

**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON MONDAY, 11 DECEMBER 2017**

COUNCILLORS

PRESENT Claire Stewart, Glynis Vince and Katherine Chibah
Christine Chamberlain and Sarah Jewell (Independent
Persons)

ABSENT Elaine Hayward

OFFICERS: Jeremy Chambers (Director of Law and Governance), Jill
Bayley (Principal Lawyer - Safeguarding) and Jayne
Middleton-Albooye (Head of Legal Services) Penelope
Williams (Secretary)

Also Attending: One member of the public

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WELCOME AND APOLOGIES

Introductions were made and the Chair welcomed everyone to the meeting.
Apologies for absence were received from Councillor Elaine Hayward.

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SUBSTITUTIONS

There were no substitutions.

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DECLARATION OF INTERESTS

There were no declarations of interest.

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APPEAL HEARING

The Committee received the report of the Monitoring Officer setting out the details of the complaint received from Mrs Kate Leach against Councillor Daniel Anderson and the subsequent appeal from Mrs Leach. (Report No: 124).

1. The former interim Monitoring Officer presented her report to the Committee highlighting the following:
 - The original complaint had been received by Asmat Hussain, the former Monitoring Officer, within the required 3 months.

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- Asmat Hussain had asked Jill Bayley, principal lawyer, to carry out an internal investigation into the original complaint, on her behalf. She had also consulted Sarah Jewell as Independent Person.
 - Having reviewed the investigation report, Jayne Middleton Albooye had agreed to uphold the recommendations made, that Councillor Anderson had not been in breach of the Councillor Code of Conduct.
 - The “to follow” documents included comments from the complainant in support of her appeal.
2. Jill Bayley highlighted the following from her independent investigation report:
- Two sets of interviews had been carried out. The first with Councillor Anderson, Mr George Dunnion and Mrs Kate Leach and the second with Stephen Genus, the caretaker at Garfield School and David Taylor, Head of Traffic and Transportation at Enfield Council. David Taylor who had had responsibility for the disputed decision.
 - Councillor Anderson had been asked to apologise at an early stage in the investigation but had not consented to do so.
 - In relation to the first allegation on lack of accountability, she had had at first had some concern that Councillor Anderson had not accepted that he had to be accountable, stating at one point “I don’t have to be accountable”. This had been queried by Jayne Middleton Albooye in a later interview and Jill Bayley had subsequently felt that Councillor Anderson had misunderstood her questioning and that he did fully accept accountability for the decision he had taken in his role as a Cabinet Member, but was not accountable to Mrs Leach, as a ward councillor, as he was not her ward councillor. Jill Bayley had concluded that Councillor Anderson had felt that he had been following correct procedures.
 - In relation to the second allegation on the lack of openness, the investigation had revealed that there had been several conversations between officers and Councillor Anderson, between officers and Mrs Leach, a meeting with ward councillors and that information on the decision and the reasons behind it had been provided to residents. Although Councillor Anderson may not have responded in the most appropriate manner, Jill Bayley concluded that there had been not a deliberate attempt to avoid openness.
 - In relation to the third allegation on lack of respect and courtesy it had been clear that the incident had been heated and had escalated quickly, but Jill Bayley concluded that there was insufficient evidence to prove that Councillor Anderson had acted in a way which showed a lack of respect. There had also been evidence that he had tried to calm things down.

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- In relation to the fourth allegation of bullying, Jill Bayley concluded that there was no evidence to support the allegation. The time frame had been very short, as the incident occurred 5 minutes before the surgery was due to end. The complainants would have been aware of this when they attended the surgery.
3. Sarah Jewell (Independent Person) who had been consulted on the case by the Monitoring Officer advised that:
- She had felt Councillor Anderson had shown himself to be accountable and referred the committee to the email he had written on the day following the surgery included as page 26 of the investigation report.
 - On openness she felt that it was not the role of the Cabinet Member to have to go into detail to justify every decision they had made. There was a need to manage public expectations in this area.
 - On respect and courtesy she felt that there had been no independent evidence that Councillor Anderson had behaved with discourtesy and that he had been in a vulnerable position which had obviously shaken him up. His use of language had not been ideal, but it probably reflected how he felt in the situation.
 - On bullying she felt that there was no evidence.
4. The members of the Committee discussed the report as follows:
- They considered whether or not Councillor Anderson had shown himself to be accountable and whether he had handled the situation well. Members agreed that the situation could have been handled in a better way.
 - Concern was expressed about the current culture towards politicians and the expectation that they should always be available to respond to residents and justify their decisions. It had been an especially difficult time for elected representatives, because of the recent murder of Jo Cox MP.
 - They considered whether it had been appropriate for the ward councillors to refer their constituents direct to the Cabinet Member. Some members felt that a ward councillor ought to take up issues on behalf of their constituents with the relevant Cabinet member, rather than refer members to him direct. They felt that more needed to be done to manage resident's expectations of their councillors.
 - A possible explanation as to how the door of the room where the surgery was being held came to be locked was put forward by Jill Bayley who had visited the school. She thought that the chair that was holding the door open had been accidentally knocked out of the way allowing the door to close automatically on its spring. There was a

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button which could have been used to open the door, but this was not obvious to those unfamiliar with the room.

- Councillor Anderson's use of language and reference to "an ambush and a lynch mob" were discussed. Members agreed that such language was ill advised, that the incident had been regrettable, but did not feel these words could be considered to breach the code of conduct.
 - It was not clear whether Councillor Anderson had followed up his complaint to the police, although Jill Bayley advised that she was not aware of any criminal investigation.
 - It was felt that more guidance was required for the public on what they could expect from ward surgeries which were very different from a public meeting or ward forum.
 - There were lessons to be learned from the incident including on the need for security, that members ought not to attend surgeries alone. The suggestion was made that surgeries should always be held in a more public arena where support could be called on if needed. Residents needed a clear route map, a simple guide so they could see a way forward, if they wished to query a decision.
 - The view that the evidence was very finally balanced, but that allowance should be made for Councillor Anderson's vulnerability in the light of recent threats. A Southgate Green ward forum had recently had to be cancelled on the instruction of the Borough Commander.
 - Understanding of the residents' point of view and sympathy with their frustration
5. The Committee reviewed and discussed the information received above.
- Christine Chamberlain (Independent Person) asked if Jill Bayley could respond to the allegation in Mrs Leach's response that she had given greater credence to Councillor Anderson's evidence than her own. Jill Bayley responded that she had carefully considered all the evidence but had to work on the balance of probabilities.

Following the discussion, the Committee:

AGREED not to uphold the appeal against the Monitoring Officer's decision on the complaint against Councillor Daniel Anderson and to endorse the Monitoring Officer decision that Councillor Anderson had not been in breach of the Councillor Code of Conduct.

The decision was made on the following basis:

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In reviewing the allegations relating to Councillor Anderson's behaviour at the ward surgery on 15 November 2016, the Committee agreed with the conclusions of the investigating officer's report as follows:

- In relation to the complaint of lack of accountability, the investigating officer had noted that Councillor Anderson had said in interview that he was not responsible, but he had also agreed "to take the flak". On the basis of this and his subsequent discussion with Ms Middleton Albooye and on the balance of probabilities the complaint was not upheld.
- In relation to the complaint of lack of openness, despite appreciating the sense of frustration expressed by Mrs Leach, the investigator had concluded that Councillor Anderson had been involved in drafting the letter to residents to explain the reason for the decision not to change the traffic arrangements and that there had been a meeting to discuss this between the ward members and members of the residents group. Councillor Anderson had also been in discussions with officers about the decision and had considered sending out a further letter to the residents. On the balance of probabilities the complaint on lack of openness was therefore not upheld.
- In relation to the complaint on the lack of respect for others and lack of courtesy, on the balance of probabilities, the investigator had resolved that all three parties at the meeting had acted aggressively and therefore the complaint was not upheld.
- In relation to the allegation of bullying, on the balance of probabilities the complaint was not upheld because it was felt that there had been insufficient evidence to show that show that the allegation of bullying was made out.

The reason for their decision was:

That they agreed with the findings of the investigation report and with the recommendation that all four complaints against Councillor Anderson be dismissed.

As an outcome of the investigation it was agreed that the party whips should feedback the following recommendations to their respective groups: -

1. Where there were known contentious local issues, greater clarity should be provided to the public as to how they engage with the Council and raise their concerns;
2. Arrangements for ward surgeries should be reviewed to ensure the safety of members of the public and councillors in attendance.

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UPDATE ON COMPLAINTS

The Committee received the rolling record of complaints currently being considered by the Monitoring Officer.

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Jayne Middleton-Albooye (Head of Legal Services and Deputy Monitoring Officer) advised the Committee that it had been agreed with Jeremy Chambers, the new Monitoring Officer that she would complete the complaints which had started under her tenure and that Jeremy Chambers would take over any new complaints.

Jayne Middleton-Albooye briefed members on the complaints currently under consideration as follows:

- Complain 001 – The complaint was now closed. The decision had been taken that there had been no breach of the councillor code of conduct, members and complainant notified and no appeal received.
- Complaint 002 - The investigation was continuing as a further interview had still to be arranged. If this could not be done by the end of the first week of January 2018, then the Jeremy Chambers, as the new Monitoring Officer, would make a decision on the case.
- Complaint 005 - Jayne Middleton-Albooye had re-interviewed the members. She apologised for the delay in progressing this, due to pressure of work.
- Complaint 006 - The appeal against the monitoring officer's decision had just been heard.
- Complaint 007 - The case was now closed.
- Complaint 008 - Interviews had taken place and Jayne Middleton-Albooye would be reporting her findings to Jeremy Chambers.

NOTED that

1. Jayne Middleton-Albooye apologised for not providing the costs of the Brown Jacobson investigations and promised to do so. The information would be circulated to all members of the committee as soon as available.

AGREED to note the information on current complaints.

403 REVIEW OF MEMBER'S EXPENSES

The committee received a report from the Monitoring Officer containing the additional information on 2016/17 member expenses, as requested by members at the meeting held in March 2017.

AGREED to note the information provided.

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CHANGE TO THE PROCEDURE FOR HANDLING COMPLAINTS AGAINST COUNCILLORS AND CO-OPTED MEMBERS

The committee received the report that had been submitted to Council on the change to the procedures for handling and hearing complaints against elected and co-opted members.

NOTED

1. That the changes had been agreed at Council on 22 November 2017, subject to further clarification at the next meeting of the Councillor Conduct Committee.
2. Members were re-assured that the change would just permit the Monitoring Officer to continue investigating a complaint, even if it had been withdrawn, but that all the existing procedures following any investigation would still apply. The change would not make a difference to any aspect of the complaints handling process. It was anticipated that this situation would not occur very often.

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WORK PROGRAMME 2017/18

The work programme for 2017/18 was received and noted. No further items were added.

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MINUTES OF MEETING HELD ON 5 OCTOBER 2017

The minutes of the meeting held on 5 October 2017 were agreed as a correct record.

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DATES OF FUTURE MEETINGS

The date of the next meeting was noted as follows:

- Tuesday 6 March 2017