

# INVESTIGATION: COMPLAINTS MADE BY HELEN OSMAN AND SUE WOOLLARD

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LONDON BOROUGH OF ENFIELD

**STRICTLY CONFIDENTIAL**

February 2017



## 1. EXECUTIVE SUMMARY

This is a report into complaints by Ms Helen Osman and Ms Sue Woollard against Cllr Daniel Anderson. The complainants allege multiple breaches by Cllr Anderson of the Code of Conduct, as a result of two brief Facebook postings made by him. For the reasons set out in this report I do not find breaches of the Code by Cllr Anderson and I recommend that the Council dismisses the complaints.

## 2. INTRODUCTION

- 2.1. I am a partner in Anthony Collins Solicitors LLP where I am Head of Local Government and a Solicitor of the Senior Courts of England and Wales. I was admitted to the Roll of Solicitors in November 1985. I have held a number of roles in the public sector, working for many authorities and other public bodies, and have held many positions, including those of Head of Legal Services, Monitoring Officer, Corporate Director and Chief Executive. I have been a Solicitor in private practice since 2011 specialising in local government law.
- 2.2. In the course of my career I have carried out many investigations into standards and governance matters and into alleged breaches of Code of Conduct.
- 2.3. In October 2016, I was instructed by the Monitoring Officer of the London Borough of Enfield's (the **Council**) – Asmat Hussain, Assistant Director of Legal and Governance Services – to carry out an investigation into two complaints against Councillor Daniel Anderson (Southgate Green Ward), Cabinet Member for Environment. The complaints were received separately from Ms Osman and Ms Woollard but relate to the same alleged breaches of the Council's Code of Conduct for Members (**the Code**). I considered that it was therefore appropriate for the complaints to be considered as part of a single investigation and through a single report.
- 2.4. I asked Cllr Anderson and the complainants if there were any other persons whom they wished me to interview and to let me have sight of any documents they wished me to consider. Having considered the information provided to me and accompanied by Alex Lawrence, Solicitor in the Local Government team at the firm, I attended the offices of the Council on 27 October 2016. I interviewed:
  - 2.4.1. Ms Sue Woollard;



- 2.4.2. Ms Helen Osman;
- 2.4.3. Cllr Daniel Anderson;
- 2.4.4. Mr Jonathan Goodson (an officer of the Council); and
- 2.4.5. Mr Jon Judah (an officer of the Council).
- 2.5. Cllr Anderson had suggested that I interview Cllr McGowan. I attempted to do this but it did not prove possible. However, I am satisfied that this report and its conclusions are unlikely to be adversely affected by this omission.
- 2.6. Following the interviews, witness statements were prepared and agreed with the witnesses. Those witness statements are appended to this Report in Appendices 3 to 7.
- 2.7. In addition to the complaint documentation (see Appendices 1 and 2), I have also had the opportunity to consider documentary evidence provided to me by Asmat Hussain and those interviewed.
- 2.8. On 13 January I sent out my draft report to the complainants, Ms Woollard and Ms Osman, to Cllr Anderson and to the Council's Monitoring Officer. I asked for any comments by Monday 30 January.
- 2.9. On 13 January – the day the draft was sent out I received an email from Ms Osman which read:
- “Sorry Olwen this feels like a stitch up”.
- 2.10. On 16 January I received an email from Cllr Anderson which read:
- “Many thanks for this. I have no further comments to add”.
- 2.11. On 25 January the Monitoring Officer confirmed that she had no comments to add.
- 2.12. On Monday 30 January I received a lengthy email reply from Ms Woollard. I have attached her email to the Appendix. I considered carefully what Ms Woollard responded before finalising this report. I have no doubt that Ms Woollard feels very strongly about the issue which led to the complaint and her views came across very strongly in interview and in the correspondence we exchanged. However, I have to investigate her complaint and make findings, in accordance with the relevant legislation in the Localism Act 2011, and in accordance with the Council Code.
- 2.13. Councillors have the right to a personal life. As I explain in my report the Code of Conduct only applies when a Member is acting in the capacity of a councillor. For the



“Pounds” matter I have judged that Cllr Anderson was not acting as a councillor and so the Code does not apply; for the “Mosque” complaint I have found that he was so acting and so the Code does apply. As councillors are entitled to a private life I do not consider that the belief expressed by Ms Woollard that *“everyone reading these posts knows who he is –that he is a councillor”* sufficient to overturn this view.

- 2.14. So far as the points Ms Woollard makes about the Mosque incident are concerned I have taken account of her view but do not consider that her points raise any new issues that I had not previously considered whilst preparing my draft. Ms Woollard’s comments about whether or not Cllr Anderson should be disciplined for his part and should not remain as a Cabinet member may be her strongly felt views, but they provide no evidence for me to change my findings and my recommendations to the Council.
- 2.15. On 30 January I received a further response from Ms Osman. This response is attached in full at the Appendix.
- 2.16. Ms Osman made a very similar response to Ms Woollard in relation to Cllr Anderson being known in the community. She cites an endorsement from Cllr Anderson for “Better Streets for Enfield” in the Council’s own magazine – and although she does not expressly say so I have assumed she has provided this in support of her view. However, it has, so far as I am aware, never been an issue that Cllr Anderson is in support of the scheme, and I do not find it of any note that he appears in the Council magazine in favour of the scheme.
- 2.17. The issues which refer to Cllr Anderson’s Facebook page are dealt with extensively in my report in response to Ms Woollard and to Ms Osman – see above. I do not view Ms Osman’s response to my draft report as raising any new matters for me to consider.
- 2.18. So far as the issue about Ms Osman being misleading is concerned, there are, I consider, sufficient examples that I have seen and which are referred to further on in my report, to lead me to consider that it was unreasonable for him to make this comment.
- 2.19. I accept that Ms Osman feels very strongly about the Cycling Enfield proposals and I appreciate the time and trouble she has taken in making this complaint and in her responses to me. However, much of her response to my draft report is focussed the rights and wrongs of the Cycle Enfield proposals rather than the issues I need to consider.



2.20. It is not my role to consider the issue around Cycle Enfield and I consider that it would be wrong for me to express any views as to this. I am purely considering the question as to whether Cllr Anderson was in breach of the Council's Code of Conduct.

2.21. Finally, I have considered what Ms Osman says about Cllr Anderson's position and in particular her statement that "He has been charged to remain impartial". With respect, I think she is wrong. It is true that a councillor must not predetermine matters and must not be biased in the way that he allows his private interests to affect his duty to and in the public interest, but once the Council have taken a decision to pursue a specific policy, as in this case, that does not, in my view, mean that he cannot speak up in support of the policy or scheme. Indeed, as he is a Cabinet Member with responsibility for it, it would be surprising if he did not express such a view.

2.22. I have considered all the comments made by Ms Osman but they have not changed my views to the findings in my report and the recommendations to the Council.

### 3. THE COMPLAINTS

3.1. The complaints arise from two posts on Facebook made by Daniel on the page for Better Streets for Enfield (**BSFE**) as follows:

3.1.1. 26 May 2016 – "*From Pounds? ;-)*" (**Post 1**);

a) For context this was posted in response to a comment from another contributor to the Facebook page "As I was cycling my daughter to school this morning, we turned onto Green Lanes to see a man pass by on his bike – carrying a wide-screen TV on the back. Just saying..."

b) Daniel's post received two responses: one from a third contributor "*Your have to resign 10 times for a comment like that* [followed by emoticons]"; and the second from the original contributor "*No, this was the Pounds customer: [a posted photo showing two people on a bike with a washing machine attached]*."

3.1.2. 31 August 2016 – "*Helen Osman I believe. She will be at the Ponders End Mosque tomorrow seeking to mislead residents in the East as she has done in the West*". (**Post 2**)



a) This posting is also in response to others but I do not believe any give relevant context.

3.2. Ms Woollard makes a complaint about Post 1 and Post 2. Ms Osman does mention Post 1 but her complaint is only in relation to Post 2.

3.3. I note that paragraph 3.1 of the Council's *Procedure for Handling Complaints against Councillors and Co-opted Members* requires any complaint to be received "in writing within three months of the alleged matter". As Ms Woollard's complaint was received in September then technically it is out of time as it relates to Post 1. However, for completeness, I have considered in this report whether Post 1 would constitute a breach of the Code.

#### 4. THE CODE OF CONDUCT

4.1. Due to the provisions of s27(2) of the Localism Act 2011, it is important to consider whether or not the Code applied at the time of the incident complained of. The Code would not apply when an elected member was acting in his private capacity. Enfield Council's Code (which is attached in Appendix 7) only applies to Cllr Anderson where he acts or purports to act in his capacity as a Member of the Council. It does not seek to regulate acts and conduct by Cllr Anderson in his private and personal life and it has always been clear that members are entitled to a private life outside their role within the Council. Therefore if the evidence shows that Cllr Anderson made Post 1 and Post 2 outside his role as a councillor there is no breach of the Code.

4.2. Ms Osman has complained that Cllr Anderson breached the following provisions of the Code:

##### **8.8 Respect for Others**

*You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartial role of the authority's statutory officers, and its other employees.*

##### **Expectations of conduct**



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

### **Rules of Conduct**

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

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

*(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)*

*(b) Bully any person;*

*(c) Lobby, intimidate or attempt to lobby or intimidate any person who is or is likely to be:*

*(i) a complainant,*

*(ii) a witness, or*

*(iii) involved in the administration or determination of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;  
or*

*(d) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.*

*(3) You should not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;*

4.3. Ms Osman also refers to the Councils' policy on use of the Internet by members.

Appendix 1 – Internet and Email Usage Policy for Councillors

*"We expect you to conduct yourself honestly and appropriately on the Internet..."*



*If you are posting to newsgroups, internet mailing lists etc, then you must include a council disclaimer as part of each message”...*

*“You may participate in newsgroups or chat rooms only when relevant to your official duties. When participating you must clearly identify yourself by name and title. ...”*

4.4. Ms Woollard alleges the following breaches of the Code:

#### **8.8 Respect for Others**

*You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartial role of the authority's statutory officers, and its other employees.*

#### **8.9 Duty to Uphold the Law**

*You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.*

#### **8.7 Leadership**

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

#### **Expectations of Conduct**

9. *You shall base your conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.*
11. *You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute.*

#### **Rules of Conduct**

12. *You shall observe the following rules when acting as a Member or co-opted Member of the Authority:*
  - (1) *Treat others with respect and courtesy*
  - (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)*
  - (b) *Bully any person;*
  - (c) *Lobby, intimidate or attempt to lobby or intimidate any person who is or is likely to be:*
    - (i) *a complainant,*
    - (ii) *a witness, or*
    - (iii) *involved in the administration or determination of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or*
  - (d) *Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.*
- (6) *You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*

4.5. Ms Woollard also alleges that Cllr Anderson has breached the Council's policy in relation to Internet use by Members, which states:

We expect Members to use the Internet honestly and appropriately

*"If you are posting to newsgroups, internet mailing lists etc, then you must include a council disclaimer as part of each message"...*

*"You may participate in newsgroups or chat rooms only when relevant to your official duties. When participating you must clearly identify yourself by name and title. ..."*

## 5. CYCLE ENFIELD

5.1. In order to take a clear view on the complaints and put them into the appropriate context, I consider it has been necessary to understand some of the background to Cycle Enfield and I set this out in brief below. I should make it clear that whilst I have done this the issues about the Cycle Enfield project are not ones on which it is necessary for me to have any view as the rights and wrongs of the Scheme whether they may be, are not relevant to this investigation.



- 5.2. The history is that in furtherance of the Mayor of London's March 2013 Vision for Cycling, Transport for London (TFL) ran a competition for outer London Boroughs to obtain funding to create so called "mini-Holland" cycling schemes. The Council submitted a bid, with cross party support, in 2013 (the bid document is signed by both the leader and the then leader of the Opposition) and was awarded funding under the scheme, bringing in £42m of investment into the Borough. The implementation of the bid is now managed by the Council under the **Cycle Enfield** project. Cycle Enfield includes the introduction of segregated cycle lanes along some roads. Cllr Anderson, as Portfolio Holder for Environment, has been closely involved with Cycle Enfield since his appointment and has delegated decision making for many aspects of the scheme.
- 5.3. The Council undertook a non-statutory consultation from July 2015 for a period of twelve weeks (17 July to 9 October) in respect of the implementation of Cycle Enfield along the A105. This involved the distribution of materials to residents, public meetings and exhibitions. There are also partnership boards set up by the Council, which are in place to allow for engagement with stakeholders. Ms Osman is a member of the partnership board for the A105.
- 5.4. The outcomes from this consultation were reported to the Council's Cabinet on 10 February 2016. Cabinet authorised further work on the A105 elements of Cycle Enfield and delegated authority to Cllr Anderson to approve and implement the final A105 design subject to consultation and any statutory processes.
- 5.5. Cabinet's decision was called in. The Overview and Scrutiny Committee met on 9 March 2016 and confirmed the original decision.
- 5.6. An application for judicial review of Cabinet's decision was made by representatives of a group called "Save our Green Lanes" This was considered on the papers by Mr Justice Gilbert on 8 July 2016 and refused on the basis it was out of time. The application was renewed at a hearing before Mr Justice Ouseley on 10 August 2016. The Judge held that the application was in time but refused permission on the merits. I understand that this is currently the subject of an appeal.
- 5.7. Elements of the implementation of Cycle Enfield along the A105 required the making of Traffic Management Orders by the Council and accordingly the Council undertook a statutory consultation in July 2016 (6 to 29 July). The outcome of this consultation was reported to Cllr Anderson as Lead Member. On 17 August 2016, Cllr Anderson approved the final design for the A105 and authorised implementation, using his



delegated authority as Portfolio Holder. This decision was also called in and the Overview and Scrutiny Committee considered the matter on 8 September 2016. The Committee confirmed the decision.

- 5.8. An application for an injunction and an order requiring a public inquiry was brought in the High Court. This application was heard by Mr Justice Dove on 19 September 2016 and dismissed.
- 5.9. The A105 proposals are currently in the process of being implemented. I also understand that other elements of Cycle Enfield scheme on other roads are being progressed.
- 5.10. Both Ms Osman and Ms Woollard gave me evidence about the opposition that there has been about Cycle Enfield. There is no doubt that they are both very opposed to it and feel very strongly that it is not the right thing for Enfield. From my reading of the evidence they produced, and what they said to me, I accept that it is fair to say that there is a fair degree of opposition within the Borough to the Cycle Enfield project. In respect of the A105 this opposition is led by Save Our Green Lanes (**SOGL**). Ms Osman is a founder member of SOGL. Ms Osman has also been very vocal in her opposition to Cycle Enfield on her blog "**N21online**" and her weekly newsletter "**This week in N21**".

## 6. EVIDENCE

### *The Complainants*

- 6.1. Ms Osman and Ms Woollard both came across as very active and involved members of their local community. They clearly care a great deal about what goes on in their area and; in interview they were both quite emotional as they described the issues from their point of view. I do not doubt the sincerity of their views on the Cycle Enfield project. Ms Woollard called it "ill-conceived" and said "...it will have a major impact on the town I know and love and how I live my life. I consider it will impact on whether the shopping centre within Enfield town will continue to be viable". Ms Osman said "...we believe that the current proposals will be damaging to the local community and not make a "Better Enfield for all....there is little support for the scheme locally.."
- 6.2. The complainants told me that they knew each other but denied that they were close, or that there was any collusion between them in making the complaints. I have judged their



complaints separately in each case, although much of the content is very similar. I have no evidence to prove collusion.

- 6.3. The language used by the complainants in their complaint is, it seems to me, very strong. For example, Ms Woollard says “Cllr Anderson has shown himself to be unfit to represent the Council....I trust the strongest possible action will be taken on this matter and the Cllr Anderson is dismissed both as a Cabinet Member and as a Councillor”.

#### *Cllr Anderson*

- 6.4. I found Cllr Anderson to be a compelling witness. He appears to believe strongly in the benefits of Cycle Enfield, although he mentioned that it has been “..very contentious” . and that groups have extended their opposition .....to me personally. They have misquoted me and at times made me personally the target of their comments”. He pointed out that Cycle Enfield predates his involvement, as the submission to the Mayor of London was made in 2013, before his election to the Council in 2014.
- 6.5. Cycle Enfield takes up a lot of his time as a Portfolio Holder, and he clearly is in favour of the Scheme. However, he told me about the way in which he is dealing with the matter to ensure that everything is done properly. For example, “ I have told officers that they must consider what is submitted in response to the consultations carefully, irrespective of the source...” “we have looked carefully at the facts....to enable us to develop the proposals, cognisant of the concerns from residents and local businesses.”
- 6.6. It was very apparent to me that the proponents of the Scheme, and the campaigners against Cycle Enfield have diametrically opposed views about the Scheme, and its possible benefits and disadvantages. As a result there have been a number of clashes about the impact and as often happens in these situations, feelings run high; on both sides.
- 6.7. Whilst Ms Osman feels that she has been targeted (in her words “public enemy number one”) by those who support Cycle Enfield including Cllr Anderson; Cllr Anderson equally considers that he is being targeted personally and misquoted. He goes further and states that he believes there is a co-ordinated campaign to have him removed from his Cabinet position – or at the very least his oversight of Cycle Enfield.
- 6.8. He referred me to an email that Ms Osman sent to local businesses to encourage them to attend an exhibition on Cycle Enfield. This is attached at Appendix 9. As part of that encouragement Ms Osman stated “No violence please but a spot of verbal abuse is

allowable". Criticism of Ms Osman for this comment was reported in the local press and Ms Osman responded that her comment was "just a bit of banter sent to business owners, to get them off their backsides" (see Appendix 10).

#### *Cllr Anderson's use of Facebook*

6.9. The Facebook account that Cllr Anderson uses is his personal one. He does not refer to himself as a Councillor or use his official Council photo(s). Cllr Anderson states that he uses the account to post about personal matters.

6.10. My starting presumption, therefore, is that anything Cllr Anderson posts on Facebook is outside of his role as a Councillor. Therefore the Code of Conduct would not apply. However, that presumption could be displaced where there is clear evidence that Cllr Anderson was posting about Council matters or posting information that he could only have obtained as a result of his position as a Councillor.

#### *Appendix 1 to the Code of Conduct – Internet and Email Usage Policy for Councillors*

6.11. Whilst the Code only applies where Cllr Anderson is acting as a Councillor, Appendix 1 of the Code only applies where Cllr Anderson is acting as a Councillor and using Council provided computers and/or internet connections. The main point raised by Ms Osman and Ms Woollard in relation to Appendix 1 of the Code is that Cllr Anderson did not identify himself as a Councillor when uploading the posts. If in respect of either/both of Post 1 and Post 2, I find that Cllr Anderson was using his Facebook account in his role as a Councillor then Appendix 1 is only relevant if he posted using a Council device or internet connection. Both Ms Woollard and Ms Osman point out that Cllr Anderson has a very high profile and everybody knows that he is a Councillor and leading on Cycle Enfield.

6.12. I have considered what both complainants say about Cllr Anderson being well known and their view that as a result what he posts on his Facebook page must be "in direct connection with his role as a Cabinet Member". However, this does not override the provisions of the Localism Act 2011 which clearly provides that the Code only applies when the member is acting in his role as a member.

6.13. The Code cannot be extended, in my view to cover situations in which a member is not acting in his role as a councillor, no matter how well known he is. For example, there is the case of Ken Livingstone, when he was Mayor of London and a very well-known



politician at a national (and indeed international) level. In the case of *Livingston-v-Adjudication Panel for England* [2006] EWHC 2533 (Admin) the High Court made it very clear that the Code did not apply to conduct in his private life. Whilst this is a case under the previous standards regime, which the Localism Act 2011 abolished and which, indeed is far more stringent on this point, I regard it as very persuasive in terms of an interpretation of when the Code applies and does not apply.

#### *Post 1*

- 6.14. I do not consider that Cllr Anderson's post was made in his role of a Councillor. It was not made to further any of his Council work. Therefore the Code does not apply.
- 6.15. For the sake of completeness, even if the Code did apply, I am satisfied that what Cllr Anderson actually posted would not be in breach of the Code. He told me that he does not know the person who responded and why he referred to him having to resign. Whilst I understand the strong feelings that there are about these matters, I have to take an objective and independent, unbiased view, understanding the context but not letting that unduly sway my judgement. From that viewpoint I cannot accept that this posting mounts to a breach.

#### *Post 2 – Was Cllr Anderson acting in the course of his role as a Councillor?*

- 6.16. I consider that Cllr Anderson uploaded the post in response to information he received from Cllr McGowan (incorrectly as it turned out as Ms Osman was on holiday in Pembrokeshire at the time) about Ms Osman attending a meeting at the Ponders End Mosque. Cllr Anderson received that information in his role as Lead Member so that Cllr McGowan could be briefed about arguments to counter anything Ms Osman might say. Therefore I consider Cllr Anderson was acting in the course of his role as a Councillor and the Code applies.

#### *Post 2 – Racial/Religious Element*

- 6.17. Both Ms Osman and Ms Woollard consider that Post 2 has a racial or religious element to it and that Cllr Anderson was attempting to make some link with Ms Osman's surname and the Islamic faith. Ms Woollard goes further and suggest that there is a slur in Post 2 on followers of the Islamic faith (in particular those that attend the Ponders End Mosque) that they would be receptive to Ms Osman misleading them.



- 6.18. Cllr Anderson emphatically denies making any racial or religious comment in the post. He told me that he only mentioned the mosque because he was told that a community meeting was taking place there where the Cycle Enfield proposals were to be discussed and that Ms Osman would be attending to speak about Cycle Enfield. This is supported by his text messages with Cllr McGowan (appended to Cllr Anderson's statement at Appendix 5 and the email sent to officers on 31 August 2016 (Appendix 11). The statement of Mr Goodson clarifies the details of the meeting, how it came about and the discussions that took place.
- 6.19. I consider that to adopt the view that Ms Osman and Ms Woollard have indicated and so interpret the post as they appear to do is difficult from the objective, independent and unbiased stance which I must take. For example, Ms Woollard says in her complaint "It is overtly racist, smacks of religious intolerance and is derogatory and libellous, suggesting she deals in lies. It clearly implies Cllr Anderson harbours hostility based on race or religion".
- 6.20. I cannot agree that this is a reasonable interpretation of the posting. I do not view the comments as having racial or religious meanings and I find that this posting does not amount to a breach of the Code.

#### *Post 2 – Misleading Element*

- 6.21. In a situation where, as described above, there are diametrically opposed views I am not altogether surprised that allegations of misleading have arisen on both sides. Ms Osman indicated in her interview as recorded in her witness statement that Cllr Anderson had previously accused her of lying.
- 6.22. Allegations of misleading are very serious. It is not for me to determine whether Ms Osman has in fact misled anybody. Rather it is for me to consider, on the balance of probabilities, whether it would have been reasonable for Cllr Anderson to believe – at the time he posted the comment – that Ms Osman had misled people on one or more occasions. Again, it is not the question of whether or not Ms Osman had any intent to mislead, or indeed, whether she did so. To take the comment as forming a breach of the Code – and therefore to see Cllr Anderson's behaviour as falling within one or more of the categories outlined in the complaints – I consider that the comment made by Cllr Anderson about misleading would have to be unreasonable, and so not made in good faith.



- 6.23. I have considered the evidence from Ms Osman. She told me that “I have not misled anybody”, and I accept that this is her view.
- 6.24. However, I have been given evidence that there was a view that some of the information put out by Ms Osman (and other opponents) was misleading. For example, Mr Goodson said “I have not studied the leaflets and information provided by the various opponents of the Cycle Enfield schemes but I have heard from colleagues within the Council whose opinions I trust that some of these have been unhelpful and misleading”. The interviews I undertook with the complainants convinced me that they held very genuine views about the impact of the Cycle Enfield scheme, but when I asked Cllr Anderson, and the officers about what I had been told of some of the impacts they told me that this was not the case.
- 6.25. During the investigation, Cllr Anderson has continued to maintain that Ms Osman has misled people in the information that she has put out into the public domain. These views on some of the information put out by campaigners against Cycle Enfield are reflected in Mr Goodson and Mr Judah’s statements.
- 6.26. Mr Judah, who is the Project Director for Cycle Enfield told me “my view is that Helen Osman has in the past interpreted information from the Council incorrectly....I am not saying she has deliberately attempted to mislead. Helen Osman has a blog....I have read this on occasion and consider that some aspects do not represent the Cycle Enfield strategy as the Council intends it to be, and the information provided has confused the matter”.
- 6.27. Cllr Anderson has pointed to several specific examples:
- 6.27.1. At one exhibition for Cycle Enfield Cllr Anderson was confronted by one of the owners of Pounds. Part of this confrontation related to Councillor Anderson’s shopping habits. Councillor Anderson told me that following this incident Ms Osman published an email misquoting him and stating that he only shops online and does not support local businesses. Councillor Anderson refutes this and I can see how this portrayal of him could negatively impact his relationship with local businesses, and is misleading.
  - 6.27.2. The 29 July 2016 “This week in N21” blog (see Appendix 12) published by Ms Osman, included a link to a SOGL leaflet (see Appendix 13) providing reasons for objecting to Cycle Enfield with the endorsement “*If you would like*





*guidance on submitting objections here is a link to the Save Our Green Lanes leaflet*". This leaflet included the comment "**OBJECT TO** preventing Blue Badge holders from parking along the entire length of the cycle lane route. **Enfield will be the first Outer London Borough to remove the Blue Badge scheme from its shopping areas.**" Cllr Anderson states that this is entirely inaccurate and caused distress to residents.

6.27.3. In the above blog Ms Osman included a comment that "*Whatever the final tally Enfield Council will try to ignore the views of local residents and businesses. This whole statutory consultation process has been engineered to minimise objections and 'trip' people up along the way.*" Again Cllr Anderson refutes this and informed me that the consultation had been "*structured to make it as easy as possible for people to submit objections*". I have also reflected on the judgement of Mr Justice Ouseley who spoke about "how extensive the consultation actually was".

6.28. Cllr Anderson has also directed me to examples of what he considers to be Ms Osman misleading people that arose after the Facebook posting. I believe that he has directed me to these as evidence of the types of information that Ms Osman put into the public domain before the posting:

6.28.1. The 23 September 2016 "This week in N21" blog (see Appendix 14) published by Ms Osman. This deals largely with the injunction hearing on 19 September 2016. Cllr Anderson in particular takes issue with Ms Osman's assertions that the consultation processes undertaken by the Council were "*exposed as a complete farce. The millions of pounds already spent on exhibitions, consultations, publicity etc was an elaborate smokescreen to kid the people of Enfield that they were being consulted.*" Having considered the judgment of Mr Justice Dove, I note that he did not feel able to consider the application because there was legislative regime in place for challenging traffic management orders. It would certainly be fair to say that the Judge did make comments about the appropriate timing of a challenge. What Ms Osman does not go on to mention is that the Judge considered the merits of the application in any event and took the view that he would have dismissed the application.



6.29. Taking all of the above into account, I am satisfied that on the balance of probabilities it was reasonable for Cllr Anderson to have a belief that Ms Osman has misled people. He has demonstrated several examples where he considers that Ms Osman has published misleading information either directly misleading or in the way in which she has presented the information. This belief that Ms Osman and other campaign groups have put out misleading information is reflected in the statements of Mr Judah and Mr Goodson.

6.30. I have considered the specific elements of the Code of Conduct indicated by the two complainants, as outlined above, against the acts they complain of, as evidenced by Post 2. As I believe that the posting does not have the interpretation placed upon them by the complainants, and it is reasonable, on the balance of probabilities to see them at face value, all of the elements of the Code quoted by the complainants must fail to be proven.

## 7. SUMMARY AND CONCLUSIONS

7.1. It follows from the above that I would find as follows in respect of the complaints:

- 7.1.1. The complaint regarding Post 1 is out of time.
- 7.1.2. In any event I consider that Post 1 was made outside of Cllr Anderson's role as a Councillor and so the Code would not apply. Even if it did I do find that the post made would not amount to any breach of the Code.
- 7.1.3. In Post 2 I do not find on the balance of probabilities that Cllr Anderson was making any racial or religious comment. I consider that to interpret the words in this way attaches a meaning to the words that cannot reasonably be supported. Further Cllr Anderson has evidenced that he only made reference to the Mosque because that is where a meeting relevant to Cycle Enfield was taking place.
- 7.1.4. In Post 2 I find on the balance of probabilities that Cllr Anderson had a reasonable belief at the time he uploaded the post that Ms Osman had misled people. He has provided examples of what he considers to be misleading information.



## 8. CONCLUSION

I recommend that the Council dismiss the complaints against Cllr Anderson.

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