

STANDARDS ASSESSMENT PANEL

**10 October 2018 at 7.00pm
PART 1 - PUBLIC**

PRESENT:

Members. Councillors Murtagh (Chair), Anjum and Young

Independent Persons: Ms W Jones and Ms O Sall

ALSO PRESENT: J Morley (Investigating Officer), H Harris (Director of Legal and Democratic Services) and Linda Zimmerman (Democratic Services)

1. Absence

Complainant 1 from whom apologies for absence were received.
Complainant 2
Subject councillor

2. Urgent Matters

There were none.

3. Matters to be Considered in Private

Item 5 contains information that is exempt from disclosure by virtue of paragraph 1 of schedule 12A of the Local Government Act 1972 and was taken in private.

4. Declarations of Interest

There were none.

5. Complaint Against a Councillor

The Panel considered the investigation into the complaint against Councillor X.

The Panel agreed to proceed in the absence of the complainants and complainees who had been invited to the Panel hearing, had been sent the draft investigation report and had confirmed that they had no comments on this.

The Panel agreed to hold this meeting in private to protect the reputation of councillors when complaints were not upheld. This was in line with Ealing's practice and the Panel agreed to continue this, and suggested that this practice be kept under review by the Standards Committee.

Allegations had been made that Councillor X had breached the council's code of conduct by his/her actions at a planning site visit as detailed in the report.

Both independent persons agreed with the findings of the investigation report that there had not been a breach of the council's code of conduct. Ms Jones had noted that the content of the conversation between Cllr X and another councillor at the site visit, amounted to the councillor's recollection against that of the complainants'; the complaint was based on an overheard conversation where it would be difficult to

understand the context. Ms Sall had, prior to the investigation, thought that there might have been a breach of the code of conduct but, having read the investigation report, her view had changed and she agreed that there had not been a breach.

The Panel was advised that section 25.2 of the Localism Act stated:

“A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and

(b) the matter was relevant to the decision.”

After a full discussion, and having taken the view of the independent persons, the Panel decided to accept the investigating officer’s conclusions that no breach of the Code of Conduct had taken place.

Resolved

That the Standards Assessment Panel:

- i) agrees that this assessment of the complaint be held in private and recommends that this practice is kept under review by the Standards Committee.
- ii) notes the views of the independent persons that Councillor X had not breached the Council’s Code of Conduct
- iii) agrees with the investigator’s finding as set out on page 8 of the investigation report that Councillor X had not acted in breach of the Code.
- iv) instructs the Director of Legal and Democratic Services (DLDS) to issue the appropriate notice to the complainants and to the councillor following the Panel’s decision.
- v) resolves that the public minutes should not name the councillor

Reason for Decision and Options Considered

This report relates to two separate but related complaints made against Councillor X. The complaints were made by members of the public: Both complaints are set out in full in the appendix to the report; they relate to a Planning Committee site visit.

Both complaints were considered by the council’s DLDS, under paragraph 4.1 of the council’s adopted Standards Procedure (appendix 5 of the report). The DLDS took the decision to refer some elements of the complaints for investigation and appointed Mr Justin Morley to carry out that investigation. This was because, if those elements of the allegations were true (noting that the DLDS herself carried out no investigation into the truth of them or otherwise), the DLDS considered that a breach of the Code *might* have taken place. Before taking her decision, the DLDS consulted the council’s two independent standards people, and both agreed that the complaints should be referred for investigation.

Mr Morley (“the investigator”) is an experienced local government solicitor and currently holds the position of the Head of Legal (Social Care and Education) within the council’s

in-house legal team. The investigator has now completed his investigation, and his report is attached as the appendix to the report.

The investigator carried out a full investigation, interviewed a number of individuals (including the complainants and subject councillor) and finally concluded in his report that *“following my investigation into the complaint I am of the view the Councillor X has not acted in breach of the Code”*. The complainants and subject councillor were all given the opportunity to comment on the investigator’s report when still in draft form.

Councillor Murtagh (Chair)

The meeting ended at 7:35pm