

Investigation into Complaints involving Alleged Breaches of the Code of Conduct

made by

Councillor Alessandro Georgiou; and

Councillor Haydar Ulus

May 2016

CONTENTS

- a) Code of conduct of Enfield Council
- b) Complaint by Cllr Alessandro Georgiou against Cllr Ulus.
- c) Complaints by Cllr Haydar Ulus against Cllr Georgiou
- d) Complaint by Cllr Haydar Ulus against Cllr Neville
- e) Complaint by Cllr Haydar Ulus against Cllr Celebi
- f) Statement of Cllr Georgiou
- g) Draft statement of Cllr Ulus
- h) Unsigned (but approved) statement of Cllr Neville
- i) Statement of Cllr Celebi
- j) Statement of Jayne Middleton Albooye
- k) Statement of James Kinsella

Summary

1 This investigation was made into events which took place at or as a result of events at the meeting of Enfield Council which took place on 11 November 2015. Various complaints were made (these are appended as b) to e) in the Appendix) as follows:

1.1 Complaint made by Councillor Georgiou in respect of Councillor Ulus;

1.2 Complaints made by Councillor Ulus in respect of;

Councillor Georgiou;

Councillor Terry Neville; and

Councillor Erin Celebi

Background

2 The complaints (which were investigated under the Council's Code of Conduct) arose as a result of events which took place at the meeting of Enfield Council on 11 November 2015. The bulk of the meeting was taken up by discussion around firstly a planning matter which caused a lengthy debate and had interested several residents to attend, and then other more routine matters on the Council's agenda. Towards the end of the meeting, a debate was begun as a result of a notice of motion put down by Cllr Nesil Cazimoglu of the Labour Group which concerned the Conservative Government's proposals for trade union reform.

3 Whilst Councillor Georgiou was speaking against the motion, there was an exclamation by Councillor Stafford, a Labour member. This consisted of a single swear word which had a visible and audible effect upon many members of the Council. Once the immediate effect caused by this had died down, with Councillor Georgiou continuing in his speech, Cllr Ulus began to shout "Fascists", a comment which appeared to be directed at Councillor Georgiou and the Conservative Group. As Councillor Georgiou continued with his speech, Councillor Ulus can be heard to shout "Fascist" three or four times. Councillor Georgiou responded to him and then he and the other Conservative Group members left the Chamber, a little while before the meeting finished.

4 On 16 November Councillor Georgiou submitted a complaint in respect of Councillor Ulus to the Council's Monitoring Officer. The complaint alleges that Councillor Ulus broke the Councillor's Code of Conduct in respect of:

Respect for others; and

Integrity

5 Subsequently, on 20 January 2016, Councillor Ulus submitted three complaints. The first complaint, in respect of Councillor Georgiou alleges that Councillor Georgiou has broken the Councillor's Code of Conduct with regard to:

Respect for others; and

Integrity

6 On the same day, 20 January 2016, Councillor Ulus submitted a Councillor Conduct complaint in respect of Councillor Terry Neville, who is the leader of the Conservative Group. In this complaint Councillor Ulus alleges that Councillor Neville has broken the Councillor's Code of Conduct with respect to:

Respect for others;

Leadership; and

Honesty

This complaint relates to emails which passed between Councillor Ulus and Councillor Neville subsequent to the meeting on 11 November but are clearly related to the events which took place at the meeting.

Councillor Ulus also submitted on 20 January a Code of Conduct complain respect of Councillor Erin Celebi, a member of the Conservative Group on the Council. In his complaint Councillor Ulus alleges that Councillor Celebi has broken the Councillor's Code of Conduct with regard to respect for others.

7 Due to the fact that the events surrounding the four complaints in total all arose from the events at or subsequent to the Council meeting of 15 November and so the background is identical, I agreed with the Monitoring Officer of Enfield Council that it was most appropriate to deal with the complaints in a single report, although the findings made are in respect of the individual complaints. This, together with the need to carry out interviews, my and members absence on leave, and work and other commitments in respect of myself and some of the members has meant that the investigation has taken longer than would normally be the case.

8 The report was sent out in draft to Cllrs Georgiou, Ulus, Neville and Celebi on Thursday 12th May, with comments invited back to the Investigator by the close of Wednesday 18th May. No response was received from any of the members by this time; although on Thursday 19th May Cllr Ulus confirmed that he had no further comments.

Complaint by Councillor Alessandro Georgiou

9 Councillor Georgiou was elected to Enfield Council in May 2014 and is a member of the Conservative Group. He is familiar with the Code of Conduct adopted by the Council.

- 10 Councillor Georgiou said that when he was making a speech about the Government proposals for trade union reform, Councillor Ulus *"sitting behind and near to me started to shout "Fascist" repeatedly and very loudly and aggressively"*.
- 11 In his complaint Councillor Georgiou speaks of Councillor Ulus *"becoming very aggressive and hostile towards myself and members of the conservative group by shouting "Fascist" repeatedly ...this shows a clear lack of respect for others"*. In addition, Councillor Georgiou refers to Councillor Ulus' body language which he describes as *"extremely hostile"*. He goes on to say I have been told by multiple witnesses *"that whilst he was shouting at me it looks as if he would have been willing to inflict physical injury against me personally"*. Furthermore Councillor Georgiou states that the assumption that Councillor Ulus would have been willing to inflict physical injury against him *"would not be unreasonable because Councillor Ulus had previously been recorded physically assaulting someone else"*.
- 12 Councillor Georgiou goes on to say that Councillor Ulus showed a clear lack of integrity in conducting himself in the way that he did during a formal meeting of the Council. In his view *"Intimidating other Councillors shows a clear disregard for upholding integrity in his capacity as a representative of his residence."*
- 13 In his later statement Councillor Georgiou says that whilst he ignored Councillor Ulus the first few times he shouted "Fascist" he then turned to look at him. At that point he says *"he had what I would describe as a snarling look upon his face. I knew that at the time he was wearing a back brace and so would have been unlikely to have made an assault but it was still, to my mind, an aggressive interruption. I was aware that he had been videoed hitting someone in the past although he was found not guilty when the matter reached court. Several people who observed this said to me that it looked as though he was going to hit me"*.
- 14 Councillor Georgiou was asked about his views with regard to free speech. He says in his statement *"I am a firm believer in the right to free speech. The reason why I made the complaint against Councillor Ulus is not because of the language he used but the way in which he used it; in a public meeting in a Council chamber and in an aggressive way. If Councillor Ulus had called me a "Fascist" in a Council chamber, made in the normal course of debate, I would not have made a complaint about this as I agree he has the right to free speech"*.
- 15 In his response, and also in the complaint he makes against Councillor Georgiou, Councillor Ulus speaks of him *"screaming the word Marxist at the Labour Group and myself"*. He goes on to say that Councillor Georgiou called the Labour Leader, Jeremy Corbyn a "Stalinist" and by doing so, in his view, Councillor Georgiou *"might have well called him Hitler, because Stalin was a dictator worse than Hitler...Jeremy Corbyn was elected democratically by the Labour Party members including myself who voted for him. By calling him a Stalinist he has concurrently called all Labour supporters 'Murdering Dictators'"*.

- 16 In response to Councillor Georgiou's complaint of potential violence against him by saying that Councillor Ulus was willing to inflict physical injury and intimidating other Councillors, Councillor Ulus says that it was well known to Councillor Georgiou and indeed all other members that Councillor Ulus had had a car accident in September 2015 when he fractured two vertebrae in his spine. Due to this Councillor Ulus had to wear a support which was clearly visible. Councillor Ulus points out that *"there was no way in my injured state I could have inflicted physical injury to him"*. Councillor Ulus takes exception to the reference in the complaint to an incident where Councillor Ulus was one of the victims of an assault of which he was cleared by the Crown Court prior to the meeting in November. Councillor Ulus says that this *"malicious allegation is not only a lack of integrity on Councillor Alessandro Georgiou's side it clearly shows lack of respect for my suffering and the suffering of the other victims in my recent court case. I take this as an insult"*.
- 17 Councillor Ulus also says that he finds it hard to believe that the comment "Fascist" does not reflect willingness to inflict physical injury nor does it reflect intimidation. Councillor Ulus also points out that Councillor Georgiou can clearly be heard and seen on the video *"shouting and waving a sharp object in a violent demeanour with the intention to throw it at myself"*. He suggests that *"Councillor Georgiou can clearly be seen and was ready to inflict physical injury, leaning his body towards my direction and waving the sharp object at me with the intention of throwing it"*. Councillor Ulus also says that on the DVD *"it can clearly be seen that I am sitting in my chair and at no point have I got up, nor lifted my arms, nor waved any object at him"*. He goes on to say *"at no point does Councillor Georgiou or any other Conservative members or any other officer show any concern about my actions"*. He also alleges that had another member not been between them *"I very much believe Councillor Georgiou would have come over and attacked me"*.

The Complaint against Councillor Neville

- 18 Councillor Neville is the leader of the Conservative Group on Enfield Council. The complaint alleged against him by Councillor Ulus refers to *"an email sent to myself from Councillor Terry Neville calling me names like:*
- *A hypocrite;*
 - *Someone with a short memory;*
 - *Shameless; and*
 - *Vile*
- when it was his colleague Alessandro Georgiou who was shouting aggressively and waving sharp objects violently with an intent to throw it at myself and the Labour Group"*.

The situation related to an email which Councillor Ulus had sent to Councillor Neville and all of the Conservative Group members on the Council at the time plus the Local Conservative Group MPs and the Labour Group members at the Council. The relevant emails are attached to the complaint in Appendix 1 and it relates to an invitation from the Right Honourable Joan Ryan MP and an invitation from her to attend the inaugural meeting of the All Party Parliamentary Group for Alevis at the Houses of Parliament on Thursday, 3 December.

- 19 This was sent out by Councillor Ulus on 21 November. On 1 December, Councillor Neville replied by email to Councillor Ulus saying:

"we find the invitation from you to us somewhat hypocritical. Either it is the case that you have a very short memory or are quite simply shameless since it is less than three weeks ago that you vilely abused me and my colleagues at the Council meeting by shouting the word "Fascist" simply because we were taking part in a democratic debate and making legitimate arguments in favour of the current Trade Union Bill.

Given that you have neither retracted the abuse or apologised for it, I find it difficult to understand how you would find it an honour for a "Fascist" to join you at the inaugural meeting in the circumstances therefore we will decline your invitation".

Councillor Ulus replied to Councillor Neville on 1 December, very shortly after receiving Councillor Neville's email to say:

" the invitation is from the British Alevis Federation and not a personal one, please do not decline on my account as the community would be delighted to receive you and your colleagues on the day".

The full text of these emails is in the complaint attached.

- 20 In respect in his interview Councillor Neville stated as follows. He has been a Councillor for over 30 years and is familiar with the standards regime and the Council's Code of Conduct. He said that whilst he could not see what was *"happening very well as Councillor Ulus sits in the front group and I sit at the back of the chamber behind my group. I could not therefore clearly see whether he was threatening violence or not but he was very audible and appeared to be very angry judging by the tone of his voice. However from what I could see and hear I was worried by Councillor Ulus' voice and by his body language and was sure that if he had not been wearing a back brace recovering from an accident he would have broken out into violence such was my view of his demeanour".*
- 21 In response to the allegations or statement shouting by Councillor Ulus, Councillor Neville says *"I believe very strongly in the right for free speech and I do not argue with Article 10 of the European Convention of Human Rights but I think there is a line between genuine political expression and downright abuse. I feel that the word "Fascist" has strongly abusive connotations and was quite uncalled for in the context of the debate; I do not consider that it was justifiable political expression.*

We were trying to deal with the debate in hand in an objective matter and trying to restore some balance into the debate. I do not think that the term "Fascist" should be used at all and in my view there was no reason or justification for it to be used at the meeting".

The Complaint against Councillor Celebi

22 The complaint against Councillor Celebi relates to the meeting on 11 November as follows "*this formal complaint relates to an incidence that occurred on 11/11/2015 during a formal full Council meeting, at 02:54:06 pointing her finger at myself in a violent demeanour with a willingness to attack walking towards me at 02:54:22 and then come to her senses and then walk the other way". He goes on to say I believe Councillor Erin Celebi should write an apology to myself, to the Labour Group and to the entire chamber for her bullish tactic and violent demeanour.*"

23 In response, in her statement Councillor Celebi says that she became a member of Enfield Council in 2014 and attended a training day covering the Code of Conduct. She goes on to say that she does "*not recognise at all the description of what took place as described by Councillor Ulus in his complaint. I felt that he was being abusive and made an outburst to myself and my colleagues to which I was responding. I did not respond to him in any angry mode but merely turned and replied to a comment he had made, pointing my finger towards him for a split second only and certainly not in any derogatory or bullying manner. I feel that there is nothing in my response to him for him to justifiably complain about and I feel that his complaints are "nonsense". I was not in an angry mode but simply said something quietly to him then walked the other way and followed my colleagues out of the chamber. I was passive and there was no intention whatsoever on my part to be violent*".

The Evidence

24 Whilst on the DVD of the meeting Councillor Georgiou can clearly be seen gesticulating, it seems to me that this was in response to Councillor Ulus' use of the word "fascist" and I do not realistically think that it is likely that there was any intention on Cllr Ulus's part for an actual physical assault.. The two members were some way apart from each other in the chamber and separated by other members. The evidence around this complaint is contained in the DVD of the meeting, the statements of the members concerned, particularly in Councillor Ulus' case with his complaint, and also the statements of some of the officers who were present at the meeting.

25 Some of these officers, have been asked for their view. Jane Middleton-Albooye, Head of Legal Services, who was present at the meeting states as follows "*Whilst there is no question in my mind that Councillor Ulus uttered the "Fascist" comments, I do not recall that he was out of his seat and screaming across at the time. I believe that if this had been the case I would have recalled it".* James Kinsella, Democratic Services Manager with the Council was also present throughout the Council meeting on 11 November. He said "*Councillor Ulus shouted the word "Fascist" with some force but I do not recall him getting up out of his seat as he did so. I would say his tone was forceful,*

but he was not physically intimidating. It was a heated exchange between members". James also points out that as he was also keeping track of other events he was not 100% focused on this exchange and also says "I recall a small exchange between Councillor Ulus and Councillor Celebi regarding use of the term of "Fascist" when she, and the other member of the Conservative Group left the chamber before the end of the meeting."

- 26 There is in this case, also the evidence of the DVD of the Council meeting. Whilst, due to the camera angles it is not always possible to see or hear exactly what is going on, the DVD is generally good evidence of what took place at the meeting. However, the tape clearly shows, after the intervention by Councillor Stafford and the disruption this caused, Councillor Georgiou making a fairly impassioned speech on behalf of the Governments trade union proposals. Once he has heard Councillor Ulus shout "fascist", which is clearly heard on the tape, he becomes more animated but although swaying and moving from side to side he does not move much from his position. During this time Councillor Ulus can only be seen from the back so there is no view on the tape of his facial expression. However, whilst the view offered by the DVD is imperfect there is no indication from the tape that Councillor Ulus stood up in any way or actually behaved violently towards Councillor Georgiou. Whether or not he may have done so in other circumstances is impossible to know and in any event is irrelevant. Equally irrelevant are the comments from Cllr Georgiou to the effect that that he was concerned as it was known that Cllr Ulus had been violent on another occasion. Furthermore, the reactions and recollections of the two officers concerned do not indicate that there was any perceivable threat from Councillor Ulus that they saw, although it is fair to say that in the somewhat lively events towards the end of this Council meeting meant that the officers would be focused on a number of things. The clear facts are that Cllr Ulus was not physically violent on the occasion in question.
- 27 It appears to be common ground that the word "fascist" was uttered several times by Councillor Ulus. The reaction from Councillor Georgiou is clearly seen on the DVD. It is also not in dispute that the Conservative group left the Chamber shortly after this and before the end of the meeting and a brief exchange between Councillor Celebi and Councillor Ulus took place as Councillor Celebi came past Councillor Ulus to leave the Chamber. This can be seen on the tape, although what was said between them is not very clear.
- 28 So far as the Code of Conduct is concerned, it is common ground that the code which applies is the one which was adopted by Enfield Council in 2014. All members concerned have indicated their familiarity with the Code.
- 29 For the code to apply, given the provisions of the Localism Act 2011, Councillors must be acting in their capacity as Councillors for the code to apply. In this case, it seems clear to me that so far as the allegations and complaints arising from the Council meeting is concerned, at that time all members were there in their capacity as Councillors, and it is, it seems to me beyond question that the code applies to those events. So far as the complaint in respect of Councillor Neville is

concerned, it seems to me very clear that the code will also apply, as Councillor Neville responds as Councillor Terry Neville OBE JP, Leader of the Conservative Group, LB Enfield and Member for Grange Ward and is responding on behalf of his group at the Council. It seems to me therefore that in respect of all the complaints the Code of Conduct applies.

- 30 Since the Localism Act 2011 brought in new provisions about the Code of Conduct as it applies to English authorities, there has, so far as I am aware, been no direct case law to provide precedent on such matters. There is however, some guidance which is relevant. For example, given the facts of the case, it seems to me that one thing which has to be considered is the impact of Article 10 of the ECHR, relating to freedom of speech, or the right to freedom of expression. This has been considered by the Courts in respect of local government politicians, although in relation to the regime in Wales. Nonetheless, I believe that it is persuasive.

Article 10 rights however, are not absolute as they are restricted where prescribed by law and where "necessary in a democratic society for the protection of the rights and interests of others".

Over the years the European and UK Courts have established the following principles:

- there is an enhanced protection for "political expression" although political expression does not include gratuitous personal comments;
- that to attract the enhanced protection for political expression it is not necessary for the comments to be political views as it extends to all matters of public administration and public concern;
- that comments made in a political context are tolerated even if untrue as what is said is done so in good faith and there is a reasonable (even if incorrect) factual basis for saying it.

- 31 In respect of the various other allegations that the behaviour of members lacked respect for others; and was in breach of the principles of leadership, integrity and honesty as set out in the Code, where they are defined as follows:

Integrity

"You should not place yourself under any financial or other obligation to outside individuals or organisations that might influence you in the performance of your official duties"

Honesty

"You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest."

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. You should respect the impartial role of the authority's statutory officers, and its other employees."

Leadership

"You should promote and support these principles by leadership and example."

The Code goes on in the Rules of Conduct to say that members must always "treat others with courtesy and respect"

Individual findings

32 The complaint by Councillor Georgiou in respect of Councillor Ulus

It seems to me that there is no doubt that Councillor Georgiou was genuinely concerned about the terminology of "fascist" used by Councillor Ulus. I have considered however that this took place during a lively debate, where politicians do tend to give strong views. Under the provisions of Article 10 of the European Human Rights Convention, there is a high bar to get over for political expression to not fall within the category of justifiable comment and free speech. On the other hand, the comments of "fascist" by Cllr Ulus is not part of the debate but shouted out offensively as Cllr Georgiou was speaking. Whilst the word appears in the dictionary, as Cllr Ulus claims in his defence, I do not regard that fact as a complete defence, as it is a term which I regard as being capable of being offensive.

The bulk of Cllr Georgiou's complaint relates to the perceived behaviour towards him by Councillor Ulus and in his statement he makes it clear that this was the real issue for him. From the evidence of the DVD, from the officers and from Councillor Ulus himself, in my view it is difficult to see that by his behaviour Councillor Ulus was physically threatening towards Councillor Georgiou. I do however take into account the evidence of Cllr Neville and his view of Cllr Ulus. The allegation is, it seems to me of the potential for violent behaviour, and not of violent behaviour itself; and actual violent behaviour is not upheld by the evidence in the video (although I accept that this is partial it still shows Cllr Ulus remaining in his seat), nor by the evidence of the officers interviewed. Furthermore, Cllr Ulus was wearing a brace which would have prevented swift movement. I have considered but then taken no account in my draft findings of the suggestion that outside events suggested that Cllr Ulus may have a propensity for violence. I do not think that the situation where a member may have become violent in other circumstances is relevant to this complaint and it is certainly not sufficient to justify a finding of a breach in this case.

I find that the complaint is not upheld.

Councillor Ulus' Complaint against Councillor Georgiou

The main aspect of this complaint is the way in which Councillor Georgiou responded to the complaints to the allegations of "fascist" in relation to the statement by Councillor Ulus. It can clearly be seen from the video that Councillor Georgiou is gesticulating towards Councillor Ulus but it does not appear to me that there was any likelihood, from the evidence of the DVD, that Councillor Ulus' allegations that Councillor Georgiou was in fact looking to throw "a sharp object", which is his pen and so inflict physical injury towards Councillor Ulus. Again it seems to me that this is a somewhat exaggerated view of what took place. No violent behaviour in fact took place and it seems to me that the gesticulating behaviour of Cllr Georgiou, whilst not to be condoned, falls within the category of legitimate political exchange which often takes place when views are strongly held.

I find that this complaint is not upheld.

33 Complaint against Councillor Neville

This arises from the exchange of emails referred to above. I have considered the circumstances of the exchange against the provisions of the Code of Conduct complained of and I cannot see realistically that there is any ground for a complaint under the Code of Conduct in respect of this exchange of emails, as I cannot see where the code is breached, within the definitions as set out above.

I find that this complaint is not upheld.

Councillor Celebi

The complaint appears to arise from the fact that Councillor Celebi left the chamber and had a brief exchange with Councillor Ulus. It is complained of that this amounts to a breach of the code with regard to a lack of respect for others. Whilst I can conceive of situations where members leaving the Chamber during a debate could amount to a breach of the code, I have not been made aware of any evidence which persuades me that Cllr Celebi's behaviour in this instance either in relation to leaving the chamber or the exchange with Cllr Ulus, amounts to behaviour which is in breach of the Code. I see no behaviour on the part of Cllr Celebi which could reasonably be described as amounting to "a violent demeanour with a willingness to attack" as described by Cllr Ulus.

I find that this complaint is not upheld.

Conclusion

Whilst my findings are that there is insufficient evidence to make a finding of a breach of the Code of Conduct in any of the complaints, I hope that it may be useful for the Council if I reflect upon the behaviour of the members concerned and also about how the Code of Conduct has been used by members, particularly Councillor Ulus in this way. This behaviour happened at a meeting of full

Council which was presided over by the Mayor and which was open to the public to attend. In my view the reputation of the Council and of local government as a whole is damaged when members are seen to have been using gratuitous insults to each other during a legitimate political debate and also when they use the Code of Conduct to engage in what can be seen as "tit for tat" complaints.

To my mind, there is a significant difference between elected members having a vociferous, energetic and keenly argued debate around different political views on a matter, which is entirely proper and a key part of their role; and insulting and offensive words being repetitively shouted at a group whilst a member is making a speech. The latter is, in my view, behaviour which is unworthy of an elected member and is behaviour which panders to a detrimental view of the capacity of local government members, and through that, the Council as a whole.

Equally, the standards regime and the Code of Conduct is something to be taken seriously; whilst the sanctions which can be imposed are less onerous than they once were, none the less, a complaint under the code of conduct remains a matter to be taken seriously, hence the arrangements which the Council has adopted. It is something which is in the public gaze, and a way in which the behaviour of members can be disciplined. Accordingly, where members appear to make "tit for tat" complaints against each other arising out of the same circumstances, and make further related complaints which upon investigation appear entirely without merit, such behaviour does, to my mind, bring the seriousness of the code of conduct, and with it, the reputation of the council as a whole, into an unfortunate light.

Given the vitally important role of a local authority, and the difficult decisions about services and the future of the Borough which members have to make, behaviour by elected members which shows themselves and through them, the Council in such an unfortunate light is, I believe, most regrettable, and members should pay due regard to the importance of upholding the reputation of the Council rather than pursuing personal grievances in such a way. Whilst I have not found breaches of the code in this instance, I believe that it may be as well for the Monitoring Officer to remind members of this point and of the purpose and importance of the code of conduct and how it should be used.

Olwen Dutton

Bevan Brittan LLP

May 2016