

Report of Investigating Officer- Complaint against Cllr Hugh Rayner

1. I have been asked by the Maryellen Salter, the Monitoring Officer of the London Borough of Barnet, to investigate three complaints made by Andrew Dismore against Cllr Hugh Rayner under the Members' Code of Conduct. (the Code).
2. In accordance with the Code, I have been asked to produce a report of factual findings without drawing any conclusion as to whether or not there has been a breach of the Code.
3. The complaints were lodged in two different documents. They contain a number of allegations, all but one relate to meetings of Council and of the Business Management Overview and Scrutiny Committee. I have therefore listed each allegation separately and dealt with it in turn, rather than reproduce the complaints as separate documents..
4. When dealing with each meeting to which Mr Dismore refers, I have provided a link to both the minutes and the relevant document. Wherever possible I have quoted both Mr Dismore and Cllr Rayner and others verbatim and I have put their words in italics. As well as answering specific questions, Cllr Rayner provided me with a final summary of his position. This is included at the end of this report.
5. Where I have sought to clarify a matter I have written under the heading "General note."

The Codes

6. Although the complaints refer to specific sections of the current Members' Code of Conduct, the allegations relate to Council meetings dating back to 2010. Over that period there have been three Members' Codes of Conduct; November 2009, 10 July 2012, 16 April 2013. These are attached at Appendix A.
7. Members will need to determine whether Cllr Rayner has broken the Members' Code of Conduct enforceable at the relevant time. Any possible sanction however, is dictated by the current Members' Code of Conduct dated July 2014 and also in Appendix A.

Disclosable interests

8. In addition, the statutory requirements for declarations relating to personal and prejudicial interests changed under the Localism Act 2011. This introduced disclosable pecuniary interests as from 1 July 2012. Again Members will need to consider Cllr Rayner's actions in light of the statutory requirements at the relevant time.
9. Mr Dismore refers to potential breaches of the current Code only, Members are not limited to those sections cited by him in relation to those complaints that fall to be dealt with under the relevant code.

The current statutory requirements

10. Under the Localism Act 2011 a relevant authority must adopt a code of conduct for its members that is consistent with the seven principles of public life and to have a register of members' interests. Subject to the statutory provisions, it is for the relevant authority to determine what is to be entered into the authority's register.
11. Relevant authority is defined in the Act as to include a London Borough Council.
12. Section 30 requires that within 28 days of becoming a Member, s/he has to notify the Monitoring Officer of any disclosable pecuniary interest as defined in regulations made by the Secretary of State.
13. Section 31 requires that a Member present at any meeting of the authority, and who has a disclosable personal pecuniary interest in any matter to be considered at the meeting, may not:
 - (a) participate, or participate further, in any discussion of the matter at the meeting, or
 - (b) participate in any vote, or further vote, taken on the matter at the meeting.

This is subject to dispensations relieving the Member from either or both of the above restrictions
14. Section 31(2) only requires the Member to disclose the pecuniary interest at the meeting if it is not already on the register of members' interests. Nor is there a requirement for the Member to leave the room
15. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464 came into force on 1 July 2012. These specify what is a pecuniary interest. This is set out in the current code in Appendix A.
16. Non statutory guidance for councillors was issued by DCLG in September 2013 entitled "Openness and transparency on personal interest: A guide for councillors." Its stated purpose is to give basic practical information about how councillors can be open and transparent about their personal interests in light of the Localism Act 2011.
17. The guidance states that all councillors should register their declarable interests ie:
 - (a) declarable pecuniary interests;
 - (b) other interests that must be declared and registered as required by the authority's code; and
 - (c) in conformity with the duty to act in accordance with the seven principles of public life.
18. The guidance also deals with the question of dispensations and the setting of council tax to which I shall refer later.

Additional requirement of Barnet's current code of conduct

19. Barnet's code of conduct repeats the national rules and definition of disclosable pecuniary interests with two additions:

- (a) a Member who has a disclosable personal interest (irrespective of whether it has been entered on the Council's register of interests) must leave the room in which the meeting is being held; and
 - (b) para 10.1 of the Code refers to "other interests ie "non disclosable pecuniary interest or non pecuniary interest. In such cases the Member must make a verbal declaration of the existence and nature of the interest at or before the consideration of the item of business."
20. Para 10.2 of the Code states that "a Member has a non disclosable pecuniary interest or non pecuniary interest in an item of business of your authority where:
- (a) a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area: or
 - (b) it relates to or is likely to affect any of the interests listed in the Table in Appendix 1 of this Code, but in respect of a member of your family (other than a relevant person) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest."

The pre Localism Act statutory requirements

21. Prior to the Localism Act 2011 the term disclosable pecuniary interest was not used. Members had to declare personal interests. Prior to 1 July 2012 and during the relevant period concerning these complaints, interests were divided into personal and prejudicial.
22. There were 2 types of personal interests. The first was an interest that had to be registered. The registerable interests are broadly the same as those listed in the Localism Act and are set out in the Code for November 2009 in Appendix A.
23. The second type of personal interest was one that is not on the register but where the well being or financial position of the Councillor, members of his/her family or people or bodies with whom s/he has a close association, is likely to be affected by the business of the authority more than it would affect the majority of inhabitants of the ward affected by the decision or inhabitants of the authority's area (in all other cases)
24. Members had to declare a personal interest and the nature of the interest as soon as it become apparent in all formal meetings before the matter was discussed. This differs from the Localism Act where a declaration at the meeting is not necessary if the interest is on the register.
25. Under the old system a personal interest will also be a prejudicial interest if it met all of the following conditions:
- (a) the matter does not fall within one of the exempt categories of decisions, for example setting the council tax;
 - (b) the matter affects the Member's financial interests or is about a licensing, planning or other regulatory matter that might affect the Member's interest;

- (c) a member of the public, who knows the relevant facts would reasonably think that the Member's personal interest so significant that it is likely to prejudice the Member's judgement of the public interest.

26. A Member with a prejudicial interest had to declare the interest and the nature of the interest as soon as it becomes apparent. They had to leave the room unless members of the public were allowed to make representations, give evidence or answer questions about the matter. If this is the case, the member could also attend the meeting for that purpose. The Member then had to leave the room once s/he had finished speaking.

Disclosable interests and council tax

27. Under both the old and the new law, there are what were called exempt categories of decisions. Under para 10(2)(c) of the pre Localism Act statutory code of conduct, a Member will not have a prejudicial interest if the matter related to certain functions of the authority. This included the setting of council tax or a precept.

28. The non statutory guidance for councillors issued by DCLG in September 2013 entitled "Openness and transparency on personal interest: A guide for councillors." specifically deals with the question of whether a councillor needs a dispensation to take part in the business of setting council tax or a precept. It states as follows:

"Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

"If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

"Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual."

29. Despite this guidance, many councils, including Barnet still grant dispensations for setting the council tax.

30. In Cllr Rayner's case, I have seen copies of assured shorthold tenancy agreements involving him and his wife directly or S and H Housing Ltd of which Cllr Rayner is a Director. These provide that the Landlord is excluded from responsibility for the payment of the council tax.

31. However in Barnet as from 1 April 2013 unless a specific exemption applies, council tax is payable in full on empty properties whether furnished or unfurnished.

Members' Register of Interest and Cllr Rayner

32. Cllr Rayner first became a Councillor in Barnet in 2006. All his entries on the Members' Register of Interest are contained in Appendix B.
33. On the Members' Register of Interest for 8 May 2006 he declared that he was a Director of S H Housing Ltd and he listed 23 properties in which he had a beneficial interest.
34. On the Members' Register of Interest for 5 June 2010, Cllr Rayner declared the names of 2 companies S.H Housing Ltd and Homehurst Residents Ltd . He described himself as a Director and employee of S.H. Housing Ltd and he listed 25 properties in the authority in which he had a beneficial interest.
35. On the Members' Register of Interest for 18 June 2014, Cllr Rayner declared that he is a Director of S.H Housing Ltd . He describes himself as "a private landlord of property within the borough. He added "overseeing and managing the letting of property; acquisition of land; development of land. He listed 24 properties in the authority in which he has a beneficial interest. He has also put a note that states:

"some of the tenants of SH Housing owned properties and privately owned properties have their rent funded by LBB housing benefit and in some cases this is paid direct (whilst I do not consider this to be a pecuniary interest I do include it). Likewise I am also recipient of incentive payments as a landlord from Barnet Homes (again I do not consider this to be a pecuniary interest). (See Appendix B)

36. Cllr Rayner made an additional declaration on 5 August 2014 stating:

"I wish to declare further information in relation to my interest in that from time to time I receive incentives as a private landlord from Barnet Homes for taking on tenants as recommended by them."

37. Cllr Rayner made a further declaration on 14 August 2014 stating:

"I wish to declare that I have entered into a contract with the Council for a Cross Over deed"

The Complaints

38. Mr Dismore's first complaint is dated 16 June 2014 and his second is dated 3 July 2014. The complaints relate to five budget setting meetings held between 2010-4 and meetings of the Business and Management Overview and Scrutiny Committees between July 2010 and January 2014 at which Cllr Rayner was present and a voting member.
39. He has alleged breaches of the current Code of Conduct for Members. However, I have stated which Code applies in relation to each item.
40. I have checked the minutes of the meetings and with the exception of the Business Management Overview and Scrutiny Committee 6 January 2014, Cllr Rayner made no declaration of interest.

Budget setting meetings

I asked Mr Dismore to identify the specific items at each budget setting meeting where he alleges that Cllr Rayner has breached the Code. Mr Dismore replied giving a general response that related to all 5 meetings and then made particular points in relation to each meeting. The following is the general response and I have reproduced in full the specific comments when dealing with each meeting.

Mr Dismore's general comments

"Barnet's code states, at Paragraph 9:

"When you are present at a meeting of the Council and you are aware that you have a disclosable pecuniary interest in any matter to be considered or being considered then (c)(1) subject to any current dispensations,

you may not participate or participate further in any discussion of the matter at the meeting or

participate in any vote or votes further taken on the matter at the meeting and

must leave the room in which the meeting is being held".

"Cllr Rayner should have made a correct declaration of his disclosable pecuniary interests in respect of his property holdings and income from HB at the following meetings, not participated in the discussion or votes at those meetings, and withdrawn from those meetings accordingly . Non declaration of interests contrary to paragraphs 1(6), 7, 8.2 and part 2, para 9.1 of the Code

"In respect of each of the years, the subject of the complaint, Cllr Rayner should not have been voting on housing finance matters as they directly relate to his own personal circumstances. He was benefiting from the various schemes to promote private sector landlords: sometimes these are set out specifically, on other occasions they are rolled up into a generalised budget line.

"He should not have voted on the Housing Revenue Account as he stood to gain from decisions made on it concerning housing supply, rents and housing benefit matters."

Cllr Rayner's general comments

"How far does one go when voting on the Annual Council Budget or the Housing Revenue Account? I drive a car and therefore, if the complainant's logic is to be accepted, should not be able to have an opinion on parking. I live in Barnet and should not have an opinion on council tax. I do not consider it 'reasonable' to declare on housing or other matters when agreeing a budget - when members are deciding on these matters in such general terms. Indeed, I have already notified my property portfolio in my Notification of Interests. And I am advised by the Monitoring Officer that receipt of rent funded in part or in full by housing benefit is not a disclosable pecuniary interest. Nor are contracts I enter into with subsidiaries of the council such as Barnet Homes. All landlord members could potentially be affected by the matters raised by the complainant but I have not noticed any declarations from them – they have interpreted 'reasonableness' in the same way as me.

“It is a global budget which we vote through and we look at it in the round rather than considering individual lines.”

Budget setting meeting of 2 March 2010

<http://barnet.moderngov.co.uk/Data/Council/201003021900/Agenda/Document%201.pdf>
Minutes

<http://committeepapers.barnet.gov.uk/Data/Cabinet/201002221900/Agenda/Document%203.pdf> Cabinet report referred to by Mr Dismore

The Code of Conduct in force was dated November 2009.

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific points are as follows:

"Page 40, lines 10281 and 10883 : these set out the budget for the rent deposit scheme and for private sector leasing, from which Cllr Rayner stood to benefit as a private sector landlord.

"Page 64: HRA : cash incentives and partnering packages capital funding: also of relevance to private sector landlords"

Cllr Rayner's response is as follows:

"I did use from the deposit scheme for one tenant in 2013 but cannot be expected to be clairvoyant about what might happen in 2013 when making decisions in 2010. And for avoidance of doubt when Barnet Homes provided a deposit I included a clause in the tenant's lease that it would be refunded to the provider at the end of the lease. I see this scheme to be benefiting the tenant and not the landlord as it would be the tenant who would otherwise need to provide the deposit – as indeed this tenant did when he last rented a property from us in the 1990s."

Budget setting meeting of 1 March 2011

<http://barnet.moderngov.co.uk/Data/Council/201103011900/Agenda/Document%201.pdf>
Minutes

<http://committeepapers.barnet.gov.uk/Data/Cabinet/201102141900/Agenda/Document%208.pdf> Cabinet report referred to by Mr Dismore

The Code of Conduct in force was dated November 2009.

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific points are as follows:

*"P235: policy issue: Planning, Housing and Regeneration point 3:
"private sector leasing-rental income" indicated as a source of savings, i.e. switching from council provision to the private sector.*

P305: app 2 statutory cost drivers: Housing benefit changes.

P419 app. 11 corporate risk register: item 6: supply of private rented properties (cf housing benefit changes)

P426 5b new corporate risk: risk of reduction in supply of private rented sector.

P427 response to this risk: targeting of Discretionary Housing Benefit payments (i.e. to make up the shortfall)

Cllr Rayner stood to gain from an increase in demand for private sector housing as a consequence of these points. He also benefitted from Discretionary Housing Benefit both paid via his tenants and directly to himself as shown by several of the cases referred to in the complaint"

Cllr Rayner's response is as follows:

"Let me deal with the summary. I consider the lines in the council budget to be so far removed from my role as a landlord that I do not consider it reasonable to be required to make a declaration. One of my tenants has received DHP as part of the funding for her rent, But the tenant pays me rent – not housing benefit or DHP. The rent is owed regardless of housing benefit or DHP levels. I never receive DHP either directly or indirectly.

'He also benefitted from Discretionary Housing Benefit both paid via his tenants and directly to himself as shown by several of the cases referred to in the complaint.' – not true, nor is it even supported by any of his own evidence. A trait which I am NOT afraid to say is evident throughout his complaint."

Budget setting meeting of 6 March 2012

<http://barnet.moderngov.co.uk/Data/Council/201203061900/Agenda/Document%201.pdf>
minutes

<http://committeepapers.barnet.gov.uk/Data/Council/201203061900/Agenda/Document%204.pdf>

Report dealing with budget setting

The Code of Conduct in force was dated November 2009..

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific points are as follows:

No additional points to the general argument about housing finance above

Cllr Rayner's response is as follows:

Cllr Rayner did not comment on this. The inference being that he too is relying on his general comments

Budget setting meeting of 5 March 2013

<http://barnet.moderngov.co.uk/documents/g6629/Printed%20minutes%2005th-Mar-2013%2019.00%20Council.pdf?T=1>

Minutes

<http://committeepapers.barnet.gov.uk/documents/b22257/Report%20of%20Cabinet%20-%2025%20February%202013%20Business%20Planning%20201314%20-%20201516%2005th-Mar-2013%2019.00%20Coun.pdf?T=9>

Cabinet Report referred to by Mr Dismore

The Code of Conduct in force was dated 10 July 2012.

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific points are as follows:

*"These papers are not numbered consecutively so identify them is more problematic.
App2 Finance and business plan consultation: p10 summary: policy issue: concern over high private sector rents expressed in this paragraph, and elsewhere in this document e.g. p44*

App4 revenue budget; housing needs and resources line: includes finances for private sector"

Cllr Rayner's response is as follows:

"I consider the lines in the council budget to be so far removed from my role as a landlord that I do not consider it reasonable to be required to make a declaration."

Budget setting meeting of 4 March 2014

<http://barnet.moderngov.co.uk/documents/g7516/Printed%20minutes%2004th-Mar-2014%2019.00%20Council.pdf?T=1>

Minutes

<http://committeepapers.barnet.gov.uk/documents/b23615/Report%20from%20Cabinet%20-%2025%20February%20201%20Business%20Planning%20201415%20-%20201516%2004th-Mar-2014%2019.00%20Cou.pdf?T=9>

Cabinet report referred to by Mr Dismore

The Code of Conduct in force was dated 16 April 2013.

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific points are as follows:

"Again not consecutively numbered.

Corporate plan 2013 to 2016, 2014 addendum: item 9b: Increase the number of Private Rented Sector lettings to 315 (new measure)

Revenue budget: housing needs and resources line: includes finances for private sector

app J: corporate risk register q 3: homelessness: preventative: increase opportunities of affordable housing supply

Cllr Rayner stood to gain from an increase in demand for private sector housing as a consequence of these points."

Cllr Rayner's response is as follows

"I consider the lines in the council budget to be so far removed from my role as a landlord that I do not consider it reasonable to be required to make a declaration. Moreover, I would dispute the direct cause and effect which is suggested by the complainant."

Business Management Overview and Scrutiny Committee (BMOSC)

Mr Dismore submitted 2 complaints. The first contained allegations in relation to 4 meetings of the BMOSC. The second complaint referred to a further two meetings on 9 January 2012 and 2 May 2013. I have included them all in this section of the report in this order that they were set out in the complaints.

In relation to the first 4 meetings, Mr Dismore made some general points which are reproduced below. His specific points are dealt with under the heading of each meeting.

A Dismore's general comments

"Cllr Rayner should have declared at all these meetings a direct pecuniary interest.

"When BMOSC was discussing a policy which positively advocated "an increases in the private rented sector" and to "discharging the council's social housing responsibilities in the private rented sector" a non-pecuniary interest on the sole occasion such a declaration was made is insufficient, as Cllr Rayner stood to gain personally from the decisions taken as a self-confessed landlord who takes social housing tenants.

"Such decisions will for example have an impact on demand for such properties as Cllr Rayner owns thus affecting rent levels. He should have made a disclosable pecuniary interest declaration in relation to his ownership of property as a landlord as the business conducted was of benefit to him both directly and indirectly.

"As the Council administers both HB and Discretionary Housing Payments, due to his receipt directly and indirectly of HB Cllr Rayner should also have declared this as a disclosable pecuniary interest at all these meetings.

"The Code also expects councillors to take advice from the Monitoring Officer as to participation in matters where the Member may have an interest. It is hard to believe that Cllr Rayner did, so, as if he had the Monitoring Officer would surely have advised him of the risks of him not making a full disclosure and declaration of his disclosable pecuniary interests and continuing to preside at and participate in the meetings referred to above.

"Cllr Rayner has acted, or failed to act, contrary to part 2 para 9.1 of the Code.

"Cllr Rayner has acted contrary to paragraph 7 of the Code, in that he has taken decisions that are for his personal benefit.

"Cllr Rayner has acted contrary to paragraph 8.2 of the Code, in that he failed to take advice from the Monitoring Officer.

"Cllr Rayner has not acted with selflessness, integrity, accountability, openness, honesty or shown leadership as required by the principles set out at paragraph 1(6) of the Member's Code of Conduct in failing properly to declare his direct pecuniary interests.

"It is also a criminal offence to fail to declare a disclosable pecuniary interest in any matter discussed at a council meeting."

Additional comments from A Dismore in relation to the BMOSC meeting of 9 January 2012 and 2 May 2013

"In addition to the meetings set out in the original complaint, Cllr Rayner should have made a correct declaration of his disclosable pecuniary interests in respect of his property

holdings, income from HB and from landlord's incentive payments at the following meetings, not participated in the discussion or votes at those meetings, and withdrawn from those meetings accordingly"

Cllr Rayner's general comments

"In 2006 when I was advised that listing my properties as shown on the register of interests was sufficient and that housing benefit was a not a Disclosable Pecuniary interest.

"Summary: I wish to emphasize that all these discussions into housing benefit, benefit capping and DHP do not have a financial effect on me insomuch as my tenants are contracted to pay rent. How they source the rent is very much their own problem. Whether I declare an interest at any meeting, be it at the start or as the discussion develops, is really a judgement call and I believe my judgement to be correct. Others might disagree. Just because there is a housing matter being considered and I let houses does not in my book necessarily mean I need to make a declaration any more than when parking is discussed I need to declare I drive a car. It is assumed I drive a car – it is known that I own property."

General note

At the relevant time, the Council did administer Housing Benefit. However, the position with Discretionary Housing Payments is more complicated.

Discretionary Housing Payments (DHPs) were introduced in 2001. They were administered by the Council until 2008 when the administration was transferred to Barnet Homes. In April 2013 the administration reverted back to the Council and it was outsourced to Capita on 1 September 2013.

DHPs are available to anyone currently claiming Housing Benefit who requires more help with housing costs. They are not for help with council tax. They are used where there is a reduction in Housing Benefit eg due to the benefit cap, an increase in essential work related costs where the individual has moved further away from the workplace, and as rent deposits or rent in advance if the individual needs to move home.

The government has issued a guidance manual and good practice guide for local authorities who administer DHPs. However it is the authority who decide whether award a DHP, how much will be paid and for how long.

Business Management Overview and Scrutiny Committee 12 July 2010

<http://barnet.moderngov.co.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Sub-Committee/201007121900/Agenda/Document%202.pdf>

Minutes

<http://barnet.moderngov.co.uk/Data/Cabinet/201006211900/Agenda/Document%204.pdf>

Review of Barnet's Housing Allocations Policy

The Code of Conduct in force was dated November 2009.

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific points are as follows:

"Rayner was the Chair:

12 July 2010 - Business Management Scrutiny - Call-in of Cabinet decision of 21 June 2010 to change housing allocations policy. Business Management OSC (BMOSC) set-up ad hoc panel to review the decision - no recorded declaration:

<http://barnet.moderngov.co.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Sub-Committee/201007121900/Agenda/Document%202.pdf>

The Cabinet decision of 21 June 2010 that was called in and discussed was the Review of Housing Allocations with proposals for changing housing allocations - the emphasis is on housing more people in the PRS - see para 3.4 in particular and bolded section (reproduced below):

<http://barnet.moderngov.co.uk/Data/Cabinet/201006211900/Agenda/Document%204.pdf>

3.4 The Council's Housing Strategy 2010-2025 recognises the increasingly important role that the private rented sector plays in meeting housing need in Barnet. We now house more housing applicants in the private rented sector than in social housing, and the draft allocations policy will set out an approach that complements this shift by recognising that an offer of private rented sector housing provides a positive solution to housing need.

Mr Dismore's drew attention to the following specific paragraphs in the Barnet Housing strategy 2010-2025 document

http://www.barnet.gov.uk/download/downloads/id/571/barnet_housing_strategy

Section 2, Paragraph 6:

"The Housing Service has always and continues to be at the forefront of such approaches. In 2002/3 the council accepted over 1000 households as homeless, and experienced widespread dissatisfaction in the way it let council property to housing applicants. The advent of the Housing Options approach has radically changed this landscape: in 2008/9

only 325 households became homeless but more importantly we re-housed more people in housing need in the private rented sector than in council or Housing Association homes. We believe this may be a first for an urban housing authority, representing an important shift away from the traditional view that social housing is the only suitable option for people in housing need, when the private rented sector can provide flexibility and choice, as well as meeting housing aspirations in many cases. Research into the housing needs of black and ethnic minorities in North London has revealed that whilst social housing may meet a need by providing a stepping stone on the housing journey, it is not what the majority of people aspire to, and that given the choice, most would rather own their home. These shifting public expectations require us to consider hard both the housing choices we facilitate for local people, and the value of our Housing Register that is open to all, regardless of housing need, as a means of managing housing demand.”

Section 2, Paragraph 10:

The tenure of choice in Barnet is owner occupation, with two thirds of households owning their home and about half of owners owning outright. The remaining third of households are divided equally between social renting and the private rented sector, with the latter playing an increasingly important role in meeting housing need in the borough. In 2008 the council secured more property for housing applicants in the private rented sector than in the combined housing association and council sectors. We believe this may be a first for an urban local authority; it has huge significance for the council and its ALMO, Barnet Homes, in terms of providing a desirable housing choice in the next decade. The council's housing strategy update 2007 recognised that the affordable housing sector would never be able to meet the housing needs identified in Barnet's 2006 Housing Needs Survey, and that anyway most people aspired to own their own home. We believe that more use needs to be made of the private rented sector to reduce the numbers of people living in temporary accommodation combined with providing wider access to social housing through a local lettings policy to promote more mixed communities - key objectives for our strategy are therefore:

“Promoting mixed communities and Maximising opportunities available for those wishing to own their home”

Section 2, Paragraph 12:

We also want to ensure that we work closely with partners such as private landlords and housing associations to ensure that the best possible services are delivered in the borough. A key objective for our strategy is therefore:

“Providing excellent value services that exceed residents expectations”

Section 5 “Targets”:

Targets

2010- 2012

- Landlord Forum led by landlord representatives
- 850 homes made available in the private rented sector for housing applicants in 2010/11
- Provide landlord accreditation training for up to 60 landlords a year
- New allocations policy in place by September 2010
- Institutional investment partner in place to deliver new private rented accommodation
- Set up an inspection program of all licensed houses in multiple occupation to ensure compliance with the Housing Act 2004.
- Using data available to the Council undertake a survey of houses in multiple occupation to try and locate non compliant landlords

2013-2018

- First new homes provided for private renting supported by institutional investors
- Estate regeneration schemes all underway and new homes being delivered (see above)

By 2026

- Large mono tenure council estates replaced with mixed tenure communities.
- Social rented and private rented sectors meeting housing need for a mixed range of low and medium income groups

Appendix 5 Action Plan

Promoting mixed communities

2010- 2012

- Landlord Forum led by landlord representatives
- 850 homes made available in the private rented sector for housing applicants in 2010/11
- Provide landlord accreditation training for up to 60 landlords a year
- New allocations policy in place by September 2010
- Institutional investment partner in place to deliver new private rented accommodation
- Set up an inspection program of all licensed houses in multiple occupation to ensure compliance with the Housing Act 2004.
- Using data available to the Council undertake a survey of houses in multiple occupation to try and locate non compliant landlords

2013-2018

- First new homes provided for private renting supported by institutional investors
- Estate regeneration schemes all underway and new homes being delivered (see above)

By 2026

- Large mono tenure council estates replaced with mixed tenure communities.
- Social rented and private rented sectors meeting housing need for a mixed range of low and medium income groups

Cllr Rayner’s response is as follows:

“When dealing with call-ins (agenda item 6) the discussions are limited to the reason and objective of the call in. I decided at the outset that I did not have ‘personal or prejudicial interest’ in the matter outlined by Cllr Moore in her reason and objective for call in and so did

not make any declaration. Were the discussion to have moved into an area where I thought I might have an interest then I would have made a declaration at that time. It did not."

General note

Cllr Alison Moore called in the Report of the Cabinet Member for Housing, Planning and Regeneration to Cabinet on 21 June 2010. The reason for the call in was set out as follows:

Reason and Objective

To scrutinise the impact of suspending the housing waiting list, the points based system and choice based lettings on those in need of housing, to raise equalities issues and to delete all recommendations and replace with "That officers investigate what reforms of Barnet's housing allocations system would be most effective in helping the widest number of people in housing need, and report back to Cabinet with a detailed series of options before consultation"

Business Management Overview and Scrutiny Committee 16 December 2010

<http://barnet.moderngov.co.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Sub-Committee/201012161900/Agenda/Document%2010.pdf>

Minutes

<http://committeepapers.barnet.gov.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Sub-Committee/201012161900/Agenda/Document%204.pdf>

(Majority report of the panel)

<http://committeepapers.barnet.gov.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Sub-Committee/201012161900/Agenda/Document%209.pdf>

(Minority report of the panel)

The Code of Conduct in force was dated November 2009.

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific points are as follows:

"discussed and recommended to Cabinet the final scrutiny panel report into housing allocations changes - no recorded declaration:

Cllr Rayner's response is as follows:

"At agenda item 9 & 10 we reviewed of the report from an Overview and Scrutiny Panel considering Barnet's revised Housing Allocation Policy – that is how it allocates its social housing stock. The committee agreed the recommendations made by the panel and forwarded them to Cabinet for consideration. No decision was made by BMOSC – BMOSC is not a decision making body. I looked at the subject matter and the content of the O&S Panel's report and decided at the outset that I did not have 'personal or prejudicial interest' in this matter. I did not see that I had a personal or prejudicial interest in how the council allocated its own stock. Were the discussion to have moved into an area where I thought I might have an interest then I would have made a declaration at that time. It did not – see the record of decisions of the meeting. I could be forgiven for thinking that as we were discussing social housing policy and as Cllr McGuirk is a social housing tenant (declared at BMOSC 6th Jan 14) that she might have made a declaration – she did not. I can only assume that she thought as I did that the scope of the discussion was very limited.

"Just because the title of the topic under discussion includes the word 'housing' does not necessarily mean that all private landlords are necessarily effected - personally or prejudicially. Just because I am a private landlord and the matter being discussed has the word 'housing' in the title does not mean I should automatically have to declare a personal or prejudicial interest every time. A judgement needs to be made!

Business Management Overview and Scrutiny Committee 6 January 2014

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=119&MId=7689&Ver=4>
Minutes

The Code of Conduct in force was dated 16 April 2013.

Cllr Rayner did make a declaration at the meeting.

Mr Dismore's specific points are as follows:

Cllr Rayner made an inadequate declaration at the January 2014 BMOSC meeting where the updated housing strategy was discussed –

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=119&MId=7689&Ver=4>
reproduced here:

Minutes:

Member	Subject	Interest declared
<i>Councillor Hugh Rayner</i>	<i>Agenda Item 9 (Updating of Barnet Housing Strategy)</i>	<i>Non-pecuniary interest by nature of him being a director of a company which lets properties to social housing tenants and, in some, cases recipients of Discretionary Housing Payments</i>

Cllr Rayner's response is as follows:

"A report from the Cabinet Member for Housing entitled Updating of Barnet Housing Strategy was considered by BMOSC (agenda item 9). The committee was simply asked to note and make comments on the report. No decision was asked of BMOSC – indeed BMOSC is not a decision making body. I decided at the outset that there were topics in the report upon which I might want to bring into the discussion and upon which I might wish to comment in particular in regard the benefit cap. I therefore decided to declare a non-pecuniary interest. I did not consider that any discussion would have a direct pecuniary effect on me – levels of DHP and benefit capping are all of general interest but should not effect the rent I receive – though they may have an effect on how tenants source their rent."

Business Management Overview and Scrutiny Committee 9 January 2012

<http://barnet.moderngov.co.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Committee/201201091900/Agenda/Document%203.pdf>

Minutes

The Code of Conduct in force was dated November 2009.

Cllr Rayner did not make a declaration at the meeting.

Mr Dismore's specific comments are as follows:

"The Business Management Oversight and Scrutiny Committee agenda of 9/1/12, which Cllr Rayner chaired included this Cabinet Resources Committee (CRC) item:

Cabinet Resources Committee – Paper on 'Future of Housing Services in Barnet' – 16 January 2012:

<http://barnet.moderngov.co.uk/Data/Cabinet%20Resources%20Committee/201201161900/Agenda/Document%204.pdf>

Throughout this paper, there are references to procuring homes in the private sector and the role of the private sector, for example at pages 9, 12, and annex 2 pages 9, 23, 35, 41.

This 'Future of Housing Services in Barnet' report, which came to CRC on 16.01.12, having already been approved by BMOSC on 09.01.12, was also exempted from the call-in process at the request of the Chair of BMOSC, Cllr Rayner:

"8.5 – The decisions to approve the business case for the Future of the Housing Service is considered to be urgent as the delay involved in awaiting any call-in to the Business Management Overview and Scrutiny Committee whose next meeting is not due to take place until 5 March 2012, would mean that the project would fail to achieve its agreed timescales. The decision is therefore regarded as urgent and an exemption from the call-in process has been sought from the Chairman of the Business Management Overview & Scrutiny Committee. In accordance with paragraph 16.8 of the Overview and Scrutiny Procedure Rules, this decision will be reported to the next available meeting of the Council (24th January 2012)."

Subsequently CRC approved the report, which was only noted at the Council meeting on 24.01.12. The report advocated the transfer of all Housing Services provided by the Council to Barnet Homes. At the time the Council provided the following Housing Services (see p. 6 of the report):

- **Advice and Assessment:** *staff in this area give advice to customers on housing issues and also assess customers who are homeless or about to become homeless on their eligibility for access to housing via the Council in the private or social housing sector.*
- **Accommodation and Resources:** *this area is responsible for maintaining the supply of properties from either the social rented sector or the private rented sector and the management of temporary accommodation.*

The report goes on to state (p. 8):

“It is important to understand that in the context of the Housing Service our customers will include some of our most vulnerable residents as well as private sector landlords, internal council services and other public sector partners, for example housing associations.”

(emphasis added)

Cllr Rayner therefore expedited a proposal that recognised him as a customer of Barnet Homes, and therefore a beneficiary of this proposal given the report’s central aim of procuring more private sector homes. Subsequently this very transfer of services was reviewed at the BMOSC meeting of 02.05.13. (See above). By this time, and indeed before, Cllr Rayner was transacting business with the Council and Barnet Homes and was a substantial beneficiary of the arrangement under discussion.

No interest was declared by Cllr Rayner, though he personally benefitted both before and after this meeting from the rent deposit and incentive scheme as he admits in his new register of interests entry and as the evidence referred to above confirms. The BMOSC committee endorsed the proposals in the officer paper.

“Minutes & Decision of Business Management Overview and Scrutiny Committee – 9 January 2012:

<http://barnet.moderngov.co.uk/Data/Business%20Management%20Overview%20and%20Scrutiny%20Committee/201201091900/Agenda/Document%203.pdf>

“Cllr Rayner should have declared at these meetings a direct pecuniary interest.

When BMOSC was discussing a policy which positively advocated procuring homes in the private sector and the role of the private sector, Cllr Rayner stood to gain personally from the decisions taken as a self-confessed landlord who takes social housing tenants, as in fact he actually did. Such decisions will also have an impact on demand for such properties as Cllr Rayner owns thus affecting rent levels.

Cllr Rayner should have made a disclosable pecuniary interest declaration at both these meetings in relation to his ownership of property as a landlord as the business conducted was of benefit to him both directly and indirectly.

As the Council and Barnet Homes administer both HB and Discretionary Housing Payments, due to his receipt directly and indirectly of HB Cllr Rayner should also have declared this as a disclosable pecuniary interest at both these meetings.

As the Council and Barnet Homes administer both rent deposit and landlord incentive scheme payments, due to his receipt directly and indirectly of such payments Cllr Rayner should also have declared this as a disclosable pecuniary interest at both these meetings.

Cllr Rayner has acted, or failed to act, contrary to part 2 of the Code.

Cllr Rayner has acted contrary to paragraph 7 of the Code, in that he has taken decisions that are for his personal benefit.

Cllr Rayner has not acted with selflessness, integrity, accountability, openness, honesty or shown leadership as required by the principles set out at paragraph 1(6) of the Member’s Code of Conduct in failing properly to declare his direct pecuniary interests.

It is also a criminal offence to fail to declare a disclosable pecuniary interest in any matter discussed at a council meeting.”

Cllr Rayner’s response is as follows:

“A report for the forthcoming CRC on 16th January 2012 entitled Future of Housing Services in Barnet was considered by BMOSC (agenda item 9). No decision was made by BMOSC – BMOSC is not a decision making body. I decided at the outset that I did not have ‘personal or prejudicial interest’ in this matter. Were the discussion to have moved into an area where I thought I might have an interest then I would have made a declaration at that time. It did not – see the record of decisions of the meeting.”

Business Management Overview and Scrutiny Committee 2 May 2013

<http://committeepapers.barnet.gov.uk/documents/g6581/Printed%20minutes%2002nd-May2013%2019.00%20Business%20Management%20Overview%20and%20Scrutiny%20Committee.pdf?T=1>

Minutes

The Code of Conduct in force was dated 16 April 2013.

Cllr Rayner did not make a declaration at the meeting.

A Dismore's specific points are as follows:

"The Business Management Oversight and Scrutiny Committee (BMOSC) of 2/5/13, which Cllr Rayner chaired, included this agenda item:

Paper presented to Business Management Overview and Scrutiny Committee – Paper titled: 'Management Agreement with The Barnet Group for the Management of Council's Housing Stock and Provision of the Housing Service' – 2 May 2013:

<http://barnet.moderngov.co.uk/documents/s8565/BMOSC%20report%20Management%20Agreement%202013%20-%20FINAL.pdf>

Under this item, BMOSC was asked to consider the Council's management agreement with Barnet Homes. The paper before the Committee included at Appendix 3 reference to the rent deposits and landlord incentives scheme, approving a fee income budget line of £230,000.

No interest was declared by Cllr Rayner, though he personally benefitted both before and after this meeting from the rent deposit and incentive scheme as he admits in his new register of interests entry and as the evidence referred to above confirms.

Minutes of 2/5/13:

Minutes and Decision of Business Management Overview and Scrutiny Committee – 2 May 2013: <http://barnet.moderngov.co.uk/documents/g6581/Printed%20minutes%2002nd-May-2013%2019.00%20Business%20Management%20Overview%20and%20Scrutiny%20Committee.pdf?T=1> “

Cllr Rayner's response is as follows:

“A report from the Cabinet Member for Housing entitled Management Agreement with The Barnet Group for the Management of Council's Housing Stock and Provision of the Housing Service was considered by BMOSC (agenda item 9). No decision was made by BMOSC – BMOSC is not a decision making body. I decided at the outset that I did not have 'personal or prejudicial interest' in this matter. Were the discussion to have moved into an area where I thought I might have an interest then I would have made a declaration at that time. It did not – see the record of decisions of the meeting.”

Improper use of his position as a councillor in dealings with council officers: misuse of public office and acting in breach of paragraphs 1(6), 4 and 5 of the Code.

A Dismore's complaint is as follows:

"The tenant of Property X states that it was Cllr Rayner who first alerted her to the existence of DHP. However it went further than that. Cllr Rayner himself set up appointments for her with officers at Barnet House to discuss DHP related matters.

When Cllr Rayner increased the rent to its above LHA level, the tenant arranged an appointment at Barnet House herself to discuss possibly moving. When she arrived she showed her paperwork to the housing officer, Mr W, who promptly left to make a phone call. Following this phone call she was ushered out of Barnet House immediately and was told that "an appointment should never have been made".

The inference is that the call was to Cllr Rayner as later Cllr Rayner told her that she should stop what she was doing, i.e. trying to find another property via Barnet Homes, as she would soon "beg to come back" to his property. He also told her that she would need to leave London if she hoped to find another property at the same level of rent as he was offering her.

This information can only have come as the result of improper contact between Cllr Rayner and council officers, apparently in breach of the tenant's expectation of confidentiality from the council when discussing her private housing arrangements. This is a misuse of public office.

Cllr Rayner disclosed confidential information concerning his tenant contrary to paragraph 4 and used his position as a councillor to secure an advantage for himself contrary to paragraph 5 of the Code.

Cllr Rayner has failed to act with selflessness, integrity, objectivity, accountability, openness, honesty and to exercise leadership by behaving in ways that do not exemplify the high standards of conduct required by paragraph 1(6) of the Member's Code of Conduct in the conduct of his dealings with council officers. "

Investigation

I contacted the (former) tenant referred to in the complaint Mrs S who provided information via her sister who accompanied her on her visit to Barnet House. I have also contacted Cllr Rayner, Mr W and other officers both at Barnet Homes and the Council to understand the background to this complaint.

Background

As previously stated Discretionary Housing Payments were introduced in 2001. They were administered by LBB until 2008 when the administration was transferred to Barnet Homes. In April 2013 the administration reverted back to the Council and it was outsourced to Capita on 1 September 2013.

Between the period 1 April and beginning of July 2013, when Mrs S first made her claim, Barnet Council dealt with claims for DHP by form only. There was no interview process. From 1 July 2013 in order to assist tenants to deal with the benefit cap the DHP team was colocated in Barnet House alongside some (not all) Barnet House Housing Needs staff and staff from Job Centre Plus.

Tenants who made an appointment with a Housing Needs Officer might also have had an opportunity when visiting Barnet House to speak to a Council staff member dealing with DHP if one was available.

Mrs S approached the Council with regards to DHP and Barnet Homes in relation to her housing situation. Staff of Barnet Homes are not council staff.

I asked the Benefit Team Manager who administers DHP whether there was any record of Councillor involvement in arranging meetings regarding DHP. She confirmed that all Mrs S's applications for DHP were determined on the basis of her application forms. There were no face to face interviews. There were several applications for DHP as each grant of DHP was time limited.

I was informed that there was no evidence on the DHP file that the Council "*had any dealings with Cllr Rayner regarding her DHP, although we have had answered enquiries from him regarding her HB payments which I wouldn't consider improper.*"

This is reflected in the document contained in Mr Dismore's complaint that was sent by the Council to Mrs S setting out Cllr Rayner's request to have Housing Benefit paid to him in accordance with Regulation 95(1)(b) Housing Benefit Regulations 2006.

Finally, I was informed that one of Mrs S's applications had been provided to the DHP team via Ms H Ms H is a member of the Barnet Homes Housing Options Team. She does not deal with DHP

Mrs S's comments re appointments for DHP

In relation to DHP Mrs S said that Cllr Rayner helped her complete the form and made an appointment for her. However she cannot remember when the appointment was and cannot provide me with any documentation that confirms this. She produced a piece of paper with the name of Ms D 8359 2251 written on it and stated "*this is the number he called for the discretionary form details and we found this in my papers.*"

She also produced a piece of paper with the name of Ms H 13 May 2013 at 11 o'clock with 2 telephone numbers both of which were Ms H an employee of Barnet Homes. Mrs S's sister stated that "*this is the evidence that he arranged the meetings and told us to use this detail everytime we needed to discretionary payment. He spoke to her on the phone at the house when I was there.*"

Copies of these 2 documents are at Appendix C

Cllr Rayner's response (author's précis)

Cllr Rayner accepted that the paper with the name of Ms D was in his handwriting was in his handwriting, but not that with Ms H's name.

In relation to Ms D's name and number, he stated "*I am not sure why I wrote it down for Mrs S but suspect it was a contact number to ask questions about DHP.*"

In relation to Ms H, Cllr Rayner said "*I do not recall making appointments other than 8th May 2013 but I would have reminded Mrs S that Ms H at Barnet Homes was handling her case.*"

Cllr Rayner informed me that he had made a call to Barnet Homes on 25 April 2013 on behalf of Mrs S to make an appointment for her to see a Housing Needs Officer, He showed me an email dated 25 April 2013 sent to him confirming a telephone conversation of that day and an appointment for 8 May 2013. This was from Ms I, Housing Supply Manager. This is attached at Appendix D.

Cllr Rayner said that he did not complete the application form for Mrs S.

The following is Cllr Rayner's detailed response

"I have has been a councillor since 2006. I am not sure whether I was the first person to alert the tenant to DHP. Her rent account with S&H Housing Ltd went into special measures in December 2012 when the four bedroom housing benefit limit was imposed reducing the housing benefit she received to below her contracted rent – from £461.50 to £346.15. Around this time we would have discussed ways of resolving this dilemma which would have included her finding alternative accommodation. To give her time to find alternative accommodation whilst avoiding building up arrears DHP would have been discussed. This is using all my knowledge to be a good landlord. And I cannot dismiss from my mind knowledge I may have gained whilst being a councillor. Why would I? I do not know what other discussions she had with Barnet Homes on this subject around this time but suspect they might also have raised DHP as a short term solution. We accepted the lower housing benefit as rent (£346.15 rather than the contracted £461.50) from December 2012 until end of March 2013 when DHP cut in bringing the money received by the tenant back up to £461.50pw for a predetermined period.

I do recall phoning Barnet Homes from the tenants house in the tenants presence (because my English was better than the tenants and I could better explain the situation) sometime in April 2013 to arrange an appointment for the tenant to discuss the way forward with Barnet Homes Housing Supply appreciating that DHP would only be paid for a limited time. This appointment was confirmed by Ms I for 8th May 2013. Sometimes, when calling Barnet Homes I would be recognised as a councillor and in these cases I would make a point of stating whether I was calling as a councillor or a landlord. Having said that, even when calling as a councillor, I would never bring undue pressure on officers from Barnet Homes to take a particular course of action or attempt to interfere with their decision making."

Mrs S's comments re meeting with Mr W

Mrs S saw Mr W on 13 February 2014 regarding potential homelessness. The appointment was not made by Cllr Rayner but by or with the support of Cllr Farrier. Mrs S said:

"Went to Burnt Oak library to speak with Cllr Claire Farrier and she told us to go to Barnet Homes. Barnet Homes refused to make an appointment as you have no rights to a rehousing. Finally, she made an appointment for two weeks after for Mr Neil W when speaking to the receptions and they arranged the appointment."

The customer services officer who dealt with Mrs S at the reception and who made the appointment has recorded that there was "Councillor involvement Claire Sarrier" (sic)

At the meeting with Mr W Mrs S said that Mr W left the office to make a phone call. She said he spoke to her for 10 minutes and” *then left in between for 30 minutes*”

She said that Mr W did not tell her that he was speaking to Cllr Rayner. She thinks it was Cllr Rayner because:

“Cllr Hugh Rayner used to say to me that I will not find a property in a Barnet, look for properties outside London. After the phone call Mr W came back and said the same thing to me.”

Mrs S confirmed that Mr W asked her to leave immediately after the phone call saying that an appointment should never have been made and that he turned down her application at the meeting.

I asked Mrs S whether she told Cllr Rayner whether she was looking for another property. She confirmed that she had and that Cllr Rayner had said the following to her:

“That I wouldn't find one inside London and should search for houses that are cheaper and you will not find it in London maybe someone in your household can work or you should to get a job as you have to work as someone who doesn't work in London has no rights to a housing in London and to search for houses in places like newcastle and york.”

Mr W's comments

Mr W stated that he cannot remember whether he left the room to make a phone call when he was meeting Mrs S and her female friend who acted as an interpreter. He does not know Cllr Rayner and cannot recall having any contact with him. He stated that he did not usher Mrs S in the manner alleged.. She left with him a number of documents. He asked her to provide proof her employment from 2002. When she subsequently failed to provide this or to contact him, Mr W wrote to Mrs S on 21 February 2014 informing her that she was not eligible for homelessness assistance. (Appendix E)

Cllr Rayner' comments

Cllr Rayner said that he did not know Mr W. He did not recall having ever discussed Mrs S with Mr W, *“but I did receive various calls from Barnet Homes to me as a landlord to try and sort out the tenants situation – mainly during 2013. In the main I dealt with Ms H.”* Nor did Cllr Rayner have any recollection of speaking with Mr W on 13 February 2014.

Cllr Rayner agrees that he discussed the problems of finding alternative accommodation in London with Mrs S in the following way:

“My conversations with the tenant were always along the line that whilst her benefit was being capped there would be very little left over, after paying other benefits, for housing benefit – around £160pw. I pointed out that it was very unlikely that this would be insufficient to get a house of sufficient size to accommodate her family in the local area. This was by way of reinforcing the message that the tenant should take steps to get the cap removed. I also pointed out that DHP was only a stop gap to give her time to take the necessary steps get the cap removed. Indeed I held off enforcing possession until the last possible moment to

give her more time. She did not do anything, instead relying on her appeal for disability benefit qualification (which would have removed the cap) but this had not been decided at the time of her eviction. If we had not evicted the tenant when we did then, at the end of March 2014, the DHP would have stopped for the last time and the tenant would have started to accumulate colossal arrears. As it was the arrears she did run up (approaching £4000 – that is four thousand pounds) were not used as a reason for getting the possession order as asserted somewhere else in the complaints and were effectively written off when the tenant left. Indeed, despite the considerable arrears, some of the tenants deposit was nevertheless generously refunded.”

Finally, Cllr Rayner made a general statement regarding this allegation

“Summary: I have been in housing management since 1988. And I have been a councillor since 2006 during which time I have learnt a lot about many things which help me in my job as a housing manager. You will appreciate I cannot switch off being councillor completely when dealing with my tenants. Indeed I consider being a councillor makes me a better housing manager and being a housing manager helps to improve my performance as a councillor. The important objective which I happen to share in my role as a landlord and my role as a councillor is to get the best for my tenant/resident. And if this means calling on knowledge I have gained as a councillor then so be it. Certainly, I use knowledge gained as a housing manager when advising residents on housing matters! I do not see any incompatibility in this. “

Cllr Rayner's final statement in relation to all the allegations

"Mr Dismore's complaints refer. The monitoring officer has already ruled on a number of these leaving just the questions of using undue influence and non-declaration at meetings. I have already answered specific points raised by the borough solicitor but would like to summarise my responses.

In regard to undue influence I presume the accusation is using undue influence on officers - that is using my position as a councillor to influence their decisions. In all my dealings with Barnet Homes when dealing with matters directly concerning a tenant I would always try and divorce my position as a councillor from that as a landlord but in any case I have never used my position as a councillor to try and influence any decision being made by an officer. Indeed, I believe the complaint goes on to infer that I use my position as a councillor to benefit myself financially and to the detriment of a tenant, again by using my influence to persuade an officer to take a particular course of action. This I strongly refute.

In regard to non-declaration, the inference of Mr Dismore's complaints is that I am taking cynical view on declarations at meetings to benefit myself financially. I would refute this. I take these matters seriously, but do not declare unnecessarily. In coming to my decision I apply the rule of what might be considered reasonable but at the end of the day it is a judgement call which we all have to make. If an item does not affect me directly, if an item is not going to be discussed or if I am not being asked to make a decision then I would not declare at the outset. If in the progress of the meeting any of these matters changed I would then need to make a further judgement call. The underlying accusation in all of the complaints is that I am not declaring in order to obtain pecuniary advantage for myself. It is suggested, for instance, that if I vote for a budget that includes a sum for an item that I may at some time in the future take advantage of then I should declare. I am sorry but we vote all sorts of things in the budget including money for care for old people. Am I to declare that one day I will be old?

Now moving from the general to the particular – and for clarity please understand that I own S&H Housing Ltd along with my wife, a company which manages a number of houses - some owned by S&H Housing Ltd, some owned personally by Hugh & Susan Rayner and some owned by clients.

Please see the list below of fifteen properties which S&H Housing manages. For clarity I have excluded properties under long term contracts with Genesis Housing and houses owned by clients. You will see from the list that the majority of leases start dates predate 2010 (the year of the first meeting with which Mr Dismore took issue), and all but two were from private recommendation (that is no council or Barnet Homes involvement with finding tenants). Indeed some houses are occupied by tenants who have moved from other S&H managed properties. But only two had any involvement with Barnet Homes. Not the great reliance on Barnet policies as was asserted by the complainant! Please note that even when Barnet Homes are involved, the contract is between the landlord and the tenant - Barnet Homes are not a party to the contract.

Of the two houses with Barnet Homes' involvement the first (house reference 4 on attached list) was let in January 2013 where the advance rent provided by Barnet Homes was repaid in February 2013 and the deposit provided by Barnet Homes was recorded on the lease as requiring it to be returned to the provider at the end of the lease. Indeed, Barnet Homes were given as the other party when the deposit was lodged. It was only after we had found this tenant a house and were discussing the deposit that we discovered, to the tenants advantage as we do not let houses out without taking a deposit, that the deposit could be funded by Barnet Homes. Not so

much an incentive for the landlord but a necessity for the tenant! For the record, this tenant was previously a tenant of S&H in the 1990s and sought S&H out when they returned to the area in 2013.

The second property (house reference 10 on attached list) was leased in March 2014, later than any of the meetings being challenged by the complainant. Again this tenant came to us by private recommendation and it was only after we had entered into negotiations that we discovered that she would be eligible for an incentive package.

Just one tenant (house reference 8 on attached list) received DHP starting in April 2013, and as decided by Barnet Homes. It is important to note that I do not receive housing benefit or DHP, I only receive rent. It is the tenant's responsibility to source his/her rent.

I do not consider I have used my position as councillor incorrectly nor do I consider that my declarations record at meetings has been incorrect. I trust you will take the same view.

I will not use this opportunity to state how despicable I consider Mr Dismore's behaviour as a GLA member has been, raising unfounded complaints at City Hall without the decency of first raising them with me – after the event is not good enough! Nor will I take this opportunity to state how upset some of my longstanding tenants are as a result of being harassed by certain labour councillors and about having statements they have given being misrepresented in the body of Mr Dismore's so called 'evidence' – statements used incidentally without their permission. Nor will I take this opportunity to express concern about the reliance put by Mr Dismore on statements from one tenant in particular – a tenant who was aggrieved at having been evicted. I will not take this opportunity because these matters are not under examination by you."

Property managed by S&H Housing Ltd as at 31st March 2014

Owned by S&H or HR/SR

Without Genesis long term contracts and client owned property.

No.	Tenants moved in	How found	
1	2000	private recommendation	
2	2010	private recommendation	moved from another S&H property
3	1996	private recommendation	
4	Jan-13	private recommendation	moved from another S&H property
		<i>deposit placed by Barnet Homes with lease recording it is to be returned to provider</i>	
		<i>advanced rent initially funded by Barnet Homes repaid March 2014</i>	
5	2013	private recommendation	
6	2005	private recommendation	
7	2010	tenant was in situ when property was purchased	
8	2006	private recommendation	evicted Mar 2014
9	2002	private recommendation	
10	Mar-14	private recommendation	
		<i>cash incentive offer from Barnet Homes - 31/3/14</i>	
11	2006	private recommendation	
12	2003	private recommendation	
13	2009	private recommendation	
14	2012	private recommendation	
15	2007	private recommendation	

Linda Cohen
Investigating Officer
15 August 2014

Addendum from the Deputy Monitoring Officer - 26th August 2014

This report was sent to Mr Dismore and Cllr Rayner in draft prior to circulation to the panel. Mr Dismore's comments having seen the draft report, which includes both his comments as to matters of fact and his submissions to the panel generally, are produced at Appendix F for the panel's consideration. Councillor Rayner has also made a written submission to the panel having seen the draft report, which is included at Appendix G. Legal advice will be available to the panel at the meeting to clarify which of the matters raised within those submissions are within the panel's terms of reference, should they require this"