

STANDARDS ASSESSMENT PANEL

23 March 2021 at 7.00pm
PUBLIC MINUTES

PRESENT:

Members. Councillors Murtagh (chair), Nagpal and Stafford

Independent Person: Ms O Sall

ALSO PRESENT: Councillor X (Complainee in relation to item 5), spokesperson for the complainants for item 5, and Complainants for item 5;
Ms H Harris (Director of Legal and Democratic Services), Ms R Evans (Investigating Officer) and Ms L Zimmerman (Democratic Services)

1. Absent

Ms W Morris (Independent Person)

2. Urgent Matters

There were none.

3. Matters to be Considered in Private

Items 5, 6 and 7 contain information that is exempt from disclosure by virtue of paragraph 1 of schedule 12A of the Local Government Act 1972 and were taken in private.

4. Declarations of Interest

Councillor Stafford declared that his parents lived on a road in the area in question but that Cllr Stafford did not know any of the complainants.

5.

5. A Report to Consider a Complaint Investigation Report about the Conduct of a Councillor

The Panel agreed to hold this meeting in private to protect the personal data of the complainee councillor and others involved in the complaint and investigation. This was in line with Ealing's usual practice.

The spokesperson for the Complainants, agreed for the meeting to go ahead with the current number of residents present.

Ms Harris (Director of Legal and Democratic Services - "DLDS") introduced the report explaining that this was a complaint which she had determined required investigation and had appointed Ms R Evans, Senior Solicitor, as the investigating officer. Ms Evans had reached the conclusion that there had not been a breach of the code of conduct for councillors in this case. If the Panel agreed with the investigating officer's recommendation, then no further action would be required. If the Panel did not agree, the case would be brought before the full Standards Committee for consideration.

The complaint was set out in full in the appendix to the report.

The investigator completed her investigation, and her report and appendices were attached to the agenda bundle for this meeting.

The investigator carried out a full investigation, interviewed a number of individuals (including the complainee Councillor x). She concluded in her report that that Cllr x was acting in their capacity as a Councillor of the London Borough of Ealing Council in all 4 complaints. However, the investigator also concluded that Cllr x had not breached either the Code of Conduct for Councillors or the Planning Code of Conduct.

The spokesperson for the complainants addressed the Panel detailing the concerns of the residents. Concerning site visits, the code of conduct stated that members "should not enter that site for any purpose", The spokesperson for the complainants noted that Councillor x attended a private consultation event at the site in question. The investigation report had suggested it was an official visit, even though the planning application had not been submitted by that time, and there was no official record of the visit logged at the Council. The code of conduct stated that councillors should avoid giving any indication of their decision, yet one witness heard Councillor x stating that the development should "go ahead". The code of conduct stated that members should avoid entering into dialogue with third parties during a site visit without an officer being present; Councillor x entered into dialogue with several third parties with no officer present. Councillor x hosted a meeting with the premises and their PR representative one week before the Planning Committee meeting, the premises was invited to articulate the need for the scheme at that meeting. No official record of this meeting was kept. The spokesperson for the residents felt that the investigation report had ignored the complaint, at paragraph 5, concerning Councillor's x's conduct during the official site visit when residents were forbidden to speak.

The complainants' formal response to the draft investigation report, (found at appendix 12, at page 122 of the consolidated report), set out in detail the residents' concerns about the investigator's report and their formal response to the draft investigation report. The spokesperson for the complainants asked panel members to study this document very carefully before reaching any conclusions.

Councillor x addressed the Panel.

The Investigating Officer summarised her report to the Panel.

The Panel referred to pages 96 to 98 of the confidential agenda bundle and noted that the investigating officer's report had considered section 5 of the Planning Code of Conduct but had not considered section 17 of the Planning Code of Conduct, which relates to Site Visits: "Where you know a site to be the subject of or affected by a planning matter or you know it is likely to become subject to or be affected by a planning matter, you should not enter that site for any purpose in connection with such matter except in the course of an official site visit"

The Independent Person asked why section 17, stating that members should not enter the site, was not addressed in the investigator's report. The investigating officer explained that section 5 of the code had dealt with the role of members at the pre-application stage.

Cllr x added that since 2011 members of the Planning Committee had been allowed to express an opinion. Cllr x stated that he/she had attended a consultation event and his/her only comment had been that the application was not bringing forward affordable housing. He/she added that it was allowable for members to offer an opinion but that he/she had always kept an open mind until the final decision was made at the Planning Committee.

The Committee retired to deliberate. At this point in the meeting the complainants, complainee and investigating officer left the meeting.

Members considered the investigating officer's report, the submission from the spokesperson on behalf of the complainants and the submission from Cllr x.

Members considered each of the four complaint allegations in detail.

- Improperly attending a consultation event and indicating at that event that he/she had already made up his/her mind how he/she would vote at planning committee - which had not yet met to consider the planning application;
- Improperly meeting with representatives of the planning applicant on shortly before the planning application was considered by Planning Committee;
- Failing to complete required records of his/her attendance at the 2 events;
- Being unfairly biased in favour of the applicant at the Planning Committee meeting considering this application.

Members considered the Planning Code of Conduct and saw an ambiguity in section 17 when compared with section 5; section 17 indicates that members should not enter a site for any purpose except in the course of an official site visit. Section 5 allows for organised pre-meetings with developers.

Members discussed in detail the investigating officer's report and the contributions made in the meeting by a representative of the complainants and by Cllr X.

The Independent Person was concerned that there was potential conflict between section 17 and section 5 of the Planning Code of Conduct for Councillors and felt that if there was the slightest doubt then the case should be considered by the full Standards Committee.

Members noted that officers were present at the first meeting and that procedures require officers (rather than Cllr x) to minute and log meetings with developers. The second event, which was a pre-application public consultation event held by the developer and attended by members of the public as well as by Cllr x. At the time of the first event, the Planning Code didn't require such meetings to be recorded.

Following a vote the majority decision was that Cllr x had not breached the Code of Conduct for Councillors.

The vote was recorded:

Councillor Nagpal voted to uphold the investigator's report that there had not been a breach of the Code of Conduct for Councillors;

Councillor Stafford voted not to uphold the investigator's report;

Councillor Murtagh voted to uphold the investigator's report.

The complainants and Cllr x rejoined the meeting and were informed of the decision of the Panel.

Resolved

That the Standards Assessment Panel:

- i) agreed that the assessment of this Complaint be held in private.
- ii) noted the views of the independent standards person present who felt that if there was any doubt on interpretation of the Codes that this case should be referred to the full Standards Committee for consideration.
- iii) agreed by a majority vote, with the Investigating Officer's findings that Cllr x was not in breach of the Code of Conduct and agreed with the reasoning for that conclusion, as set out in the Investigating Officer's report.
- iv) recorded that Cllr Stafford dissented from this decision.
- v) agreed that the Code of Conduct should be reviewed in relation to section 5 and section 17 of the Planning Code of Conduct for Councillors.
- vi) instructed the Director of Legal and Democratic Services to issue the appropriate notice to the complainant and to the councillor, in accordance with the Panel's decision
- vii) agreed that the public minutes of the meeting should not name the councillor

At this point in the meeting the complainants, complainee and investigating officer from item 5 above left the meeting.

6. Complaint Against a Councillor

Resolved

That the Standards Assessment Panel having considered the complaint made against Cllr Y by a member of the public as detailed in the report:

- i) agreed that the assessment of this complaint be held in private.
- ii) noted the views of the independent standards person present who felt that this complaint did not require investigation.
- iii) agreed that this complaint against Cllr Y did not require reference for investigation.
- iv) instructed the Director of Legal and Democratic Services to issue the appropriate notice to the complainant and to the councillor, in accordance with the Panel's decision
- v) agreed that the public minutes of the meeting should not name the councillor

7. Complaint Against a Councillor

Resolved

That the Standards Assessment Panel having considered the complaint made against Cllr Z by a member of the public as detailed in the report:

- i) agreed that the assessment of this complaint be held in private.
- ii) noted the views of the independent standards person present who felt that this complaint did require investigation.
- iii) agreed by a majority vote that this complaint against Cllr Z did not require investigating.
- iv) recorded that Cllr Stafford dissented from this decision.
- v) instructed the Director of Legal and Democratic Services to issue the appropriate notice to the complainant and to the councillor, in accordance with the Panel's decision

- vi) agreed that the public minutes of the meeting should not name the councillor

Cllr T Murtagh (Chair)

The meeting ended at 21:30