

MINUTES OF A MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 18TH OCTOBER, 2012

- Councillors Present:** Councillor Sophie Linden in the Chair
Cllr Simche Steinberger, Cllr Geoff Taylor,
Cllr Louisa Thomson and Cllr Patrick Vernon OBE
- Co optees Present:** Julia Bennett, George Gross and Elizabeth Coates Thummel
- Apologies:** Adedoja Labinjo, Onagete Louison and Councillor Jessica Webb
- Officers in Attendance:** Bruce Devile (Head of Business Analysis and Complaints), Kwabena Fosu-Mensah (Governance Services Officer), Gifty Edila (Corporate Director of Legal, HR and Regulatory Services), Graham Loveland (Assistant Director of Planning and Regulatory Services), Yinka Owa (Assistant Director Legal and Democratic Services) and Robert Walker (Governance Services Officer)
- Also in Attendance:** Councillor Benzion Papier and Councillor Vincent Stops

1 Apologies

- 1.1 Apologies for absence are listed above.

2 Declaration of Interests

- 2.1 Councillor Thomson declared an interest in the complaint to be heard under agenda item 3, as she lived near 91 Amhurst Park and had contact with the applicant on a previous application for planning permission.
- 2.2 Councillor Steinberger declared an interest in the complaint to be heard under agenda item 3, as he had supported the applicant and had organised the petition requesting that the planning application for 91 Amhurst Park be considered by a Planning Sub-Committee.

3 Standards Committee Hearing - Complaint Against Cllr Benzion Papier

- 3.1 A copy of the Standards Committee Hearing Procedure was circulated to all present. At the request of the Chair, all Members and officers present introduced themselves.
- 3.2 George Gross, raised a point of order and asked whether the complaint would be considered under the old Members' Code of Conduct or the new Code

which came into effect on 1st July 2012. Gifty Edila, the Corporate Director of Legal, HR and Regulatory Services, stated that the Committee would have to consider the complaint under the current Code of Conduct, despite the complaint being made under the old Code. Gifty Edila explained that the commencement order, for the relevant sections of the Localism Act 2011 concerning ethical governance, stated that any existing complaints made under the old ethical governance regime must be transferred and considered under any new regime. The alleged breach of the Code of Conduct must be proved under the new Code of Conduct.

Presentation of the Investigator's Report

- 3.3 Yinka Owa, the Investigating Officer and Assistant Director of Legal and Democratic Services, presented the Investigator's Report as attached at Appendix 1 of the report. As detailed within Appendix 1 of the report, Yinka Owa gave an overview of the complaint by Councillor Stops alleging that Councillor Papier had breached the Members' Code of Conduct by failing to declare an interest and remove himself from the meeting during consideration of an application for 91 Amhurst Park at a Planning Sub-Committee on 10th January 2012.
- 3.4 Yinka Owa explained that she had interviewed Councillor Stops and other officers relevant to the alleged breach of the Code of Conduct however, she had been unable to make contact with Councillor Papier and interview him as part of the investigation. Further to the information contained in the report, Yinka Owa explained that following the adjournment of the hearing at the Standards (Hearing) Committee on 18th July 2012, she had made further efforts to contact Councillor Papier and had sent him a letter and email on 4th October 2012, as well as leaving messages on his landline and mobile. Messages were left on his landline and mobile telephones again on 8th October 2012. On 16th October 2012, Councillor Papier answered a call from Yinka Owa on his mobile but the call was put down by him as soon as Yinka Owa introduced herself. Yinka Owa called back but there was no answer and a message was left.
- 3.5 Yinka Owa read out the findings of her investigation as set out in paragraph 16 of Appendix 1 and advised that Councillor Papier, by failing to declare an interest and leave the meeting room during consideration of the application for 91 Amhurst Park at the Planning Sub-Committee meeting on 10th January 2012, may have breached paragraphs 2.1 and 5 of Part 1 of the Members' Code of Conduct, and paragraph 11.3 of Part 2 of the Members' Code of Conduct. Yinka Owa also found that Councillor Papier may have breached paragraphs 1.1, 6.1, 6.4 and 10.1 of the Planning Code of Practice. Both Codes were attached at appendices A and B of the Investigator's Report.
- 3.6 The Chair clarified whether the Investigator had found any potential breaches of the Members' Code of Conduct with regard to Councillor Papier's conduct towards officers. Yinka Owa stated that all witnesses had advised that Councillor Papier had not been abusive or rude and as such she did not believe that he had breached the Code in this regard.

Submission from Councillor Papier

- 3.7 Councillor Papier explained that he had been contacted by the applicant for 91 Amhurst Park who alleged that the Council was not having regard to new evidence they were being asked to submit with regard to a planning application.

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The applicant believed that officers of the Council had already made a decision to refuse the application but were continuing to ask for additional information. Councillor Papier stated that he was neither in favour nor against the application and went on to explain issues of trying to obtain the officer report recommending refusal under delegated authority. Councillor Papier also disapproved of the tone of language used against him in the Investigator's Report and witness statements, stating that he did not, for example, barge into the Chief Executive's office.

- 3.8 Following a point of order raised by George Gross, Councillor Papier was asked by the Chair to address paragraphs 14, 15 and 16 of the Investigator's Report attached at Appendix 1, and to indicate whether or not he agreed with the factual findings of the investigation. Councillor Papier went through the paragraphs individually and outlined whether he agreed or disagreed with the summary of the facts. Councillor Papier disagreed with the following paragraphs –
- a) 15.1 – Councillor Papier stated he had attended a meeting between the applicant for 91 Amhurst Park and the Planning Service but it was false to say that he supported the application. He could not recall saying that the applicant had been treated unfairly.
 - b) 15.3 – Councillor Papier stated he was trying to access the officer report for decision of the application for 91 Amhurst Park under delegated authority however, he was not trying to gain access to the Planning Sub-Committee report.
 - c) 16.1 – Councillor Papier disagreed that his involvement with the application was close and that it could be argued his involvement was more than what was reasonably expected from a Ward Member.
 - d) 16.1(i) – Councillor Papier stated it was the objective of the applicant to find a way that the school could continue to operate on the site however, this was not his objective.
 - e) 16.1(ii) – Again, Councillor Papier stated he disagreed with the statement that he had alleged that the Council was treating the applicant unfairly.
 - f) 16.1(iii) – Again, Councillor Papier stated he was trying to obtain the officer report for the planning application.
 - g) 16.1(ix) – Councillor Papier stated that he disagreed with the view that just because another Member declared an interest and withdrew from proceedings relating to 91 Amhurst Park at the Planning Sub-Committee on 10th January, on the grounds that he had signed the petition for the application, a reasonable person aware of the facts would think he should have also withdrawn given that he had also signed the petition.
 - h) 16.1(x) – Councillor Papier stated that it was false to say his prior involvement might give the impression that he approached the application with a closed mind.

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- i) 16.1(xi) – Councillor Papier stated that it was false to say that a member of the public with knowledge of the relevant facts would reasonably regard his involvement as likely to prejudice his judgement of the public interest in reaching a decision.
 - j) 16.3 – Councillor Papier stated that he did not believe he had breached the Members’ Code of Conduct and Planning Code of Practice through failing to declare an interest at the Planning Sub-Committee on 10th January 2012.
- 3.9 Councillor Taylor sought clarification on paragraph 16.1(xii), where it stated that there was no record that Councillor Papier sought advice from the Corporate Director of Legal, HR and Regulatory Services. Councillor Papier agreed with the statement that he had not sought advice.
- 3.10 George Gross asked, although Councillor Papier had stated he was neither in favour nor against the application, whether he thought he was supporting the applicant. Councillor Papier responded that he did not believe he was supporting the applicant in his actions.
- 3.11 Councillor Vernon commented that it was important that Members followed correct procedures when dealing with officers and trying to gain access to files. He questioned Councillor Papier’s motivation in trying to obtain officer reports. Councillor Papier responded that there was a major allegation by the applicant for 91 Amhurst Park that the Council was being one-sided in determining the application. Councillor Papier did not believe there was any legal basis to prevent the officer report being released to him.

Witnesses

- 3.12 The Chair asked all Members of the Committee and Councillor Papier whether they wished to question any of the officers who were witnesses in the matter and who were waiting outside of the meeting room. The Committee stated that it wished to question Graham Loveland, the Assistant Director of Planning and Regulatory Services. Councillor Papier advised that he was happy for all other witnesses to be released.

At this juncture Graham Loveland entered the meeting. All other witnesses were released.

Questions put to Graham Loveland, Assistant Director of Planning and Regulatory Services

- 3.13 The Chair explained to Graham Loveland that the Committee had been through the facts and it appeared as though the main question for the Committee was to resolve whether a member of the public with knowledge of the relevant facts would reasonably regard Councillor Papier’s involvement with the planning application for 91 Amhurst Park to be such that was likely to prejudice his judgement.
- 3.14 The Chair referred to paragraph 8.7 of Appendix 1 and asked why Graham Loveland warned Councillor Papier that his involvement with the applicant for 91 Amhurst Park may give the impression that he was too close to the application and give the impression that he may not be able to approach the application with an open-mind. Graham Loveland stated that he gave this warning as a result of Councillor Papier trying to obtain reports and his

attendance at the meeting between the Planning Service and the applicant. In response to a question from George Gross, Graham Loveland stated that he still agreed with his statement, detailed on page 116 of the agenda, that it was difficult for him to say Councillor Papier was overtly supporting the application and that it could be argued that Councillor Papier was present as it was a matter of community interest.

Questions put to Councillor Stops, Chair of Planning Sub-Committee

- 3.15 Councillor Stops was then asked questions by the Committee. Councillor Stops explained that he only became aware of Councillor Papier's involvement with the planning application for 91 Amhurst Park at a call-over meeting before the Planning Sub-Committee meeting on 10th January 2012. At the call-over meeting he queried what he described as a strange story in Hackney Gazette suggesting that the application had already been refused but was being presented to a Planning Sub-Committee. Councillor Stops was then informed by officers of Councillor Papier's attendance at a meeting between the applicant and Planning Service.
- 3.16 Councillor Stops felt that Councillor Papier had involved himself in the application more than any other Member of the Planning Sub-Committee would do. He also explained to the Committee that at the start of each Sub-Committee he reminded Members that they should be aware of any interest they may have and should remove themselves from the room if necessary.

Consideration of the complaint by the Committee

- 3.17 It was commented during the discussions by some Members and co-optees that it was not for the Committee to determine Councillor Papier's intent or whether or not he was in favour or against the planning application for 91 Amhurst Park.
- 3.18 Councillor Steinberger clarified for the benefit of the Committee that he was the Member who organised the petition to request that the application be determined by a Planning Sub-Committee and not by officers. Councillor Papier had not organised the petition. Councillor Steinberger also suggested that it was important for the Committee to note that he believed Councillor Sharer, who had absented himself during the consideration of the application for 91 Amhurst Park, had a track record of declaring an interest and removing himself from proceedings concerning any planning application submitted by the Jewish community.
- 3.19 Following a question, Gifty Edila explained that she could not disclose the nature of her discussions with Councillor Sharer regarding whether he should declare an interest or not in the application for 91 Amhurst Park.
- 3.20 In response to questions from Members of the Committee, Gifty Edila explained that the purpose of the Members' Code of Conduct was to protect decisions of the Council and to protect Councillors from any allegation. Gifty Edila stated that, given the quasi-judicial nature of planning matters, the Code and its supporting guidance and training provided to Members was clear that if a Member chose to be involved in a planning application then they should play no part in the judging of that application. A comparison was made with a court of law where a judge would not hear an application in which they may have had any prior involvement.

- 3.21 Gifty Edila advised the Committee in response to a further question that there had been an error in the report and that Councillor Papier had attended training on the Code of Conduct.

At this juncture Councillor Thomson left the meeting.

- 3.22 Julia Bennett asked why Councillor Papier did not respond to any of the messages from the Investigating Officer, as referred to in paragraph 5.5 of Appendix 1. Councillor Papier stated that he was very busy and that he disagreed with the Council spending money on processes that were already decided. Some Members and co-optees commented on this fact and stated that they found it disappointing that the complaint had taken this long to resolve and that Councillor Papier had not engaged with the Investigator.
- 3.23 Elizabeth Coates-Thummel came back to the issue of Councillor Papier's involvement in the application and asked how he thought he had not been supporting the applicant. Councillor Papier explained that his goal was to determine whether or not the Council was being one-sided on the application, it was not to support the applicant or the school.
- 3.24 The Chair asked the Committee whether there were any further points which they would like to discuss.
- 3.25 Elizabeth Coates-Thummel asked Members of the Committee whether they would sit on a Planning Sub-Committee to hear an application which they had in anyway been involved with. Councillor Steinberger responded that he was not a Member of the Planning Sub-Committee but argued that there were incentives for him to work to try and ensure that planning applications from the Jewish community were not unfairly treated by the Council. Councillor Taylor explained that he separated his different roles as a Member, whether that be a Member of a committee or a community advocate or member of an outside body, and always erred on the side of caution to avoid bringing himself or the Council into disrepute. Councillor Vernon explained that if he ever received an allegation that an application was being dealt with unfairly then it should be referred to a senior officer of the Council.
- 3.26 Following a query regarding the requisition to hear the application at the Planning Sub-Committee, Gifty Edila advised the Committee that the planning procedures specifically addresses the signing of a petition to enable an application to be heard by Planning Sub-Committee. Therefore Members actions in signing a petition and then hearing the application is not a Code of Conduct matter.

Closing submissions

- 3.27 The Chair asked the Investigating Officer and Councillor Papier whether they had any closing submissions. Yinka Owa stated she did not have anything further to add to her submission. Councillor Papier re-iterated that he did not barge into the Chief Executive's office. The Chair explained that the Committee noted Councillor Papier's comments regarding the tone of the Investigator's Report and witness statements however, advised that the Committee would be basing its decisions on facts rather than the tone.

Decision

- 3.28 The Chair then asked the Committee for its decision on whether the Members' Code of Conduct and Planning Code of Practice had been breached. With the exception of Councillor Steinberger, all Members and co-optees present expressed their agreement with the recommendation contained in paragraph 17 of the Investigator's Report that there had been a breach of the Code of Conduct by Cllr Papier.
- 3.29 **RESOLVED** that Councillor Benzion Paper had breached paragraph 11.3 of the Members' Code of Conduct and paragraph 1 of the Planning Code of Practice by failing to declare an interest in the planning application for 91 Amhurst Park at the Planning Sub-Committee meeting on 10th January 2012.

For: 3 Elected Members

Against: 1 Elected Member

Note – co-opted Members did not vote on the decision as they do not have voting rights. Councillor Steinberger asked for it to be noted that he voted against the resolution.

Further action

- 3.30 The Committee then discussed what action should be taken following the Committee's finding that Councillor Papier had breached the Code of Conduct. The Chair suggested that Councillor Papier should be censured by the Committee and that the Committee recommend that: the findings of the Committee be reported to the Conservative Group Whip; further training be provided to Councillor Papier on the Code of Conduct; and a report be submitted to Council highlighting the seriousness of the breach. The Chair suggested that any future finding of a breach of the Code of Conduct by the Standards Committee should be reported to Council for information.
- 3.31 With the exception of Councillor Steinberger, all Members and co-optees of the Committee expressed support of the Chair's suggestion regarding what further action should be taken following the finding of a breach of the Members' Code of Conduct and Planning Code of Practice. It was suggested by some of the co-optees that the report to Council should reflect that Councillor Papier was relatively new Councillor at the time the breach occurred and that the recommended training should include wider information on the role of a councillor.
- 3.32 **RESOLVED** that Councillor Papier had breached the Members' Code of Conduct and the Planning Code of Practice, the Standards (Hearing) Committee censured Cllr Papier in that he was wrong in failing to declare an interest and further agreed to recommend that:-
- i) The Whip of the Conservative Group be notified of the decision of the Standards (Hearing) Committee.
 - ii) The Monitoring Officer be asked to arrange further training for Councillor Papier on the Members' Code of Conduct and also on the role of a Councillor.

- iii) A report be submitted to Council informing Members' of the decision of the Standards (Hearing) Committee. The report will take into account that Councillor Papier was a relatively new Member on the date on which the breach occurred.

The Chair will recommend that any complaints made under the Members' Code of Conduct in the future, which is upheld, shall be reported to Full Council.

For: 3 Members
Against: 1 Member

Note – co-opted Members did not vote on the decision as they do not have voting rights. Councillor Steinberger asked for it to be recorded that he voted against this resolution.

Reasons for decision

- 3.33 The Standards (Hearing) Committee believed that a member of the public with knowledge of the relevant facts would reasonably regard Councillor Papier's involvement with the planning application for 91 Amhurst Park to be such as is likely to prejudice his judgement of the public interest in reaching a decision on the application.
- 3.34 Councillor Papier stated at the meeting that he was neither in favour nor against the planning application. The Standards (Hearing) Committee found that Councillor Papier's signing of the petition, requesting that the application be determined by the Planning Sub-Committee and not by the Assistant Director for Planning under delegated authority, did not amount to any bias or prejudice. However, the Standards (Hearing) Committee believed that Councillor Papier's efforts to assist the applicant in obtaining officer reports and attending a meeting between the applicant and the Planning Service meant that he was closely involved in the application and was helping and supporting the applicant.
- 3.35 Councillor Papier's prior involvement with the planning application may also have given the impression to a member of the public that he had approached the application with a closed mind and may be biased in favour of the application.
- 3.36 Although Councillor Papier did not vote, as he was not present for the start of the discussion of the planning application for 91 Amhurst Park, he should have declared an interest and left the room during consideration of the item in accordance with the Members' Code of Conduct.
- 3.37 The Standards (Hearing) Committee was concerned that Councillor Papier, by failing to follow the Members' Code of Conduct and Planning Code of Practice, could have brought a decision of the Planning Sub-Committee into disrepute. The Standards (Hearing) Committee was also concerned that Councillor Papier failed to acknowledge his breaches of the Code of Conduct and Planning Code of Practice, and by his failure to respond to the investigation or engage in the complaint process.

4 Minutes of the Previous Meeting - 18th July 2012

- 4.1 **RESOLVED** that the minutes of the Standards Committee meeting held on 18th July 2012 be agreed as a true and accurate record of the proceedings.

5 Complaints Improvement Work and Complaints and Members' Enquiry Annual Report 2011/12

- 5.1 Bruce Deville, Head of Business Analysis, introduced the report which outlined the complaints improvement work and detailed information on the volume of complaints/enquiries, time taken to reply and the percentage of complaints that escalate to the next stage of the Council's procedure. The report also provided demographic information on who is contacting the Council to make a complaint, how they are contacting the Council, the issues most often complained about and customer satisfaction with how these complaints were handled.
- 5.2 Councillor Steinberger commented that he believed further improvements were required in dealing with Member enquiries and complaints. The Chair advised Councillor Steinberger that she was happy to meet with him and Bruce Deville to discuss any particular issues of concern that he may have.
- 5.3 The Chair stated that the level of customer satisfaction with complaint processes, as shown on page 152 of the agenda, was disappointing and queried how the data on customer satisfaction was gathered. Bruce Deville agreed that the level of customer satisfaction was low and explained that every quarter a sample of 200 to 250 complainants were asked to fill out a customer satisfaction form. Bruce Deville stated that the training provided to Members of staff was focussed on improving satisfaction by encouraging staff to engage with the complainant at the first instance and focus on resolution. It was stated that customer satisfaction with complaint processes was unlikely to ever be high, however it was thought that customer satisfaction levels of at least 40% could be achieved.
- 5.4 Julia Bennett queried whether there was any benchmarking data available. Bruce Deville explained that the Council had approached other London boroughs and private companies but had not found any organisation who, if they did collect such data, was willing to share the information.
- 5.5 In response to a question from Councillor Taylor regarding the low evaluation of the training on complaints by Hackney Homes staff, as shown on page 133 of the agenda, Bruce Deville advised that the evaluation survey had been brought to the attention of senior managers in Hackney Homes.
- 5.6 Following a question from Councillor Vernon, Bruce Deville explained that work would be ongoing to improve complaint handling across the Council and Hackney Homes but cited that some Council services were demonstrating good practice, such as Waste Management services.
- 5.7 **RESOLVED** that the complaints improvement work and complaints and enquiries annual report 2011/12 be noted.

6 Revision to the Members' Code of Conduct - Gifts and Hospitality

- 6.1 Gifty Edila, Corporate Director of Legal, HR and Regulatory Services, introduced the report which proposed a revision to the Members' Code of Conduct, adopted by Council on 27th June 2012, to require that Members and co-opted members declare on their register of interests form and disclose at meetings any gift or hospitality they receive with an estimated value of at least £25.
- 6.2 Gifty Edila explained that previously Members were legally required to declare the receipt of gifts or hospitality. The Localism Act 2011 removed the legal requirement on Members to declare receipt of any gifts or hospitality. The Code of Conduct and register of interest form, which took effect in July 2012, did not therefore make provision for gifts or hospitality to be declared. Feedback had been received from Members however, that they would like the Code and register of interests form amended to include the declaration of gifts and hospitality.
- 6.3 George Gross welcomed Members raising the issue themselves and endorsed the report.
- 6.4 In response to a question from Councillor Steinberger, Gifty Edila explained that Members would only have to declare gifts and hospitality received in their capacity as a councillor and stated that guidance was attached at Appendix 1 of the report.
- 6.5 **RESOLVED** that:
- i) the Committee recommends that Council amends the Members' Code of Conduct to insert a new paragraph at 11.4 requiring Members and voting co-opted members to disclose on their register of interests form and declare at meetings any gift or hospitality received with a value of at least £25;
 - ii) the Committee approves the guidance for Members on disclosing gifts and hospitality, attached at Appendix 1 of the report.

7 Revised Guidance for Members Serving on Outside Bodies

- 7.1 Gifty Edila, Corporate Director of Legal, HR and Regulatory Services, introduced the report which proposed revised guidance for Members who are appointed or nominated by Council to serve on outside bodies following the introduction of the Localism Act 2011.
- 7.2 Councillor Taylor explained that from his experience the Council was reluctant to send Members information which was relevant to their role on the outside body as it did not want to be seen to be mandating Members on how they should vote at the external meetings. Councillor Taylor suggested wording be inserted in the guidance to state that the Council may send information to Members relevant to their role on an outside body, for example reports from the Children and Young People Scrutiny Commission to school governors, however it was up to Members to use the information as they saw fit and that the Council

in such circumstances was not seeking to mandate how Members were voting on outside bodies.

- 7.3 Gifty Edila explained that she was surprised to hear from Councillor Taylor that some parts of the Council were reluctant to share information with Members on outside bodies. Gifty Edila stated, in response to the example given by Councillor Taylor regarding school governing bodies, that scrutiny in particular had the power to review outside bodies and undertake reviews on community issues which may affect outside bodies, and advised that scrutiny commissions or any part of the Council should feel comfortable sharing any of their reports with the outside bodies. Gifty Edila confirmed that scrutiny can share its review reports and recommendations about a school or education with school governing bodies. Councillor Taylor explained that, given Gifty Edila's advice, he believed there was no need to amend the guidance.
- 7.4 **RESOLVED** that the revised guidance set out in Appendix 1 to the report be agreed.

8 Any other business which in the opinion of the Chair is urgent

8.1 Expression of Gratitude

The Chair advised the Committee that Kwabena Fosu-Mensah was leaving the Council following his return from retirement to assist Governance Services. The Chair thanked Kwabena Fosu-Mensah for his service to the Council and, in particular to the Standards Committee, and wished him well in his future endeavours.

Duration of the meeting: 6.30 - 9.00 pm

Contact:

Kwabena Fosu-Mensah and Robert Walker, Governance Services

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