

Decisions of the Group Leaders Panel

23 July 2013

Members:

Councillor Richard Cornelius (Chairman)

*Councillor Jack Cohen
*Councillor Alison Moore
*Councillor Anthony Finn

*Councillor John Marshall
*Councillor Daniel Thomas (In place of
Richard Cornelius)
*Councillor Barry Rawlings (In place of
Alison Moore for Case 001/13)

Independent Person:

*Stephen Ross

*denotes Member present

1. APPOINTMENT OF CHAIRMAN

That Councillor Daniel Thomas be appointed Chairman.

2. ABSENCE OF MEMBERS (IF ANY)

Apologies for absence were received from Councillor Richard Cornelius (Councillor Daniel Thomas substituting).

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

Members declared the following interests:

Councillor:	Agenda Item(s):	Interest :
Alison Moore	5 – Case no. 001/13	Non pecuniary interest as Councillor Moore was the complainant in this case. Councillor Moore left the room during the determination of this item. Councillor Barry Rawlings substituted for Councillor Moore for this item.

4. MOTION TO EXCLUDE THE PRESS AND PUBLIC

Papers for this meeting had not been made available in accordance with Section 100B (1) and (2) of the Local Government Act 1972 as the matters yet to be discussed involved the likely disclosure of exempt information. It was for the Panel to decide whether the public and press should be excluded for consideration of the item.

The Panel considered reports on behalf of the Monitoring Officer which set out details of four complaints that Members had failed or may have failed to comply with the Authority's Code of Conduct.

RESOLVED that

Case No 001/13 the matter in relation to one of the remarks made by Councillor Coleman go to formal consideration by the Panel and that no further information was required.

Case No 002/13 the complaint against Councillor Coleman in part go to formal consideration by the Panel and that no further information was required. The complaint against Councillor Richard Cornelius and Councillor Brian Schama (the Mayor) should not go to formal consideration by the Panel.

Case No 003/13 the complaint against Councillor Coleman go to formal consideration by the Panel and that no further information was required.

Case No 004/13 the complaint against Councillor Coleman go to formal consideration by the Panel and that no further information was required.

The Panel then went into public session and heard the complaints.

5. RE-ADMISSION OF THE PRESS AND PUBLIC

Case No 001/13 made by Councillor Alison Moore, 002/13 made by Ms Helen Davies and 004/13 (in part) made by Dr Julia Hines all related to alleged breaches of the Code of Conduct for Councillors made by Councillor Brian Coleman at the Council meeting held on 11 September 2012 at which he was heard to address a remark to the public gallery referring to unnamed individuals as "sad, mad and a couple of hags."

Evidence

The Monitoring Officer introduced her factual report. The video of the Council meeting on 11 September 2012 was played showing Councillor Coleman making the statement whilst facing the public gallery and gesturing with his hand towards them. It was unclear whether Councillor said sad or bad.

The Panel was informed that the public gallery contained 40 seats and was approximately two thirds full.

Both Councillor Moore and Dr Hines made statements confirming that the remarks were addressed to the public gallery and that in Dr Hines' case that these were directed at named individuals including herself.

Dr Hines was in attendance as she had asked to attend. Ms Davies was not present.

In addition to her written complaint, Dr Hines told the Panel that she had informed Councillor Coleman's election agent sometime prior to the meeting that she intended to make a complaint about him under the Standards regime.

Councillor Coleman was not present at the meeting but had responded as follows to all three complaints:

“These complaints are frivolous, party political in nature and anyway as part of a speech in the Council Chamber just the sort of complaint the Localism Act was supposed to prevent.

As the supposed comments are general and refer to nobody in particular I cannot see how any individual could take offence.”

Relevant Sections of the Code

The relevant Members Code of Conduct in force at the time of the meeting was the July 2012 Code.

The complainants cited breaches of Section 3 General Obligations citing 3(2), 3(3) and 3(4) although the Panel was not bound to consider these sections alone.

Section 3 of the Members Code of Conduct as at September 2012

General obligations

3. (1) As a member or co-opted member of London Borough of Barnet you have a responsibility to represent the community and work constructively with the Council's staff and partner organisations to secure better social, economic and environmental outcomes for all.

(2) In accordance with the provisions of the Localism Act 2011, when acting in this capacity you must be committed to behaving in a manner that is consistent with the following principles to achieve best value for the borough's residents and maintain public confidence in this authority:-

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

(3) You must treat others in a manner which is consistent with the obligations set out in paragraphs 3 (1) and 3 (2) above.

(4) You must not:-

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006, which has now been superseded by the Equality Act 2010);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be:-

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration 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.

Having heard the submissions, the Panel adjourned the meeting to conduct its deliberations.

Findings of fact

It is not entirely clear from the footage referred to whether Councillor Coleman used the word 'mad' or 'bad', although the word 'sad' and the phrase 'a couple of old hags' are distinct.

The remarks were addressed to the public gallery but given the lack of video evidence and the paucity of information as to who was in the public gallery and where they were all seated, the Panel could not conclude on the balance of probabilities that the remarks were addressed to specific individuals.

Dr Hines' statement about the election agent was new evidence that had not been put to Councillor Coleman and as such was not considered by the Panel.

The Panel made the following findings:

1. Although discourteous, the remarks did not breach sections 3(1)-3(3) of the Code.

2. Councillor Coleman was not acting as the Authority when he made the remarks and there was nothing to indicate that his actions would cause the Authority to breach the Equality Act 2010.
3. In respect of Dr Hines' complaint, as the Panel had concluded that it was not possible on the balance of probabilities to identify to whom the remark was addressed, 3(4) (b) and (c) were not breached.

The Press and Public were re-admitted for the announcement of the Panel's decisions.

6. CASE NO. 001/13

RESOLVED

1. Although discourteous, the remarks did not breach sections 3(1)-3(3) or any part of the Code.
2. Councillor Coleman was not acting as the Authority when he made the remarks and there was nothing to indicate that his actions would cause the Authority to breach the Equality Act 2010
3. As the Panel had concluded that it was not possible on the balance of probabilities to identify to whom the remark was addressed, 3(4) (b) and (c) were not breached.
4. That a recommendation be made to the Constitution, Ethics and Probity Committee to review the Members Code of Conduct with a view to including an obligation on Members to treat others with respect.

7. CASE NO. 002/13

RESOLVED

1. Although discourteous, the remarks did not breach sections 3(1)-3(3) or any part of the Code.
2. Councillor Coleman was not acting as the Authority when he made the remarks and there was nothing to indicate that his actions would cause the Authority to breach the Equality Act 2010.
3. As the Panel had concluded that it was not possible on the balance of probabilities to identify to whom the remark was addressed, 3(4) (b) and (c) were not breached.
4. That a recommendation be made to the Constitution, Ethics and Probity Committee to review the Members Code of Conduct with a view to including an obligation on Members to treat others with respect.

8. CASE NO. 003/13

The Monitoring Officer presented her factual report. The complaint was made by Mr Paul Merchant and concerned a Cabinet meeting held on 4 April 2012. Mr Merchant alleged that at the meeting he had exercised his right to put a supplementary question to Cabinet; that on bringing his question to a close, Councillor Brian Coleman had called him a "tw*t".

Mr Merchant also alleged that when Councillor Richard Cornelius confirmed to him (Mr Merchant) that the answer to his (Mr Merchant) question was “no”, Councillor Coleman interjected and said “you’ve had your answer, now get out”. Mr Merchant also alleges that Councillor Coleman used offensive language towards him and that his manner was brusque. Mr Merchant refers to a “video footage on a blog on the internet” to support his allegation and states that Councillor Coleman’s alleged remarks breached the following parts of the Members’ Code of Conduct (applicable as at April 2012):

Paragraph 3(1) - You must treat others with respect;

Paragraph 3(2) (b) - You must not bully any person;

Paragraph 5 - You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute

Findings of fact

Video footage does show Councillor Coleman mouthing what appeared to be tw*t, after Mr Merchant had addressed a remark to Councillor Robert Rams and that the second alleged comment was made.

RESOLVED

1. That Councillor Coleman breached paragraph 3 (1) of the Members Code of Conduct – You must treat others with respect (the Code applicable as at April 2012 when the breach occurred).
2. That in view of (1) above, the Panel recommends censure of Councillor Coleman for his failure to treat others with respect, a breach of the Members Code of Conduct applicable at the time of the breach.
3. That Councillor Coleman is notified of his right of appeal to Council and that any such request for an appeal is submitted to the Monitoring Officer by 30 August 2013.

9. CASE NO. 004/13

The complaint was made by Dr Julia Hines and was in two parts:

Part 1 of complaint

This was dealt with together with Case No 001/13 made by Councillor A Moore and 002/13 made by Ms Helen Davies (see above).

Part 2 of complaint

The main issues stemmed from a meeting of Cabinet on 20 February 2012 and an Agenda item on Network Management Policy. Dr Hines was concerned about a proposed review of traffic light controlled crossings in the context of the potential effect on older people. Dr Hines entered into correspondence with Councillor Coleman and the complaint appears to encompass the tone and nature of this correspondence as well as Councillor Coleman claiming that Dr Hines had misrepresented the policy.

Dr Hines alleged that 3 General Obligations citing 3(2), 3(3) and 3(4) of the Members Code of Conduct had been breached.

Findings of fact (In respect of the complaint about the email correspondence):

The proposal was 'that a systematic review of traffic signal controlled junctions and pedestrian crossings be undertaken with a view to removal or replacement with an alternative method of control where these are no longer needed.'

Councillor Coleman's view expressed in the correspondence is that Dr Hines had misrepresented this policy and seemed to be spreading misleading information.

The correspondence was set out in full in the appendices to Dr Hines' complaint so there was no dispute about what was said in the written correspondence.

RESOLVED

Part 1 of complaint

1. Although discourteous, the remarks did not breach sections 3(1)-3(3) or any part of the Code.
2. Councillor Coleman was not acting as the Authority when he made the remarks and there was nothing to indicate that his actions would cause the Authority to breach the Equality Act 2010.
3. As the Panel had concluded that it was not possible on the balance of probabilities to identify to whom the remark was addressed, 3(4) (b) and (c) were not breached.
4. That a recommendation be made to the Constitution, Ethics and Probity Committee to review the Members Code of Conduct with a view to including an obligation on Members to treat others with respect.

Part 2 of complaint

1. That in respect of the complaint about email correspondence, Councillor Coleman breached paragraph 3 (1) of the Members Code of Conduct – You must treat others with respect (the Code applicable as at April 2012 when the email correspondence occurred), when he sent the two emails of 10 April 2012 (sent at 3.46pm and 4.07pm) to Dr Hines. The third email of 10 April 2012 (sent at 4.51pm) was not viewed by the Panel as an attempt to defame Dr Hines and that this was tempered by the word "seems".
2. That in view of (1) above, the Panel recommends censure of Councillor Coleman for his failure to treat others with respect, a breach of the Members Code of Conduct applicable at the time of the breach.
3. That Councillor Coleman is notified of his right of appeal to Council and that any such request for an appeal is submitted to the Monitoring Officer by 30 August 2013.

10. ANY OTHER ITEM(S) THAT THE CHAIRMAN DECIDES ARE URGENT

There were none.

The meeting started at 5.00pm and finished at 7.15 pm