of the facts before me this evening. Whilst feeling able to participate in the discussion, I will be abstaining from the vote in the interests of fairness and transparency and to remove any possible feeling of bias or predetermination."

John Austin presented his report on the complaint to members, highlighting the following:

- Two complaints against the councillor were received in December 2012 and were referred to the Councillor Conduct Committee meeting in February 2013.
- As the complaint had been referred to the police, it was agreed that the case should be put on hold pending the final decision on any criminal prosecution by the Crown Prosecution Service.
- In February 2014, the Committee was advised that the Crown Prosecution Service had decided not to take any further action and members agreed that the complaint should be should be investigated.
- Because of his previous involvement, the Monitoring Officer asked Jill Bayley, one of the Council's principal lawyers, to carry out an investigation. Her report was due to be considered in part 2 of the meeting, with members asked to decide whether or not the Councillor had breached the Councillor Code of Conduct. (Min ??? Refers)

Ruth Mckee, from the Enfield Advertiser, said that she thought that the case should be considered in public. She felt that as the matter was already public and had been widely discussed, there was no fear of prejudicing the case and that it was therefore in the public interest that the hearing be held in public.

Asmat Hussain, Assistant Director Legal Services, advised that there were some aspects of the case which were not in the public domain, that the issues being discussed involved personal data belonging to individuals and therefore it was not appropriate that it should be held in public. The public interest test did not override the need for confidentiality, as the identities of the complainants could be disclosed.

The outcome of the complaint would be made public although due to election purdah restrictions, this would not be until after the Local Government Elections on 22 May 2014.

**1007**

**CHAIR OF THE MEETING**

At this stage in the proceedings, Councillor Waterhouse returned to the meeting and took over the chair.

**1008**

**EXCLUSION OF PRESS AND PUBLIC**

**AGREED** to pass a resolution under Section 100A (4) of the Local Government Act 1972 to exclude the press and public from the meeting for the items of business listed on part 2 of the agenda on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 (information relating to an individual) and Paragraph 2 (information likely to reveal the identity of an individual) of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

**1009**

**COMPLAINT AGAINST A COUNCILLOR**

This report was withdrawn on the advice of the Monitoring Officer following consultation with the Independent Person due to purdah restrictions as the members involved were all candidates in the forthcoming local council elections.

**1010**

**UPDATE ON OTHER COMPLAINTS RECEIVED**

John Austin, Monitoring Officer, updated the Committee on the four complaints which were currently under consideration.

1. One complaint had been received against all 63 councillors. This had been investigated and no breaches of the code of conduct found.
2. One complaint had been received against a councillor alleging that they had failed to respond to a residents query. This was under investigation.
3. One complaint had been received regarding a statement in an election leaflet. This was being investigated.
4. The final complaint related to the previous item which members were advised would be reported to the first meeting of the committee after the local elections on 22 May 2014 (Min 1000 refers).

**1011**

**INVESTIGATION OF A COMPLAINT AGAINST A COUNCILLOR**

## COUNCILLOR CONDUCT COMMITTEE - 30.4.2014

At this stage Councillor Waterhouse left the meeting and did not take part in the discussion or decision.

Councillor Ibrahim was appointed Chair in his place.

The Committee received the report of the Investigating Officer presenting the outcome of an investigation into a complaint against a councillor relating to an alleged breach of the Councillor Code of Conduct. This included representations from the complainants and the councillor complained against.

### NOTED

1. The hearing was conducted in accordance with the hearings procedure adopted by the Committee.
2. The presentation of the Investigating Officer's report.
3. The findings within the independent investigation undertaken by Jill Bayley, Principal Lawyer, on behalf of the Monitoring Officer into the complaint. This was presented by Jill Bayley.
4. The questions put forward by members and the responses from Jill Bayley.
5. The comments of Christine Chamberlain, the Independent Person, on the findings arising from the Independent Investigation.

John Austin, Jill Bayley and Christine Chamberlain, left the meeting at this point and took no part in the committee's deliberations.

Asmat Hussain, Assistant Director Legal Services, advised members of relevant case law in this area.

Members considered all the available information, including the investigating officer's report, the independent person's comments, case law, representations from the complainant and the councillor.

**AGREED** based on the outcomes of the investigation and the comments made at the meeting:

1. That the Councillor had been acting in his capacity as a councillor when he placed the images and wrote the comments provided as images 6, 13, 15, 16, 17 on his facebook page.

The Committee felt that as a councillor he should have been aware that the issues under discussion were politically sensitive, and that people would have known that he was a councillor and would have perceived him to be acting within his role as a councillor. Members felt that it was not possible to differentiate between his views in a private capacity and his activities in his role as a councillor.

2. That the councillor was representing the Council when he made the comments provided as images 6, 13, 15, 16 and 17 on his facebook page. For the reasons set out in 1 above.

3. In respect of (1) and (2) above that the Councillor was in breach of paragraphs 6, 7, 8.8 and 12(1) and 12 (2) of the Council's Member Code of Conduct.

*Paragraph 6 "you have a duty to uphold the law, including the general law against discrimination and requirements of the Localism Act and to act on all occasions in accordance with the public trust placed in you".*

*Paragraph 7: 'You have an overriding duty to act in the interests of the London Borough of Enfield's area as a whole, but also have a particular duty to represent the views of the residents of your ward.'*

*Paragraph 8.8 under the heading 'Respect for Others': 'You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.'*

*Paragraph 12 of the Code of Conduct states as follows: 'You shall observe the following rules when acting as a Member or co-opted Member of the Authority:*

*'(1) Treat others with respect and courtesy.*

*'(2) You must not -*

*'(a) Do anything which may cause your authority to breach any of its equality duties (in particular as set out in the Equality Act 2010)...'*

4. The following reasons provided by the Committee in relation to the decision in (3) above:
- a. The Committee agreed with the Investigating Officer's conclusion that Councillor Joannides actions fell short of the standard required by the code in the paragraphs listed above by placing the images 13.15, 16 and 17 on his facebook account, images where he is making offensive remarks (including likes) about particular groups of people.
  - b. He had failed to act in accordance with the public trust in him, failed to act in the interests of the London Borough of Enfield and failed to treat others with respect and courtesy, failed to treat people with respect regardless of their race and religion and failed to foster good relations between persons who share a relevant protected characteristic and persons who do not share it where those protected characteristics were race and religion or belief.
  - c. The use of the insulting words in images 16 and 17, breached Paragraph 12 (1), Paragraph 12 (2) and Paragraph 8.8.



#### **COUNCILLOR CONDUCT COMMITTEE - 30.4.2014**

- d. Image 13 with the post beneath the picture was a breach of Paragraph 6, 8.8, 12 (1), 12 (2) on the basis that it contravenes the Council's equality duties to foster good relations between persons who share a relevant protected characteristic and persons who do not share it". The protected characteristic was "religion or belief"
  - e. Image 15, with the like and post were in clear breach of the code of conduct (Para 6, 7, 8.8, 12(1) and 12 (2)).
  - f. The Committee also felt that the Councillor was responsible for the offensive comments in image 6 and that these comments also breached Para 6, 7, 8.8, 12(1) and 12 (2) of the Code of Conduct.
5. To note that the Investigator considered that there was insufficient evidence to make any findings on images numbered 1,2,3,4,5,7,8,9,10 and 11.
6. In terms of sanctions arising from the breaches of the code:
- a. That the findings of the outcome of the hearing would be released to the local media. Details would be sent to the media after the local elections, due to purdah restrictions.
  - b. That a letter would be sent to the Leader of the Conservative Group, the group he was a member of at the time of the incident, recommending that Councillor Joannides be removed from the relevant meetings of the Authority of which he was a member.

Councillor Rye abstained from the decision.