



Standards Committee

Thursday 9 January 2014 at 7.00 pm

Boardroom - Brent Civic Centre, Engineers Way,
Wembley, HA9 0FJ

Membership:

Members

Independent:
Sheila Darr

first alternates

second alternates

Councillors:

Ketan Sheth (Chair)
Cummins
Gladbaum
Harrison
HB Patel

For further information contact: Anne Reid, Democratic Services Officer
020 8937 1359, anne.reid@brent.gov.uk

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democracy.brent.gov.uk

The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

Item **Page**

1 Declarations of personal and prejudicial interests

Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.

2 Minutes of the previous meeting 1 - 2

3 Matters arising

4 Independent Investigator's report following an allegation of a breach of the Code of Conduct 3 - 58

This report presents the Standards Committee with the Independent Investigator's report in relation to allegations that Councillor Paul Lorber breached the Code of Conduct. This independent report was commissioned by the Monitoring Officer in accordance with the decision of this Committee on 17 October 2013 that an investigation should take place.

Ward Affected: All Wards **Contact Officer:** Fiona Ledden,
Director of Legal and Procurement
Tel: 020 8937 1292
fiona.ledden@brent.gov.uk

5 Annual report from the Monitoring Officer 59 - 66

This is the Monitoring Officer's Annual Report to the Standards Committee for the period December 2012 to December 2013 and provides an update on member conduct issues, and the work of the Standards Committee and the Monitoring Officer during that period. This report also reviews the introduction of the new Standards regime which was introduced in July 2012.

Ward Affected: All Wards **Contact Officer:** Fiona Ledden,
Director of Legal and Procurement
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fiona.ledden@brent.gov.uk

6 **Review of the Member Development Programme and Members' Expenses** 67 - 80

The purpose of this report is to review the Member Development Programme and members' travel expenses.

Ward Affected: All Wards

Contact Officer: Fiona Ledden,
Director of Legal and Procurement
Tel: 020 8937 1292
fiona.ledden@brent.gov.uk

7 **Date of Next Meeting**

The next meeting of the committee is scheduled to take place on 9 March 2014.

8 **Any other urgent business**

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.

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LONDON BOROUGH OF BRENT

MINUTES OF THE STANDARDS COMMITTEE Thursday 17 October 2013 at 6.30 pm

PRESENT: Ketan Sheth (Chair) and Councillors Cummins, Gladbaum, Harrison and HB Patel

Also present: Sheila Darr (co-opted member)

1. **Declarations of personal and prejudicial interests**

None made.

2. **Minutes of the previous meeting**

RESOLVED:

that the minutes of the previous meeting held on 12 March 2013 be approved as an accurate record of the meeting.

3. **Matters arising**

None.

4. **Exclusion of Press and Public**

RESOLVED:

that the press and public be excluded from the meeting as report and the appendices are not for publication (below the line) because they contain an allegation received in relation to the Code of Conduct and it is information relating to an individual, or is likely to reveal the identity of an individual and the public interest in maintaining the exemption outweighs the public interest in disclosing the information under Schedule 12A Local Government Act 1972.

5. **Allegation of a breach of the Code of Conduct**

The report from the Monitoring Officer presented the Standards Committee with allegations that a councillor had breached the Code of Conduct. The committee first considered whether the meeting should be held in public or private and decided that it was not helpful at this preliminary stage for the matter to be held in public or contributed to by others and having regard to the information provided in the report about the information relating to an individual and the public interest test the members decided to proceed in private on this occasion.

In relation to whether the matter should proceed to investigation the committee considered the information available and the options open to it under the council's procedure for dealing with these matters and decided that, on the face of it, the matter appeared to fall within the Code of Conduct and the complaint merited formal investigation.

RESOLVED:

- (i) that the matter be conducted in private on the basis set out in paragraph 3.5 – 3.6 of the report from the Monitoring Officer;
- (ii) that the Monitoring Officer shall provide a summary of the decision to the complainant, the member against whom the allegation is made, and the organisation concerned;
- (iii) that having considered the allegations of a breach of the Code of Conduct the matter be referred to the Monitoring Officer for formal investigation.

6. Date of Next Meeting

It was noted that the next meeting was scheduled to take place on 3 December 2013.

7. Any other urgent business

None.

The meeting closed at 7.45 pm

KETAN SHETH
Chair



Standards Committee

9 January 2014

Report from the Monitoring Officer

For Action

Wards Affected:
ALL

Independent Investigator's report following an allegation of a breach of the Code of Conduct

1. SUMMARY

1.1 This report presents the Standards Committee with the Independent Investigator's report in relation to allegations that Councillor Paul Lorber breached the Code of Conduct. This independent report was commissioned by the Monitoring Officer in accordance with the decision of this Committee on 17th October 2013 that an investigation should take place.

2. RECOMMENDATIONS

2.1 That members review the report by Alex Oram, Independent Investigator, attached as Appendix 1, take into account the views of the Independent Person as set out at paragraph 3.6 to 3.8 and that members accept the conclusions of the Investigator's report that during the exchanges with Mr Smith at ACAVA between 8th and 22nd September 2013 Councillor Lorber did not breach the Members' Code of Conduct.

3. DETAIL

3.1 The Localism Act 2011 requires that all Councils promote and maintain high standards of conduct by members, and that they have in place a Code of Conduct which reflects the principles of good conduct in public life. The London Borough of Brent adopted a new Code in July 2012 and this is attached as **Appendix 2**.

3.2 The Council is also required to have in place arrangements under which allegations can be investigated and decisions on allegations can be made. Attached as **Appendix 3** is the Council's procedures which were considered by the Standards Committee on 22nd January 2013.

- 3.3 The Council must appoint at least one Independent Person whose views are sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate. Sola Afuape is the Independent Person involved in this matter and her views are set in paragraphs 3.6 to 3.8 below.

The role of the Standards Committee

- 3.4 In accordance with the Council's process (paragraph 6), members are asked to review the report of the Independent Investigator and decide whether to accept the Independent Investigator's conclusion that there was no breach of the Code and accordingly no further action is required, or decide to refer the matter for hearing. If the Standards Committee is not satisfied that the investigation has been conducted properly it may ask the Investigator to reconsider his report. In reaching its decision members must consult with Sola Afuape, the Independent Person.

The report of Alex Oram, Independent Investigator.

- 3.5 The report is attached as Appendix 1. The report sets out the detail of the complaint made by Councillor James Powney, the relevant sections of the Council's Code of Conduct, the nature of the investigation and the conclusions of the Independent Investigator. The Independent Investigator will be in attendance at the Committee.

Views of Sola Afuape, the Independent Person

- 3.6 The Independent Person has discussed the Independent Investigator's report with the Monitoring Officer via telephone, as she was not able to meet prior to this report being prepared. The Independent Person confirmed that in light of the report she concurred with the recommendations in relation to the potential breach of the Code.
- 3.7 She did however consider that there are a number of issues that give rise to questions and concerns coming out of the report, which she considered would be helpful to explore in discussions at the Standards Committee. The issue around conflict of interests, given the different roles a councillor may have in the community, should be considered. It may be helpful for clear written advice to assist members and enable the committee to promote integrity and probity as well as transparency. Brent has a very diverse community which could lead to councillors being in positions where conflicts arise, from competing community groups, hence clear published guidance would assist members in making sure proper declarations are made.
- 3.8 The Independent Person and Monitoring Officer also discussed that the Committee may find it very helpful to give further consideration to how such guidance could be provided, and in particular training given to members in June 2014 following the elections (which will lead to new members joining the Council). The training could use case studies to tease out some of the difficult situations that can arise. In addition the Independent Person felt that the committee may benefit from understanding, through the Investigator, the parameters of acceptable behaviour, which will assist the committee going forward.

4 FINANCIAL IMPLICATIONS

4.1 None

5. STAFFING IMPLICATIONS

5.1 There are no staffing implications arising from this report.

6. DIVERSITY IMPLICATIONS

6.1 Officers believe that there are no specific diversity implications in this report.

7. LEGAL IMPLICATIONS

7.1 The Localism Act 2011 sets out the legal requirements in relation to Members' Code of Conduct and breaches of the Code. Section 28(6) provides that the Council must have in place arrangements under which allegations can be investigated and decisions on allegations can be made. Section 28(7) requires the council to provide at least one Independent Person whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

Background Information

Localism Act 2011

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson, Senior Solicitor on 0208 937 1368.

Fiona Ledden
Director of Legal and Procurement

Final report of an investigation conducted under Chapter 7 of the Localism Act 2011, by independent investigator Alex Oram (ch&i associates ltd), appointed by the Monitoring Officer for the London Borough of Brent, into an allegation concerning Councillor Paul Lorber.

Contents

- 1 Executive summary
- 2 Councillor Lorber's official details
- 3 The relevant legislation and protocols
- 4 The evidence
- 5 Reasoning as to whether there have been failures to comply with the Code of Conduct
- 6 Finding

1 Executive summary

1.1 Councillor James Powney, a Labour member of the London Borough of Brent (the Council), alleged that Councillor Paul Lorber, a member of the Council and leader of the Liberal Democrat group, had breached the Code of Conduct for elected members.

1.2 Between 8 and 22 September 2013 Councillor Lorber was involved in an email exchange with Mr Duncan Smith, Artistic Director of the Association for Cultural Advancement through Visual Arts (ACAVA). The emails, many of which were copied to Council members and its Chief Executive, related to ACAVA's proposed tenancy of a former library building in Barham Park, in Councillor Lorber's constituency.

1.3 Councillor Powney alleged that during the email exchange Councillor Lorber:

- adopted a tone that was both offensive and intimidating;
- disclosed confidential information in relation to ACAVA's proposed tenancy;
- improperly used his position as a councillor to confer or attempt to confer an advantage to the Friends of Barham Library, a charity on which Cllr Lorber acted as trustee.

1.4 I have investigated whether Councillor Lorber has:

- failed to comply with paragraph 4(1) of the Council's Code of Conduct (the Code), which provides that a member must treat others with respect;
- brought his office or Council into disrepute, contrary to paragraph 5 of the Code;
- failed to comply with paragraph 6 of the Code by disclosing information where he was not entitled to do so, and/or;
- used or attempted to use his position as a member improperly to confer on or secure an advantage for the Friends of Barham Library, contrary to paragraph 7(a) of the Code.

Recommended Finding

1.5 My conclusion is that, during his email exchanges with Mr Smith between 8 and 22 September 2013, Councillor Lorber did not breach the Code.

2 Councillor Lorber's official details

- 2.1 Councillor Lorber was first elected to office in May 1982 and has served continuously since. He was most recently elected in May 2010 for a four year term. Councillor Lorber was Leader of the Council between June 2006 and May 2010.
- 2.2 Councillor Lorber is currently the ward member for Sudbury and the Leader of the Liberal Democrat Group. Councillor Lorber is currently a member of the following Council Committees:
- [Call In Overview and Scrutiny Committee](#)
 - [General Purposes Committee](#)
 - [One Council Overview and Scrutiny Committee](#)
 - [Senior Staff Appointments Sub-Committee](#)
- 2.3 Councillor Lorber has given a written undertaking to observe the Code.

3 The relevant legislation and protocols

- 3.1 Under Section 27(2) of the Localism Act 2011 (the Act), the Council established a Code of Conduct for members (the Code) which took effect on 1 July 2012. The Code includes the following paragraphs:

1. *(1) This Code applies to **you** as a member of Brent Council.
(2) It is your responsibility to comply with the provisions of this Code...*
2. *(1) Subject to sub-section s (2) to (5), you must comply with this Code whenever you—
(a) conduct the business of the council (which, in this Code, includes the business of the office to which you are elected or appointed); or
(b) act, claim to act or give the impression you are acting as a representative of the council,
and references to your official capacity are construed accordingly.*
3. *You must maintain a high standard of conduct, and comply with the following general principles of conduct: ...*

Selflessness — *you should serve only the public interest and should never improperly confer a benefit on yourself or an advantage or disadvantage on any other person.*

4. (1) *You must treat others with respect.*

5. *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.*

6. *You must not –*
 - (a) *disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –*
 - (i) *you have the consent of a person authorised to give it.*
 - (ii) *you are required by law to do so;*
 - (iii) *the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or*
 - (iv) *The disclosure is –*
 - (aa) *reasonable in all the circumstances and*
 - (bb) *in the public interest; and*
 - (cc) *made in good faith and in compliance with the reasonable requirements of the council; ...*

7. *You—*
 - (a) *must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage ...*

3.2 Under Section 28(6) and (7) of the Localism Act, the Council has put in place arrangements under which allegations that a member has failed to comply with its Code can be investigated and decisions made on such allegations (attached). This case will be determined under those arrangements.

The evidence

3.3 I have been appointed by the Council's Monitoring Officer to conduct an independent investigation into the allegations against Councillor Lorber. I am a director of ch&i associates, a company with a successful track record of conducting complex investigations, assessments and case reviews within the regulatory, charity, NHS, national and local government sectors. I was previously employed by Standards for England as a principal investigator responsible for conducting many of their most complex, politically sensitive and high profile cases.

3.4 As part of my investigation I have taken account of documentary evidence provided by the Council, **Mr Duncan Smith** (Artistic Director,

ACAVA) and **Councillor Paul Lorber**. I have also taken account of oral evidence provided by **Councillor Lorber, Mr Smith, Councillor James Powney, Ms Sarah Chaudhry** (the Council's Head of Strategic Property) and **Howard Fertleman** (the Council's Estates Purveyor). I have also considered information obtained from the Council's website, Companies House, the Charity Commission and the Friends or Barham Library website.

Background

- 3.5 During the 1930s Barham Park in Wembley was donated to the Council on trust. The terms of the trust are *"to preserve the same for the recreation of the public in such manner and subject to such regulations in all respects as the Council may from time to time think proper"*. In 1952 one of the buildings in the park, Crabbs House, was opened as Barham Library. It was registered with the Charity Commission in June 1963 and is regulated by that body.
- 3.6 On 15 November 2010 the Council launched the 'Libraries Transformation Project', described as a project *"to improve the quality of library provision in Brent, while contributing to the Council's need to meet efficiency targets in response to reductions in funding"*. It referred to a plan to achieve *"rationalisation of resources by closing six library buildings that are poorly located and have low usage"*.
- 3.7 On 29 November 2010 the Council started a consultation process involving numerous questionnaires and public meetings. Councillor Lorber campaigned against any proposed closures and in particular against the closure of Barham Library, which was situated in his ward. Councillor Lorber said at interview that he has been a councillor for over 31 years and knows how important Barham library is to his constituents; he commented that this was the third time he had fought against such a proposal.
- 3.8 Councillor Lorber said at interview that once the decision had been made to close the library he had to decide what else he could do. He felt he had been left with the choice to just continue protesting or to also try to do something more positive, such as providing an alternative service.
- 3.9 In March 2011 Councillor Lorber set up the Friends of Barham Library website; its stated aim was and remains to *"ensure the survival of this much loved, local library for future generations."* The following month Councillor Lorber registered 'Friends of Barham Library' with Companies House as a private limited company by guarantee without share. Councillor Lorber was and continues to be registered as a Director and Company Secretary.
- 3.10 Companies limited by guarantee are widely used for charities, community projects, clubs, societies and other similar bodies. Most guarantee companies are not-for-profit companies, that is, they do not distribute their profits to their members but either retain them

within the company or use them for some other purpose. Councillor Lorber confirmed at interview that he has not ever been remunerated by the company.

- 3.11 In 11 April 2011 the Council's Executive Committee agreed to close six libraries in the borough, one of which was Barham Park Library. On 13 April 2011 the Council rejected a motion proposed by Councillor Lorber to change the decision and save all the libraries in the borough.
- 3.12 On 25 May 2011 Councillor Lorber registered 'Friends of Barham Library' as a charity with the Charity Commission. Its charitable object to advance the education of the public by running and/or assisting in the running of the Barham Park Library, Wembley, for the benefit of the local residents. Councillor Lorber was and continues to be a trustee.
- 3.13 Councillor Lorber said at interview that he did understand how his setting up the charity would restrict his ability to involve himself in any related decisions the Council might make. He explained that when the libraries decision was referred to the Scrutiny Committee, of which he was a member, he excluded himself from the meeting.
- 3.14 In July 2011 the Council decision to close the libraries was considered at the High Court following a request for judicial review from three residents from the Brent "Save our Six" Campaign (the 'SoS' campaign). Councillor Lorber actively and publicly supported the legal challenge, collecting and raising money for the SoS campaign.
- 3.15 On 13 October 2011 the High Court announced that they had rejected the legal challenge. The Council immediately closed and secured the six libraries.
- 3.16 Following its closure Councillor Lorber continued to campaign and fundraise in order to have Barham library reopened, with the intention that the Friends of Barham Library would run it. Meanwhile the Barham Park Trust Committee, which consisted of five members of the Council's Executive, decided to let the Barham Park buildings out on commercial terms.
- 3.17 The Barham Park buildings were separated into seven lots, with the former library designated as lot 3 and its offices as lot 4. The lots were marketed from August to September 2012. Twelve organisations bid, each for a varying number of lots; the Friends of Barham Library only bid for the former library area.
- 3.18 In February 2013 the Council's Director of Environment and Neighbourhood Services issued a report (the report) recommending that the Association for Cultural Advancement through Visual Arts (ACAVA) be appointed as the preferred bidder. The report set out the selection criteria; ACAVA's bid was seen as the most attractive in part because they had bid for the most lots (5 of 7) and had offered the highest overall amount (£43,000.00 per annum).

- 3.19 ACAVA's proposal was to use the building primarily to supply 29 individual studios at an affordable rent for local artists. It also planned to work with local community groups and schools to run projects in and around the studios.

Initial email exchanges between Councillor Lorber and ACAVA

- 3.20 On 3 February 2013 Councillor Lorber sent an email for the attention of ACAVA's trustees, noting that they had been recommended as the preferred bidder. Councillor Lorber indicated that he was writing on behalf of the Friends of Barham Library and asked whether ACAVA would be interested in sharing / subletting part of the building with them. (Full copies of all the emails referred to in this report can be found in appendix 1).
- 3.21 Councillor Lorber explained at interview that he approached a number of the bidders on behalf of Friends of Barham Library to explore whether they would be willing to share / sublet the space should they be awarded it.
- 3.22 On 4 February 2013 Mr Duncan Smith, ACAVA's Artistic Director, emailed Councillor Lorber asking him to clarify what his requirements would be and whether Friends of Barham Library would be in a position to cover the costs, likely to be around £11.00 per sq/ft per year.
- 3.23 Councillor Lorber responded by indicating that they were interested in a library space of around 291 square metres but that they were happy to share the space with others for complementary activities.
- 3.24 On 5 February Mr Smith replied that while he was sympathetic to Councillor Lorber's needs, he did not see how a library could be accommodated within ACAVA's current plans. He added that the estimated cost for the library space Councillor Lorber desired would be £34,455.00 per year.
- 3.25 Councillor Lorber said at interview that he was very disappointed by ACAVA's response because he was left with the impression that they simply were not interested in working with the Friends of Barham Library. Councillor Lorber acknowledged at interview that he does regret not pursuing the matter at the time, however explained that he was focusing primarily on trying to ensure that his own bid was successful.

Allocation of the Barham Park building complex

- 3.26 On 13 February 2013 members of the Barham Park Trust Committee met to consider the report. They resolved that ACAVA should be appointed as the preferred bidder for lots 1,3,4,5 and 6. They delegated

authority to Council officers to enter into lease arrangements with ACAVA.

- 3.27 Despite the decision taken by the Trust Committee, Councillor Lorber continued to fundraise and campaign for the re-opening of Barham Library in its original location. Meanwhile Friends of Barham Library ran a volunteer library and 2nd hand bookshop from premises on the High Road in Wembley.
- 3.28 On 1 August 2013 Barham Park Trust submitted a planning application that proposed a change of use of parts of the Barham Park complex of buildings from Use Class D1 (library) and Sui Generis (parks office) to Artists' Studios (Use Class B1); and the change of use from Sui Generis (parks office with some community use) to Use Class D1 (Community).
- 3.29 Councillor Lorber was among 25 people who wrote to the Council objecting to the proposed application. The key objections raised included the reduction in community space, the desire for the property to be restored as a library and that 24-hour access was being applied for.

Email exchange between Councillor Lorber and ACAVA dated 8 September to 22 September 2013

- 3.30 On 8 September 2013 Councillor Lorber emailed the trustees of ACAVA further to their email exchange in February 2013. The email, in common with the other emails sent by Councillor Lorber reproduced in this report, was sent from his Councillor email address: paul.lorber@brent.gov.uk. This meant that the email was headed "*From: Lorber, Cllr Paul*" and the footer stated "*The use of Brent Council's e-mail system may be monitored and communications read in order to secure effective operation of the system and other lawful purposes.*"
- 3.31 Councillor Lorber's email of 8 September included the following comments:
- "*Local residents are angry at the closure of their library and will oppose the recently submitted planning application for change of use from D1 (community facility) to B1.*"
 - "*There is no demand in the local area for 29 artist studios and there is strong feeling that the ACAVA intervention is depriving the local community of their library for ever.*"
 - "*We [Friends of Barham Library] were quoted an excessive rent implying a large profit for ACAVA.*"
 - "*It is unfortunate that our efforts are being blocked by another Charity which proposes to provide a service that local people have never asked for and do not see a local need for.*"

- *“You need to be aware therefore that there will be a local campaign to STOP Brent Council pursuing the current planning application and the lease to ACAVA and that on change of control of Brent Council the lease arrangement are likely to be reviewed.”*
- *“To mitigate any reputational risks I would urge ACAVA to reconsider your approach to the Barham Park Buildings, and withdraw your interest in the library part of the building.”*

- 3.32 Mr Smith said at interview that he was appalled by the email, which in his view seemed to question ACAVA’s proposal with a wholly inadequate understanding of what they were planning for the building. Mr Smith said that he considered it an attempt to intimidate ACAVA into sharing the building because Councillor Lorber had given the impression that if ACAVA continued as they planned then Councillor Lorber would cause them difficulties, either in the process of securing the building or subsequent management of it.
- 3.33 Councillor Lorber said at interview that he was prompted to email ACAVA on the 8 September because the planning application had been submitted in relation to the Barham Park buildings. Councillor Lorber said that he was amazed that it had been the Barham Park Trust rather than ACAVA who had submitted the planning application.
- 3.34 Councillor Lorber acknowledged that he did not know a great deal about ACAVA’s plans but pointed out that this was primarily because ACAVA had not communicated them to anyone; their accounts demonstrated that ACAVA had been interested in the Barham Park building for two years but they had chosen not to publish their plans or communicate with anyone in the area. Councillor Lorber said that had ACAVA submitted the planning application then the public would have had the opportunity to question them on their proposals in a public meeting. Councillor Lorber said that unfortunately ACAVA were not engaging with the public and did not have to answer these questions because the Trust had submitted the application on their behalf.
- 3.35 Councillor Lorber denied trying to harass or intimidate Mr Smith or ACAVA. Councillor Lorber said that while he might not have been clear enough in his language, the point he was trying to put across was that the community were still upset with what was happening to Barham Park and that there was a lot of local opposition to the planning application.
- 3.36 Councillor Lorber told me that his constituents had already been hit by the fact that their library had been taken away; the ‘change of use’ application submitted on behalf of ACAVA by the Barham Park Trust made it clear that in effect the Barham Park building as a community facility was being taken away as well. Councillor Lorber insisted that when he talked about ACAVA withdrawing their interest in the library area he only meant in terms of the planning application; he did not believe that the library area of the building needed to be changed from

'community use only'. Councillor Lorber said that while he did not know exactly what ACAVA had planned for the building but was concerned that on their website they talked about only opening up their buildings to the public for one weekend a year.

- 3.37 On 13 September 2013 Mr Smith replied to Councillor Lorber via email, indicating that he was “*appalled*” by the tone and content of Councillor Lorber’s comments. Mr Smith copied the email into all the members of the Council and its Chief Executive. Mr Smith said at interview that he wanted to let them see how Councillor Lorber was harassing his organisation and to clear up what he saw as factual errors.
- 3.38 Mr Smith told me that while it was clear that Councillor Lorber had initially contacted him as a representative of the Friends of Barham Library, he was also quite clearly a representative of the Council. Mr Smith pointed to Councillor Lorber’s use of his councillor email address and the reference to him being a councillor on his auto-signature.
- 3.39 Councillor Powney, who was copied into Mr Smith’s response, told me at interview that he thought Councillor Lorber had been extremely rude, particularly as Mr Smith had done nothing to deserve his anger. Councillor Powney said that he had personally been involved in the decisions to close Barham Park library and award the subsequent tender for the building to ACAVA; these were decisions that were properly made and even if Councillor Lorber was not happy with them, he certainly could not hold Mr Smith responsible.
- 3.40 In his response of 13 September, Mr Smith wrote that he found the suggestion that ACAVA were depriving the community of a resource was wrong and distasteful; the Council had taken the decision to shut the library and ACAVA in turn would provide a highly valued community resource of their own.
- 3.41 Mr Smith wrote that he was particularly offended by the allegations of “*profiteering*” and “*obstruction*”. Mr Smith said that the proposed cost was based on ACAVA’s need to meet their own business plan and that he had explained that losing a third of their space was unfeasible in any case. Mr Smith said that he believed there was a local demand for studio and the need for 24 hour access would have a negligible effect on the local community. Mr Smith ended his email:

“While it would clearly benefit your campaign if no other use could be found, to suggest that ACAVA is responsible for the loss of the library is disingenuous, and I regret that if it is decided to accept ACAVA’s proposal, our work to provide a valued local resource will have to overcome antagonism stirred by such ill-informed attacks.”

- 3.42 Councillor Lorber said at interview that he had felt insulted by Mr Smith’s response to his email, which he described as an over-reaction. Councillor Lorber added that he was suspicious of Mr Smith’s decision to

copy all the members of the Council in to his response because he could not understand his motive.

3.43 Councillor Lorber responded to Mr Smith on 13 September 2013, also copying in all the members of the Council and its Chief Executive. The email included the following comments and questions about ACAVA's involvement in and plans for the Barham Park buildings:

- *"I also note that you are appalled. I am sorry about your sensitivities but you need to be aware that local people, are appalled at losing access to their community facilities"*
- *"Your offer to the Council was for around £43,000 inclusive of service charges. Yet you quoted us a charge well in excess of £30,000 for around a 3rd of the building. At best that suggests very heavy ACAVA overheads".*
- *"I reminded you that the local library served local people for almost 60 years and that it was closed despite strong opposition from local people. I suggested a sharing arrangement but you ruled this out - perhaps because some of your semi industrial uses are not compatible with a community facility? If that is the case they obviously also NOT compatible with a Children Centre next door".*
- *"the ACAVA intervention and the need for a change of use planning permission (no mention of which was made in the public report to the Barham Park Trust Committee in February 2013) will result in a permanent loss of the facility for local people".*
- *"I am also intrigued to understand how ACAVA will raise funding from external Grants on a 15 year lease with no protection as a result of opt out from the Landlord & Tenant Act".*
- *"I suggest that instead of being appalled at having certain obvious issues pointed out to you that you inform and consult your Trustees, recognise that you are dealing with a much loved local building with a very long community history and reconsider your position".*

3.44 Councillor Powney said at interview that after reading the email he was concerned that Councillor Lorber had copied numerous councillors into an email that included specific financial information that might not have been in the public domain.

3.45 Following investigation I can confirm that the length and cost of ACAVA's proposed tenancy was information that was already in the public domain. ACAVA's quote to Friends of Barham Library for renting part of the building was not information that was commonly known,

however Mr Smith said at interview that he did not consider this information commercially sensitive or something that he was not happy being in the public domain.

3.46 Mr Smith did express concern at interview however that Councillor Lorber conducted himself in the manner that he did, which Mr Smith saw as an unwarranted interference in negotiations between ACAVA and the Council. Mr Smith said Councillor Lorber's position as a councillor gave his correspondence an extra level of seriousness in terms of what he felt was expected of him when responding.

3.47 Mr Smith also said he was concerned that the inaccurate statements in Councillor Lorber's email would be considered as a truth by other members: *"I was quickly reassured that Councillor Lorber's opposition was not commonly held and that the Council were committed to going ahead with agreeing terms with us. Councillor Lorber's email demonstrated a readiness to make negative assumptions about what we were trying to do and his subsequent emails I felt were just an excuse to continue his harassment"*. Mr Smith added *"In my view he seems to be a man more interested in regaining his position as leader of the council than actually securing the future of the library; unscrupulously using the situation to benefit his own political career."*

3.48 Mr Smith responded to Councillor Lorber's email on 16 September 2013, once again copying in all the members of the Council and its Chief Executive. Mr Smith addressed some of Councillor Lorber's questions and indicated others that he thought would be better put to the Council. Mr Smith expressed concern at what he felt were a number of false assumptions and assertions in Councillor Lorber's email, which he thought arose from Councillor Lorber's limited understanding of ACAVA's work. Mr Smith stated *'It is quite inappropriate to conduct this smear campaign against ACAVA'*.

3.49 On 17 September 2013 Councillor Lorber emailed Mr Smith:

"May I remind you that I addressed my original email only to you and it was you who decided to distribute your reply and my questions to all members of Brent Council - including members of the Planning Committee. I appreciate that you may not be used to responding to challenging questions but to suggest that any of this is a 'smear' campaign or represents 'defamation' is laughable. I suggest that you seek advice before you accuse me or anyone else in this way again."

3.50 Councillor Lorber wrote that Mr Smith's response had led to him having even more questions about ACAVA's proposed use of the Barham Park buildings. Councillor Lorber sought further information from Mr Smith about the planning application that had been submitted for Barham Park; the costs involved in the application and renovation work that had been carried out; how ACAVA were proposing to select which artists could

use the studios; their future working relationship with other users of the building and their communication strategy.

3.51 On 22 September 2013 Mr Smith emailed all members of the Council:

“Dear Councillors,

I copied you in to my replies as I thought it important that you were aware of the nature of the attacks to which we have been subject, and in case any of the assertions might be taken seriously by those with a clearer view of the issues, to correct the wild inaccuracies. However responding to questions asked by those with no interest in the answers is pointless, and I have no intention of continuing the exchange.

Yours sincerely,

Duncan Smith”

3.52 On 22 September 2013 Councillor Lorber sent Mr Smith a final email, again copying in members of the Council and the Chief Executive. Councillor Lorber challenged Mr Smith to answer what he considered to have been a set of reasonable questions and to identify anything that supported his *“wild assertions about attacks, smears etc.”*

3.53 Mr Smith chose not to respond to Councillor Lorber any further and there has been no correspondence between them since. Mr Smith said at interview that apart from the distress caused by Councillor Lorber’s *‘unwarranted, ill-informed attack’*, the exchange amounted to an enormous waste of time that, when coupled with the negative advance publicity, had damaged ACAVA. Mr Smith was clear however that it has not deflected them from achieving their original aims for the Barham Park building.

3.54 Councillor Powney said at interview that he was primarily concerned that Councillor Lorber was trying to use his position as a councillor to destabilise ACAVA. Councillor Powney said that Mr Smith *“should not [have] been subjected to a whole series of harassing emails with long strings of questions and demands for answers from a person who is not only a councillor but the leader of a rival organisation.”* Councillor Powney said that Councillor Lorber’s actions could as easily be considered an attempt to pressure ACAVA into subletting part of the building to him on favourable terms or even to intimidate ACAVA into withdrawing all together.

3.55 Councillor Powney explained that since the inception of the Friends of Barham Library he had been concerned that Councillor Lorber had demonstrated a complete inability to make a distinction between the various roles he had, be that of a ward councillor, the leader of the Liberal Democrats or he trustee and director of the Friends of Barham Library. Councillor Powney said Councillor Lorber was making a great

deal of political capital out of the whole affair, both personally and for his political group, and as such his emails could also be read as part of a wider effort to delay and obstruct the process in any way he could.

- 3.56 Councillor Lorber said at interview that he was staggered by Mr Smith's over reaction to his emails and subsequent decision to refuse to engage with him further. Councillor Lorber said that while he applauded the work that ACAVA did in turning derelict buildings into useful, creative spaces; the Barham Park building was not derelict and had been well used by the local community. Councillor Lorber stated: *"I represent a very diverse community, much of which is deprived. People who have nowhere to go and who need places dedicated to community use."*

4 Reasoning as to whether there have been failures to comply with the Code of Conduct

Official Capacity

- 4.1 I must first consider whether the Code applied to Councillor Lorber in the circumstances of this case. Given the provisions of paragraph 2 of the Code (paragraph 3.1 of this report) I must decide whether he was conducting the business of his authority; or acting, claiming to act or giving the impression he was acting as a representative of his authority.
- 4.2 The code, in defining the scope of its operation, uses ordinary descriptive English words. Their application is inevitably fact sensitive and so whether or not a member is acting in their official capacity calls for informed judgment with reference to the facts of a given case.
- 4.3 Councillor Lorber has been quite clear during this investigation that the Code should not be applied to any allegations of misconduct in relation to the emails because he sent them in his private capacity. Councillor Lorber pointed out that the opening sentence of his first email stated that he was writing on behalf of the Friends of Barham Library. Councillor Lorber said at interview that it was clear that this was the case because he was trying to negotiate a shared use of the Barham Park building with ACAVA, something he would not be doing as a councillor.
- 4.4 On the other hand Councillor Lorber sent the emails using his 'councillor' email address and has acknowledged sending them from his Council supplied iPad. The header to each email sent stated *"From: Lorber, Cllr Paul"* and the auto signature on his initial email dated 3 February 2013 was *"Councillor Paul Lorber, Director and Trustee, Friends of Barham Library"*. Mr Smith was clear that as the recipient he was in no doubt that he was corresponding with a member of the Council about matters directly related to Council business. In his view the reason for Councillor Lorber's involvement with the Friends of Barham Library was clearly political in any case and therefore was inextricable from his role as a ward councillor.

- 4.5 In considering whether Councillor Lorber was acting in his official capacity I must take into account the fairly restrictive view on capacity that has been taken in previous decisions by the Adjudication Panel for England, the First Tier Tribunal (Local Government Standards) and the High Court. In APE0458 *Sharratt* the tribunal observed:

“While they [councillors] may always be conscious of their office as councillor and carry out a wide range of activities in which that is a factor in their thinking, no reasonable observer would conclude that they are carrying out the business of the office of councillor; a test which, in the light of the decision in Livingstone, should be narrowly construed.”

- 4.6 In the Livingstone case referred to (*Livingstone v Adjudication Panel for England* [2006] EWHC 2533) Mr Justice Collins considered the scope of the Code in relation to when a councillor is acting in their official capacity. Mr Justice Collins stated at paragraphs 27 to 29:

“Conduct which is regarded as improper and meriting some possible sanction will often be constituted by misuse of a councillor’s position. He may be purporting to perform his functions if, for example, he seeks to obtain an advantage by misusing his position as a councillor. Such misuse may not amount to corruption; it may nonetheless be seen not only to be improper but to reflect badly on the office itself. If the words “in performing his functions” are applied literally, it may be said that such misuse, and other misconduct which is closely linked to his position as such may not be covered.

... Thus where a member is not acting in his official capacity (and official capacity will include anything done in dealing with staff, when representing the council, in dealing with constituents’ problems and so on), he will still be covered by the Code if he misuses his position as a member. That link with his membership of the authority in question is in my view needed. This approach is very similar to that adopted in Scotland and in my judgment accords with the purpose of the Act and the limitations that are appropriate. It is important to bear in mind that the electorate will exercise its judgment in considering whether what might be regarded as reprehensible conduct in a member’s private life should bring his membership to an end in due course. Equally, it is important that the flamboyant, the eccentric, the positively committed – one who is labelled in the somewhat old fashioned terminology, a character – should not be subjected to a Code of Conduct which covers his behaviour when not performing his functions as a member of a relevant authority.”

- 4.7 Mr Justice Collins made it clear therefore that a distinction is to be drawn between the individual as a councillor and the individual as an individual; a councillor is not a councillor twenty-four hours a day. Paragraph 2(a) of the Code sets the parameters of the necessary link between an individual’s conduct and the Council in order to find that a given set of actions are within capacity; when a member conducts the business of

their authority or when a member acts, claims to act or gives the impression that he was acting as a representative of his authority.

- 4.8 Judge Ward considered this matter further in Upper Tribunal Case No. GLSE/1111/2010 MC v Standards Committee of LB Richmond. Judge Ward noted that the terms of the Code that applied in the Livingstone judgement were slightly different to that applied since 2007. In his view it was wholly possible for members to interact with Council officers in their private capacity if they were not conducting the business of their authority for instance. Further he drew an important definition between the term 'councillor' and 'representative of his authority'; for Judge Ward a member acting, claiming to act or giving the impression that he was acting as a councillor is not on its own sufficient to find official capacity.
- 4.9 Mr Smith said that he was "*appalled*" by Councillor Lorber's emails and clearly associated them with the Council because Councillor Lorber had referred to his own role as a councillor within them. I have some sympathy with this position. Councillor Lorber has clearly been very involved politically, both as leader of the Liberal Democrat Group and on behalf of his constituents, in the wider SoS campaign and specifically in the future of Barham Park Library. However being known by some as a councillor is not sufficient to bring all conduct within the Code of Conduct. The overall context (and not simply the alleged behaviour) is determinative
- 4.10 I am of the view that the judgements detailed above demonstrate that it would have been possible for Councillor Lorber to have corresponded with Mr Smith on behalf of the Friends of Barham Library in his personal capacity. However for that to have been the case I consider that Councillor Lorber would have needed to have been far clearer to Mr Smith on this point. All of the correspondence to and from Councillor Lorber was via his Council email address. While I note that Councillor Lorber said this was a mistake, he never took the opportunity to clarify that he was not acting in his official capacity with Mr Smith despite Mr Smith repeatedly addressing his emails to 'Councillor Lorber' and copying in all the members of the Council. Given the many links I have listed between the context of the interactions and Council business it is surprising that Councillor Lorber did not make his position clearer.
- 4.11 Having reviewed the Friends of Barham Park website I found numerous examples where Councillor Lorber's fundraising activities were attributed to '*Councillor Paul Lorber*' rather than just '*Paul Lorber*'; his role as a ward councillor and that as a campaigner for the Barham Park library do appear almost indivisible. Furthermore the matters under discussion in the emails (the proposed tenancy of the Barham Park buildings and associated planning application) were directly linked to Council as well as constituency business.
- 4.12 It is my view that Councillor Lorber was acting in his official capacity when corresponding with Mr Smith and that the Code therefore applied to his conduct. If a member wants to involve themselves in matters so

closely related to Council business in their personal capacity they have to make that clear to all parties at all times. In the absence of such clarity in this instance I agree with Mr Smith that Councillor Lorber was acting as a councillor.

4.13

Human Rights Act

4.14 In considering whether Councillor Lorber breached the Code I must also have regard to Article 10 of the European Convention on Human Rights which provides:

“(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers....

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...the protection of the reputation or rights of others ...”

4.15 In considering these matter it is also important to note the words of Collins J in *Livingstone v The Adjudication Panel for England* [2006]EWHC 2533 (Admin) [at para.39]:

“The burden is on [the Adjudication Panel for England] to justify interference with freedom of speech. However offensive and undeserving of protection the appellant’s outburst may have appeared to some, it is important that any individual knows that he can say what he likes, provided it is not unlawful, unless there are clear and satisfactory reasons within the terms of Article 10(2) to render him liable to sanctions”.

4.16 The right to freedom of expression is a crucially important right in a democratic society and it is clear that it may only be interfered with where there are convincing and compelling reasons within Article 10(2) justifying that interference. A key issue for determination is thus whether a finding of a breach of the Code on the facts as found, would represent no greater an impairment to an elected member’s right to freedom of expression than is necessary to accomplish the legislative objective of the Code.

4.17 In this investigation I have considered whether Councillor Lorber’s comments related to matters within his legitimate concerns as a councillor (political or quasi-political comment which would benefit from a high level of protection), or whether they were no more than an expression of personal anger and personal abuse. In the latter case, the high degree of protection set out in case law would not be engaged.

4.18 To recap, the parts of the correspondence by Councillor Lorber that have been highlighted as potential breaches of the Code include:

- *Local residents are angry at the closure of their library and will oppose the recently submitted planning application for change of use from DI (community facility) to BI.*
- *There is no demand in the local area for 29 artist studios and there is strong feeling that the ACAVA intervention is depriving the local community of their library for ever. When Friends of Barham Library approached ACAVA about the possibility of sharing the library space we were quoted an excessive rent implying a large profit for ACAVA over what you are paying and clearly intended to make our access impossible.*
- *It is unfortunate that our efforts are being blocked by another Charity which proposes to provide a service that local people have never asked for and do not see a local need for. You need to be aware therefore that there will be a local campaign to STOP Brent Council pursuing the current planning application and the lease to ACAVA and that on change of control of Brent Council the lease arrangement are likely to be reviewed.*
- *local people we continue to campaign to get back into the closed Barham Park Library. This campaign will continue even after ACAVA occupation of the building.*
- *To mitigate any reputational risks I would urge ACAVA to reconsider your approach to the Barham Park Buildings, and withdraw your interest in the library part of the building.”*
- *As you have not yet submitted a planning application and paid the necessary fees of over £2,000 perhaps your Trustees are having 2nd thoughts on this issue.*
- *As you say we exchanged emails earlier in the year. Your offer to the Council was for around £43,000 inclusive of service charges. Yet you quoted us a charge well in excess of £30,000 for around a 3rd of the building. At best that suggests very heavy ACAVA overheads.*
- *I am at a loss to understand why ACAVA bid for the Library space which shares an entrance with the Children Centre. Clearly semi industrial uses are not compatible with mother & toddlers activities in a Children Centre. Both a planning permission will be required to create a new entrance to the Children Centre (in a locally listed building) and costs will need to be incurred to build that new entrance. I am assuming that ACAVA will pay for this and not expect the Barham Park Charity or the Brent 'ratepayer' to pay?*
- *In conclusion may I suggest that instead of being appalled at having certain obvious issues pointed out to you that you inform*

and consult your Trustees, recognise that you are dealing with a much loved local building with a very long community history and reconsider your position. You may also wish to review your communication and social responsibility strategy.

Treat others with respect

- 4.19 Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour occurred are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurred, who observed the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompted the alleged disrespect.
- 4.20 In his emails Councillor Lorber called ACAVA to account in a challenging political style which Mr Smith clearly felt was inappropriate. Mr Smith particularly objected to what he saw as accusations that ACAVA were profiteering and obstructing another local charity; accusations that he felt were defamatory.
- 4.21 In considering whether this amounts to a breach of the Code I consider it important that members should be able to express themselves in a robust manner that allows them to be passionate. While Councillor Lorber's comments and questions were direct and forceful, none were in my view offensive or demeaning.
- 4.22 Councillor Lorber was clearly annoyed at what he perceived to be ACAVA's reluctance to engage more positively with the Friends of Barham Library and what he felt to be Mr Smith's overreaction to his email of 8 September 2013. Emails can be a difficult medium to get right tonally and in my view Councillor Lorber's frustration comes across in the negative and disapproving way in which he has phrased his questions. It is my view that Councillor Lorber showed poor judgement when expressing himself in the manner that he did. He should have either worded his emails more carefully, particularly as they left Mr Smith feeling as if he were being harassed, or spoken face to face or by telephone with Mr Smith.
- 4.23 In specifically considering whether Councillor Lorber accused ACAVA of 'obstruction'; I am of the view that Councillor Lorber may have, through his choice of words, misrepresented the potential impact of ACAVA's application on a long-running campaign whose main focus was the Council's decision making. Councillor Lorber undoubtedly did his cause no favours in taking that tack, given his previously expressed desire for Friends of Barham Library to work alongside ACAVA. However, I consider that his use of the word "blocked" should be seen in the context of an exchange between two charities competing for the same resource. He did not publish or circulate the comment beyond that audience or suggest improper conduct by ACAVA. The comment was, more than anything else, an expression of frustration that ACAVA would not work in

partnership with the Friends of Barham Library. It could not be construed as disrespectful as understood by the Code.

- 4.24 In terms of the accusation of 'profiteering'; while several inferences could be drawn from this exchange, Councillor Lorber's comments about the potential charge ACAVA would levy for the library part of the building hint, at worst, at them either making a healthy profit or of inefficiency on ACAVA's part. I would agree that the word 'profiteering' is a pejorative term that implies unethical behaviour and therefore would have been concerned had it been used by Councillor Lorber. It is my view that Councillor Lorber use of words did not go so far as to imply profiteering and did not depart sufficiently from the facts as he knew them in a deliberate way so as to represent disrespectful or disreputable behaviour.
- 4.25 In my experience organisations whose work involves either the receipt of public money or their entering into contracts with a local authority should be prepared for tough questioning. Mr Smith was clearly not used to being challenged in the way that he was in this instance. While I acknowledge Mr Smith's right to respond in the manner that he did, at no stage in the correspondence did Councillor Lorber cross the line from robust questioning into personal abuse or anything resembling the defamation he was accused of. Nor did the overall context of the exchange – email communications between Councillor Lorber, Mr Duncan, the ACAVA trustees and then the entire Council - render Mr Duncan at a disadvantage in any way as would be the case had Councillor Lorber attacked him or his charity in the Council chamber.
- 4.26 I consider that Councillor Lorber's comments were political or quasi-political in nature and benefit from a high level of protection under the Human Rights legislation. With this in mind my view is that the bar Councillor Lorber would have to cross, in terms of disrespectful behaviour, to breach the code is set high. While I am of the view that some of Councillor Lorber's comments were ill judged and unwise, it is my view that Councillor Lorber's comments were not so serious as to amount to a failure to comply with paragraph 3(1) of the Code and that any such finding would be a disproportionate restriction on Councillor Lorber's right to freedom of expression.

Disclosing confidential information

- 4.27 My investigation has found that Councillor Lorber did not disclose any information that was not already in the public domain. I am therefore satisfied that he did not fail to comply with paragraph 6 of the Code.

Using his position as a member improperly to confer on or secure an advantage or disadvantage or to attempt to (paragraph 7(a) of the Code)

- 4.28 In considering whether Councillor Lorber breached the Code it is important to focus on whether Councillor Lorber used his position improperly to secure an advantage for Friends of Barham Library. There

are many circumstances where it is proper for a member to attempt to confer a desirable outcome, or advantage, for their constituents. Councillor Lorber's conduct would only be improper if he was to try to use his public position to further his own private interest to the detriment of the public interest.

- 4.29 Councillor Lorber is adamant that his suggestion that ACAVA withdraw their interest in the library area related specifically to the 'change of use' element of the planning application and was in no way an attempt to intimidate ACAVA into withdrawing their interest altogether. Either way it appears clear from the emails in February 2013 that Councillor Lorber's initial intention was to seek an agreement with ACAVA that would benefit the Friends of Barham Library. Further it could be argued that any withdrawal on ACAVA's part, be it related to the planning application or parts of the tenancy, has the potential to advantage the Friends of Barham Library.
- 4.30 In considering whether such behaviour is improper I would firstly make the point that under the Code it is likely that the principles of objectivity and integrity would mean that Councillor Lorber's involvement as a director and trustee of the 'Friends of Barham Library' would preclude him from voting on any decisions that might affect the organisation. This does not stop him completely from involving himself in his official capacity on their behalf however.
- 4.31 The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions and that people can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on. In many cases councillors themselves will have a long track record of community activism before they were elected – their inspiration to serve their local communities will often have its roots in community work. The Act encourages councillors to reshape their role away from bureaucratically-driven, paper-heavy meetings and processes, to much more creative roles leading and energising their local communities and encouraging self-organised groups to be ambitious.
- 4.32 In trying to advantage the Friends of Barham Library Councillor Lorber was attempting to further a goal which he believed would bring a clear benefit to the community he represents. Councillor Lorber has maybe taken a more proactive role than many councillors might have under similar circumstances. However I have found no evidence that Councillor Lorber's financial interests or those of his family or associates would be affected in any way by the outcome of any part of his correspondence with Mr Smith. In this regard I note that the Friends of Barham Library is answerable to the Charity Commission for its activities as a registered charity and that it is a Company guaranteed without share.
- 4.33 I cannot say whether Mr Smith is correct to suggest that Councillor Lorber had his own political position in mind during the correspondence (although I note that it was Mr Smith and not Councillor Lorber who

expanded the audience of the correspondence which led to it entering the public domain). In any event, my view is that while a member seeking or gaining political advantage through campaigning activity for a charity may be distasteful to some, it would be neither disreputable nor improper in the context of this case. I do not therefore consider that Councillor Lorber breached paragraph 7(a) of the Code.

Bringing his office or authority into disrepute

- 4.34 Paragraph 5 of the Code provides that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- 4.35 In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either:
- a. reducing the public's confidence in that member being able to fulfil their role; or
 - b. adversely affecting the reputation of members generally, in being able to fulfil their role
- 4.36 Mr Smith was clearly and understandably upset by the content of Councillor Lorber's emails and had every right to respond in the manner that he did; in particular to refer Councillor Lorber to the decisions the Council had made rather than expect ACAVA to address them all.
- 4.37 As detailed above, I do have concerns about the tone and possible inferences that could be drawn from some of Councillor Lorber's comments. As an example one might detect a veiled hint of a threat in wording like "*To mitigate any reputational risks*". However, once again, while the medium of email may allow different inferences to be drawn from his words, Councillor Lorber's comment is in line with his position that ACAVA runs a risk of being out of touch with local issues and aspirations.
- 4.38 Councillor Lorber was clearly frustrated partly at what he saw as a lack of transparency in relation to a building in his ward that he considered had been an important community resource for his constituents. In those circumstances it is understandable that he would want to press those with information to provide it and similarly express to them what he perceived to be the feelings of his constituents.
- 4.39 In my view, the threshold for a failure to comply with paragraph 5 of the Code in the case of expressions of view has to be set at a level that allows for the passion and fervour that often accompanies political debate or exchanges relating to decisions made by the Council. This is entirely consistent with the objective of maintaining proper standards in public life. In my view at no time did Councillor Lorber conduct himself in a manner that one might view as reducing the public's confidence in him

to able to fulfil his role; or adversely affecting the reputation of members generally.

5 Recommended Finding

- 5.1 I have concluded for the reasons stated above that Councillor Lorber has not failed to comply with the Council's Code of Conduct.
- 5.2 It should be noted that under the Council's standards framework my conclusion is a recommendation only. The Council's Standards Committee will review this report and if, in consultation with the Independent Person, it accepts my recommended conclusion, the Standards Committee will inform Councillor Powney and Councillor Lorber that it is satisfied that no further action is required.
- 5.3 If the Standards Committee, in consultation with the Independent Person, is not satisfied that the investigation has been conducted properly it may ask me to reconsider my report. If the Standards Committee in consultation with the Independent Person wishes, notwithstanding the views of the investigating officer, it may refer the matter for hearing.

Appendix 1

Email exchanges referred to in the report

3 February 2013 - Email from Councillor Lorber to ACAVA

From: cllr.paul.lorber@brent.gov.uk
To: post@acava.org
Date: Sun, 3 Feb 2013 18:05:05 +0000
Subject: For the attention of Duncan Smith and The Trustees
Dear Mr Smith

Barham Park Wembley

I am writing on behalf of Friends of Barham Library, a local charity set up to secure the provision of Library and ancillary services for local people in Barham Park. Barham Library served local people for almost 60 years until closed by the Council in October 2011. We have been running a volunteer library since April 2011 most recently in shop premises in Wembley High Road - we have the backing of local people and a number of charitable trusts.

The Opposition to Brent Library closures has now been going on for over two years and continues to make national headlines.

Our prime objective is to operate a Library from the Barham Park Complex. Accordingly we submitted a bid for the former library building during the recent letting process run by Brent Council.

We are aware from the report going to the Barham Park Trustees that you are the preferred bidder for the library and other space in the complex.

You may be aware that the Brent Council process and decision may be questioned. We have raised a number of serious issues ourselves which may lead to complaints to the Ombudsman and Charity Commission.

However as there is a possibility that you may eventually become tenants and require rental income we would welcome an opportunity to discuss the possibility of sharing/subletting. Inclusion of a Volunteer Library in the building would be welcome by a great number of local people and assist in making your own proposals more accepted. Titus Barham gifted Barham Park for the recreation of the public and many local people have the expectations that this wish is fulfilled.

Can you please let me know as soon as possible if sharing is of interest to you and if you are able to meet representatives of FOBL.

Regards
Paul

Councillor Paul Lorber

Director and Trustee
Friends of Barham Library

4 February 2013 – Email from Duncan Smith (ACAVA artistic director) to Councillor Lorber

Dear Cllr Lorber

Thank you for your email regarding the future use of Barham Park buildings.

As you may know, ACAVA is an educational charity, committed to the creation of public benefit. We do so largely through setting up artists' studios and engaging them on arts projects with local educational organisations and community groups. In some cases these aims are furthered by providing space for other organisations.

In order to help us consider whether your requirements could potentially be accommodated alongside our plans for the buildings, it would be helpful if you could let me know what your requirements would be, and whether Friends of Barham Library would be in a position to cover costs, likely to be around £11/sq ft per year.

Yours sincerely,

Duncan

4 February – Email from Councillor Lorber to Duncan Smith

Dear Duncan

Thank you for your email.

We are interested in the former library space on the ground floor so that we can reopen a library/ reading room providing computers, study space, community hub etc.

At present we operate from small shop premises in Wembley High Road lending and selling books and providing a space for a mothers and toddlers group.

We are very well connected in the Sudbury area and have many supporters who would welcome the reopening of a Library in the former home of Titus Barham. Most of the active users of the closed library were young people and they are the biggest losers from the closure.

The library space is around 291 sq meters. We are happy to share with others and see our use as complimentary to other activities. We would not require exclusive use.

I am assuming that £11 per sq ft equates to around £100 per sq metre. Can you please advise what the figure would include.

We are happy to discuss the details and how we may be able to fit in with other uses.

Regards

Paul

5 February 2013 – Email from Duncan Smith (ACAVA) to Councillor Lorber

Dear Paul,

I am sympathetic to your needs but fear they may be incompatible with our proposed use and associated business plan.

The offer we have made on the buildings requires us to make an income which, after excluding shared facilities and circulation space, equates to 11 psf/yr. This does include everything except power, but for the area you require we have estimated a licence fee income of 34,455. We do create areas for community activities, but for such enterprises to be viable, they have to be a smaller proportion of the whole, and very flexible. I don't at present see how a library could be accommodated while delivering the visual arts hub we propose.

Regards,

Duncan

8 September 2013 – Email from Councillor Lorber to ACAVA trustees

Dear Trustees

I refer to my email from February and subsequent exchanges.

As you know one of the buildings you propose to lease in Barham Park is a former library which served the local Community for almost 60 years. Local residents are angry at the closure of their library and will oppose the recently submitted planning application for change of use from DI (community facility) to BI.

There is no demand in the local area for 29 artist studios and there is strong feeling that the ACAVA intervention is depriving the local community of their library for ever. When Friends of Barham Library approached ACAVA about the possibility of sharing the library space we were quoted an excessive rent implying a large profit for ACAVA over what you are paying and clearly intended to make our access impossible.

There is also concern that ACAVA have requested 24 hour access to the proposed artist studio units and the fact that according the Council Officer planning application there is a desire to attract artists from outside of the area and outside of Brent. The property is near residential housing and any 24 hour visitors will inevitable park in the service roads right outside the residential properties opposite. This will inevitably result in some disturbance to local people.

While I appreciate that ACAVA is involved in bringing back into use empty buildings for which there is no current alternative use, this is not the position in the case of Barham Park. There is both a need and demand for a community library in Barham Park and a great deal of public support for this.

Friends of Barham Library already operate a volunteer library from temporary premises in Wembley High Road and we are just about to open a 2nd facility from small shop premises at Sudbury Town Underground Station a few minutes away from Barham Park. TfL have granted us an affordable lease as part of their social responsibility policies. Neither premises are big enough for a proper library and together with local people we continue to campaign to get back into the closed Barham Park Library. This campaign will continue even after ACAVA occupation of the building.

It is unfortunate that our efforts are being blocked by another Charity which proposes to provide a service that local people have never asked for and do not see a local need for. You need to be aware therefore that there will be a local campaign to STOP Brent Council pursuing the current planning application and the lease to ACAVA and that on change of control of Brent Council the lease arrangement are likely to be reviewed.

The Barham Park buildings are big enough to accommodate shared use including a community library of a suitable size. In view of this and to mitigate any reputation risks I would urge ACAVA to reconsider your approach to the Barham Park Buildings, and withdraw your interest in the library part of the building.

Yours faithfully

Paul Lorber

13 September 2013 – Email from Duncan Smith (ACAVA) to Councillor Lorber (copied to all members of the Council and its Chief Executive)

Dear Councillor Lorber,

I am appalled by the tone and content of your email of 10 September.

While I entirely sympathise with your concern over the loss of the library, your assertion that ACAVA is depriving the community of this resource is wrong and distasteful. I understand that the library closed following a decision by the elected representatives of the Borough. ACAVA then responded to a call for

proposals, submitting plans for its continued use as a community resource on the lines of the many such highly valued facilities established by ACAVA over 35 years. By providing artists with studios for which they pay an affordable fee, we are able to produce an income for the Borough and a resource for the community. It may not be the resource that you want, but following the decision that Barham Park Buildings should be income generating rather than a cost to the ratepayer, we believed that the option we could provide should be available to the council for consideration.

I am particularly offended by the allegation of profiteering and obstruction. We had a civil and I thought sympathetic exchange in February in which I explained our proposals. The charge I quoted for the area in which you were interested was the amount we would otherwise raise for it from artists, and as I explained, the amount we would need to raise in order to pay to the council the rent we have offered and cover other running costs. I also pointed out that you proposed to take over about one third of the space in the buildings including those parts most essential to public engagement, and that this would undermine our proposal.

On the basis of many years of experience I believe you are wrong about the demand for studios. With regard to 24 hour access, the frequency and number of artists working late will be very small and the effect on local parking negligible.

Whatever one's views on the matter, you have failed to persuade your colleagues to retain the library, ACAVA has responded to their decisions by putting forward a proposal for democratic discussion and decision which would provide community benefit and an income for the borough. While it would clearly benefit your campaign if no other use could be found, to suggest that ACAVA is responsible for the loss of the library is disingenuous, and I regret that if it is decided to accept ACAVA's proposal, our work to provide a valued local resource will have to overcome antagonism stirred by such ill-informed attacks.

Yours sincerely,

Duncan Smith

13 September 2013 – Email from Councillor Lorber to Duncan Smith (ACAVA)
(copied to all members of the Council and its Chief Executive)

Dear Mr Smith

I note that you have copied all Brent Councillors but not your Trustees, to whom my original email was addressed to.

I also note that you are appalled. I am sorry about your sensitivities but you need to be aware that local people are appalled at losing access to their community facilities.

If you recall the original bidding documentation from Brent it stated a number of things, including:

1. Completion of a lease within 6 weeks of agreement. It is now over 6 months since the Barham Park Charity Trust meeting. The building has stood empty for all of those 6 months and the Barham Park Charity (not the ratepayers who do not own the building) have not seen a single penny in income.
2. That it was the applicant (i.e. ACAVA in your case) who was responsible for all planning permissions including a planning application.

In relation to the 2nd point I would have thought that ACAVA Trustees and management would have been put on warning that the Barham Park buildings are a bit different from others you are dealing with because (despite the fact that the Barham Charity Trustees were not told this during the February Meeting) your occupation of the building requires a change of use from community use (DI) to semi industrial use (BI). As you have not yet submitted a planning application and paid the necessary fees of over £2,000 perhaps your Trustees are having 2nd thoughts on this issue. As you say we exchanged emails earlier in the year. Your offer to the Council was for around £43,000 inclusive of service charges. Yet you quoted us a charge well in excess of £30,000 for around a 3rd of the building. At best that suggests very heavy ACAVA overheads.

I reminded you that the local library served local people for almost 60 years and that it was closed despite strong opposition from local people. I suggested a sharing arrangement but you ruled this out - perhaps because some of your semi industrial uses are not compatible with a community facility? If that is the case they obviously also NOT compatible with a Children Centre next door.

I am not really sure how ACAVA pursue local engagement but it does seem odd that almost a year since your bid you have not communicated with local people about your plans.

You make an assertion about my view about demand for artist studios. I can only go by the fact that as long as I have been a local Councillor no local individual has approached me about artists' studios and not a single individual artist applied for any of the Barham space despite the fact that it was being put on the market in various individual lots. No local resident or representative has seen your business plan or proposals.

There were a number of bids for the Barham Buildings. As far as I am aware the only one requiring change of use from community uses DI to semi industrial BI is the one from ACAVA. Once BI is grant it is difficult to revert back to DI - and in this sense the ACAVA intervention and the need for a change of use planning permission (no mention of which was made in the public report to the

Barham Park Trust Committee in February 2013) will result in a permanent loss of the facility for local people.

I am at a loss to understand why ACAVA bid for the Library space which shares an entrance with the Children Centre. Clearly semi industrial uses are not compatible with mother & toddlers activities in a Children Centre. Both a planning permission will be required to create a new entrance to the Children Centre (in a locally listed building) and costs will need to be incurred to build that new entrance. I am assuming that ACAVA will pay for this and not expect the Barham Park Charity or the Brent 'ratepayer' to pay?

Yet ACAVA made no bid for The Lounge which is below the offices which you did bid for and which has an access point from part of The Lounge which will need to be blocked off and on which additional costs will need to be incurred. Once again I am assuming that ACAVA will pay for this and not expect the Barham Park Charity or the Brent 'ratepayer' to do so? I am also intrigued to understand how ACAVA will raise funding from external Grants on a 15 year lease with no protection as a result of opt out from the Landlord & Tenant Act. The Bid document made it clear that then lease will be for a period of up to 15 years so Council Officers have a duty to ensure that the Barham Park Charity is in a position to regain its building at the end of the term without being exposed to any compensation or costs.

I imagine that uncertainties about the extra costs of extra work, the 15 year lease term and the need for planning permissions etc. explains the delays in finalising the arrangements and why the Barham Park Charity has not seen any income and will not see any for some time.

In conclusion may I suggest that instead of being appalled at having certain obvious issues pointed out to you that you inform and consult your Trustees, recognise that you are dealing with a much loved local building with a very long community history and reconsider your position. You may also wish to review your communication and social responsibility strategy.

Yours sincerely

Paul Lorber

16 September 2013 – Email from Duncan Smith (ACAVA) to Councillor Lorber (copied to all members of the Council and its Chief Executive)

Dear Cllr Lorber,

I continue to be surprised that you feel free to make assumptions and assertions based on such a limited understanding of the situation. See my comments below [*in red italics*].

It is quite inappropriate to conduct this smear campaign against ACAVA. For more information please refer to those responsible for carrying out the decisions made by the council.

Yours sincerely,

Duncan Smith

From: Lorber, Cllr. Paul

Sent: 13 September 2013 20:08

To: Duncan Smith

Cc: Aden, Cllr Abdifatah; Adeyeye, Cllr Michael; Al-Ebadi, Cllr Emad; Allie, Cllr. James; Arnold, Cllr.mary; Ashraf, Cllr Javid; Bacchus, Cllr.joyce; Baker, Cllr.Eddie; Beck, Cllr Jack; Beswick, Cllr.Lincoln; Brown, Cllr. Daniel; Butt, Cllr. Muhammed; Cheese, Cllr Barry; Chohan, Cllr Bhagwanji; Choudhary, Cllr Shafique; Choudry, Cllr Aslam; Clues, Cllr.Revd David; Coiwill, Cllr.Reg; Crane, Cllr.George; Cummins, Cllr.Mark; Daly, Cllr Mary; Denselow, Cllr James; Gladbaum, Cllr Helga; Green, Cllr. Simon; Harrison, Cllr Patricia; Hashmi, Cllr.Sami; Hector, Cllr Claudia; Hirani, Cllr Krupesh; Hopkins, Cllr Alison; Hossain, Cllr Jean; Hunter, Cllr Ann; John, Cllr.Ann; Jones, Cllr. Lesley; Kabir, Cllr Sandra; Kansagra, Cllr.Suresh; Kataria, Cllr Dhiraj; Leaman, Cllr.Christopher; Long, Cllr. Janice; Mashari, Cllr Roxanne; Matthews, Cllr.Hayley; McLennan, Cllr Margaret; Moher, Cllr.Jim; Moher, Cllr.Ruth; Moloney, Cllr.Columbus; Mitchell Murray, Cllr Wilhelmina; Naheerathan, Cllr Kana; Ogunro, Cllr Benjamin; Oladapo, Cllr Tayo; Patel, Cllr Bhiku; Patel, Cllr. Chandubhai; Patel, Cllr.Harshadbhai; Patel, Cllr.Harihar; Patel, Cllr Ramesh; Pavey, Michael Cllr; Powney, Cllr.James; Shaw, Cllr.Carol; Sheth, Cllr Ketan; Sheth, Cllr Krupa; Singh, Cllr.Harbhajan; Sneddon, Cllr.Gavin; Thomas, Cllr.Bobby; Van kalwala, Cllr. Zaffar; Chief Executive; Ben Eastop; Alastair Moir

Subject: Re: Barham Park Buildings

Dear Mr Smith

I note that you have copied all Brent Councillors but not your Trustees, to whom my original email was addressed to.

All Brent Councillors w/ere copied into my response because I felt that this was a serious political matter, and that it was essential to correct the misinformation to which you were evidently party. My response was of course approved in advance by the ACAA Chair.

I also note that you are appalled. I am sorry about your sensitivities but you need to be aware that local people, are appalled at losing access to their community facilities.

I will always be sensitive to unwarranted defamation and would remind you that the views of the local people and your political efforts should be directed at the council, not at an organisation and a proposal responding to decisions made democratically.

If you recall the original bidding documentation from Brent it stated a number of things, including:

1. Completion of a lease within 6 weeks of agreement. It is now over 6 months since the Barham Park Charity Trust meeting. The building has stood empty for all of those 6 months and the Barham Park Charity (not the ratepayers who do not own the building) have not seen a single penny in income.

ACAVA was prepared to complete within 6 weeks. For information on the entirely understandable reasons for the delay please refer to council officials.

2. That it was the applicant (i.e. ACAVA in your case) who was responsible for all planning permissions including a planning application.

This again is a matter you should discuss with council officials.

In relation to the 2nd point I would have thought that ACAVA Trustees and management would have been put on warning that the Barham Park buildings are a bit different from others you are dealing with because (despite the fact that the Barham Charity Trustees were not told this during the February Meeting) your occupation of the building requires a change of use from community use (DI) to semi industrial use (BI).

For clarification, BI use is not semi industrial but Business and includes a) Offices, other than a use within Class A2 (Financial Services), b) Research and development of products or processes c) Light industry. I am sure you are aware that artists' practices are 'industrial' only through fitting best within this planning category.

As you have not yet submitted a planning application and paid the necessary fees of over £2,000 perhaps your Trustees are having 2nd thoughts on this issue. ACAVA has undertaken to pay the necessary fees. As you say we exchanged emails earlier in the year. Your offer to the Council was for around £43,000 inclusive of service charges. Yet you quoted us a charge well in excess of £30,000 for around a 3rd of the building. At best that suggests very heavy ACAVA overheads.

You would be entirely wrong in that unwarranted assumption. Perhaps you are overlooking such matters as capital costs, circulation space and facilities?

I reminded you that the local library served local people for almost 60 years and that it was closed despite strong opposition from local people. I suggested a sharing arrangement but you ruled this out - perhaps because some of your semi industrial uses are not compatible with a community facility? If that is the case they obviously also NOT compatible with a Children Centre next door.

I explained carefully both in February and again last week why I couldn't see how your wishes could be reconciled with our proposals. In February I wrote "I don't at present see how a library could be accommodated while delivering the visual arts hub we propose". You made no attempt to further this exchange or respond to the financial implications of paying rent and service charges and managing the property. By no sleight of planning nomenclature can artists'

practices be misrepresented as semi industrial and incompatible with community or nursery facilities. For a good place to start looking into how this can work, please go to the ACAVA website www.acava.org.

I am not really sure how ACAVA pursue local engagement but it does seem odd that almost a year since your bid you have not communicated with local people about your plans.

We are not a political party. It is not our policy to advertise our plans before we can be sure of delivering them. In this case we await agreement with all the relevant authorities.

You make an assertion about my view about demand for artist studios. I can only go by the fact that as long as I have been a local Councillor no local individual has approached me about artists' studios and not a single individual artist applied for any of the Barham space despite the fact that it was being put on the market in various individual lots. No local resident or representative has seen your business plan or proposals.

I go on many years' experience of setting up artists' studios and know why they would not seek individually to take on leases on these buildings, but would respond to the many benefits provided by ACAVA.

There were a number of bids for the Barham Buildings. As far as I am aware the only one requiring change of use from community uses DI to semi industrial BI is the one from ACAVA. Once BI is grant it is difficult to revert back to DI - and in this sense the ACAVA intervention and the need for a change of use planning permission (no mention of which was made in the public report to the Barham Park Trust Committee in February 2013) will result in a permanent loss of the facility for local people.

I have quite properly not been informed of any other bids which might have been made. Decisions about the planning implications of our bid are a matter for the council and the Trust.

I am at a loss to understand why ACAVA bid for the Library space which shares an entrance with the Children Centre. Clearly semi industrial uses are not compatible with mother & toddlers activities in a Children Centre. Both a planning permission will be required to create a new entrance to the Children Centre (in a locally listed building) and costs will need to be incurred to build that new entrance. I am assuming that ACAVA will pay for this and not expect the Barham Park Charity or the Brent 'ratepayer' to pay?

Again that misrepresentation of our use! And we have of course made suitable arrangements for access to the Children's Centre. No new entrance will be required.

Yet ACAVA made no bid for The Lounge which is below the offices which you did bid for and which has an access point from part of The Lounge which will need to be blocked off and on which additional costs will need to be incurred.

Once again I am assuming that ACAVA will pay for this and not expect the Barham Park Charity or the Brent 'ratepayer' to do so?

The area marked Lounge on my plans was not one of those for which bids were sought.

I am also intrigued to understand how ACAVA will raise funding from external Grants on a 15 year lease with no protection as a result of opt out from the Landlord & Tenant Act. The Bid document made it clear that then lease will be for a period of up to 15 years so Council Officers have a duty to ensure that the Barham Park Charity is in a position to regain its building at the end of the term without being exposed to any compensation or costs.

The establishment of these facilities is not dependent on grant funding, and funding for community projects is unrelated to the matters you refer to.

I imagine that uncertainties about the extra costs of extra work, the 15 year lease term and the need for planning permissions etc. explains the delays in finalising the arrangements and why the Barham Park Charity has not seen any income and will not see any for some time.

Again I must refer you to council officers if you require clarification.

In conclusion may I suggest that instead of being appalled at having certain obvious issues pointed out to you that you inform and consult your Trustees, recognise that you are dealing with a much loved local building with a very long community history and reconsider your position. You may also wish to review your communication and social responsibility strategy.

You must understand that I am appalled not by your reiteration of the obvious issues, but by your presumption and misdirected politicking. ACAVA Trustees are entirely aware of the history of the building, the loss of the library, current economic and political realities, and from the outset, of your campaign. It seems we have different understandings of communication and social responsibility strategies. We are entirely happy with ours, endorsed as they have been by all of those with whom we have worked over many years.

Yours sincerely

Paul Lorber

Email from Councillor Lorber to Duncan Smith (ACAVA) dated 17 September 2013 (copied to all members of the Council and its Chief Executive)

Dear Mr Smith

May I remind you that I addressed my original email only to you and it was you who decided to distribute your reply and my questions to all members of Brent Council - including members of the Planning Committee.

I appreciate that you may not be used to responding to challenging questions but to suggest that any of this is a 'smear' campaign or represents 'defamation' is laughable. I suggest that you seek advice before you accuse me or anyone else in this way again.

Your latest email does however lead to more questions:

1. If ACAVA was prepared to complete within 6 weeks please explain why you never submitted a planning application for change of use from community use to B1 and expected the Barham Park Charity?

2. The bidding document makes it clear that the planning application had to be submitted by the applicant. Why did ACAVA not submit one (this is a direct issue for ACAVA and has nothing to do with the Brent Council - who are neither the owner of the building or the applicant!)

3. Please list all the processes that could be described as 'light industrial' that ACAVA propose to undertake from the building especially from any parts next to or above the Children Centre. How will any materials used in these processes (breeze blocks for example) be delivered to the site and brought into the building.

4. The Barham Park Charity has paid planning application fees of over £2,300. Has ACAVA already reimbursed the Barham Park Charity for these costs? Will ACAVA also reimburse Brent Council for all the costs of officer time in preparing the planning application in the first place? I ask because you are fully aware from the Bidding Document that all planning applications (and any other permissions) were the responsibility of the applicant to deal with and pay for.

5. The Library space has recently been fully upgraded. What Capital works are you planning to undertake in the library space and at what cost that justifies such a high rent to have been quoted to FOBL?

6. You have urged everyone to look at your website to see some of your activities. I note the photograph on one of the ACAVA pages involving drilling/cutting into breeze blocks. All the participants in these activities are wearing heavy duty goggles and face masks. In which areas of this building do you propose undertake these activities which may generate both noise and dust and which clearly require some protection? I ask because other parts of the building will continue to be available to the public, the Barham Veterans Club and of course the Children Centre which shares the library access. What other similar activities will be undertaken?

7. Your 2012 accounts made reference to pursuing the Barham Park buildings a long time ago. A Planning Application for change of use from DI community B1 was submitted on your behalf. You do not need to be a political party to communicate with local people. Why have you failed to do so?

8. How many of the artists you expect to apply for any of the 29 units will be from the Sudbury area? Will you introduce a quota system?

9. Please explain fully the arrangements you have made to access the Children Centre.

10. The Lounge is the ground floor in the front of the building. It was one of the lots available for bids and ACAVA bid for the all the former office space above. Are the plans in your possession different from other bidders? What were you told before the bidding deadline about The Lounge area. Please clarify why ACAVA did not bid for this downstairs space which is connected with the upstairs?

Will ACAVA pay the costs for blocking off your upstairs workshops from the space below - which is currently available for public lets?

11.1 note your replies about grant funding etc. the Bidding Document made it clear that what was on offer was a lease of up to 15 years. Please confirm that ACAVA bid on this basis and that you will vacate the building on expire of the 15 years.

12.1 note your last paragraph. In the recent past just the Library part of the building received around 60,000 visits per year. Please explain how you propose to make the building accessible to local residents. As the consultation about the planning application submitted on your behalf is due to end shortly please also explain when and how you propose to communicate with local people about your proposed uses of the building.

Yours sincerely

Paul Lorber

Email from Mr Smith (ACAVA) to members of the Council dated 22 September 2013

Dear Councillors,

I copied you in to my replies as I thought it important that you were aware of the nature of the attacks to which we have been subject, and in case any of the assertions might be taken seriously by those with a clearer view of the issues, to correct the wild inaccuracies. However responding to questions asked by those with no interest in the answers is pointless, and I have no intention of continuing the exchange.

Yours sincerely,

Duncan Smith

Email from Councillor Lorber to Duncan Smith (ACAVA) dated 22 September 2013 (copied to all members of the Council and its Chief Executive)

Dear Mr Smith

This is a very odd reply. You make wild assertions about attacks, smears etc. and then fail to answer straight forward questions about ACAVA's intentions about the Barham Library and other buildings in Barham Park which were gifted to the Council for the recreation of local people by Titus Barham.

To accommodate you Councillor Officers are pursuing [sic] a planning application to change the 'community use' of a large part of the building.

This is of interest to many Councillors in Brent who value community facilities and would be concerned if access to them was restricted.

Only last week the Brent Council Planning Committee unanimously voted to refuse a planning application relating to the Kensal Rise Library building on the grounds that the developer was providing inadequate community space.

Although your organisation bid for the Barham Park Library building about a year ago ACAVA has made no effort to communicate with Councillors or local people.

All we have had so far is your strange emails making wild claims of attacks, smears etc.

I suggest that you answer the perfectly reasonable questions asked of you as your failure to do so can only lead to everyone concerned to the conclusion that you have something to hide.

Please feel free to identify any of the specific questions in my earlier email as either representing an attack or a smear.

I look forward to your full reply sometime next week.

Yours sincerely

Paul Lorber
Sent from my iPhone

BRENT COUNCIL CODE OF CONDUCT FOR MEMBERS

PART 1

Introduction and interpretation

1.
 - (1) This code applies to **you** as a member of Brent Council.
 - (2) It is your responsibility to comply with the provisions of this Code
 - (3) In this Code –

“meeting” means any meeting of –

 - (a) Full council;
 - (b) The Executive;
 - (c) Any of the council’s or its Executive’s committees, sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

Scope

2.
 - (1) Subject to sub-sections (2) and (5), you must comply with this Code whenever you –
 - (a) Conduct the business of the council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) Act, claim to act or give the impression you are acting as a representative of the council,

and references to your official capacity are construed accordingly.
 - (2) Subject to sub-sections (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
 - (3) In addition to having effect in relation to conduct in your official capacity, section 5 also has effect at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
 - (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-section (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
 - (5) Where you act as a representative of the council –
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct, or
 - (b) on any other body, you must, when acting for that other body, comply with Brent Council’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject

PART 2

High standards of conduct

3. You must maintain a high standard of conduct, and comply with the following general conduct principles:

The General Principles

Selflessness – you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Integrity – you should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity – you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability – you should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

Openness – you should be as open as possible about your actions and those of their authority, and should be prepared to give reasons for those actions.

Honesty – you should be truthful in your council work and avoid creating situations where your honesty may be called into question.

Leadership – you should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

General Obligations

4. (1) You must treat others with respect.
- (2) You must not –
- (3) (a) do anything which may cause the council to breach any of the duties under the Equality Act 2010.;
- (b) Bully any person;
- (c) Intimidate or attempt to intimidate any person who is or is likely to be –
- (i) A complainant,
- (ii) A witness, or
- (iii) Involved in the administration of any investigation or proceedings,
- in relation to an allegation that a member (including yourself) has failed to comply with the council's code of conduct; or
- (d) Do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.

5. You must not conduct yourself in a manner which could reasonably be

regarded as bringing your office or the council into disrepute.	
6.	<p>You must not –</p> <p>(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –</p> <ul style="list-style-type: none"> (i) you have the consent of a person authorised to give it. (ii) you are required by law to do so; (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or (iv) The disclosure is – <ul style="list-style-type: none"> (aa) reasonable in all the circumstances and (bb) in the public interest; and (cc) made in good faith and in compliance with the reasonable requirements of the council; or <p>(b) prevent another person from gaining access to information to which that person is entitled by law.</p>
7.	<p>You –</p> <p>(a) Must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, and</p> <p>(b) Must, when using or authorising the use by others of the resources of the council –</p> <ul style="list-style-type: none"> (i) Act in accordance with the council’s reasonable requirements; (ii) Ensure that such resources are not used improperly for political purposes (including party political purposes)
8.	<p>(1) when reaching decisions on any matter you must have regard to any relevant advice provided to you by –</p> <ul style="list-style-type: none"> (a) The council’s chief finance officer; or (b) The council’s Monitoring Officer , <p>where that officer is acting pursuant to his or her statutory duties.</p> <p>(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.</p>
<p>PART 3</p> <p>Interests</p> <p>Pecuniary interests and registration</p>	
9.	<p>(1) For the purposes of this Code, a pecuniary interest is a “disclosable pecuniary interest” in relation to a person (“M”) if it is of a description specified in regulations made by the Secretary of State and either –</p> <ul style="list-style-type: none"> (a) It is an interest of M’s, or (b) It is an interest of – <ul style="list-style-type: none"> (i) M’s spouse or civil partner,

- (ii) A person with whom M is living as husband and wife, or
 - (iii) A person with whom M is living as if they were civil partners, and M is aware that that other person has the interest.
- (2) Subject to section 11, you must, within 28 days of your election or appointment to office, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the date when the notification is given
 - (3) Subject to section 11, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any pecuniary interest registered under sub section (2), notify the Monitoring Officer of that change or new interest
 - (4) The Monitoring Officer will maintain the council's register of interests, and enter onto that register all interests notified to him/her

Disclosure of pecuniary interests

10. (1) Sub sections (2) and (4) apply to you if you –
 - (a) Are present at a meeting of the council or of any committee, sub-committee, joint committee or joint sub-committee, Executive or Executive subcommittee meeting,
 - (b) Have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and
 - (c) Are aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the council's register, you must disclose the interest to the meeting, but this is subject to section 11.
- (3) If the interest is not entered in the council's register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) You 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,
 - (c) remain in the meeting during the duration of any discussion of the matter but this is subject to section 12.
- (5) Sub sections (6) and (7) apply if –
 - (a) a function of the Council may be discharged by a member acting alone,
 - (b) you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by you in the course of discharging that function, and
 - (c) you are aware that the condition in sub section (b) is met.
- (6) If the interest is not entered in the Council's register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that the condition in sub section (5) (b) is met in relation to the matter.
- (7) You must not take any steps, or any further steps, in relation to the matter

(except for the purpose of enabling the matter to be dealt with otherwise than by you).

- (8) Where you give a notification for the purposes of sub sections (3) and (6), the Monitoring Officer will enter the interest notified in the Council's register (whether or not it is a disclosable pecuniary interest).
- (9) You will be excluded from a meeting while any discussion or vote takes place in which, as a result of the operation of sub section (4), you may not participate.
- (10) for the purpose of this section, an interest is "subject to a pending notification" if –
 - (a) under this section or section 11, the interest has been notified to the Monitoring Officer, but
 - (b) that interest has not yet been entered in the council's register in consequence of that notification.

Sensitive interests

- 11. (1) Sub sections (2) and (3) apply where –
 - (a) You have an interest (whether or not a disclosable pecuniary interest), and
 - (b) The nature of the interest is such that both you, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.
- (2) If the interest is entered in the council's register, copies of the registers that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that you have an interest the details of which are withheld under this subsection).
- (3) If section 10(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

Dispensations

- 12. (1) The Monitoring Officer may, on written request made by you, grant a dispensation relieving you from either or all of the restrictions in section 10(4) in cases described in the dispensation.
- (2) The Monitoring Officer may grant you a dispensation under this section only if, after having had regard to all relevant circumstances, s/he –
 - (a) considers that without the dispensation the number of persons prohibited by section 10(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business
 - (b) Considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
 - (c) Considers that granting the dispensation is in the interest of persons living in the authority's area
 - (d) considers that granting the dispensation each member of the Executive

would be prohibited by section 10(4) from participating in any particular business to be transacted by the Executive, or (e) considers that it is otherwise appropriate to grant a dispensation.

- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 10(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

PART 4 Miscellaneous

Related documents

13. The council has adopted other codes and protocols which do not form part of this Code but which deal with specific activities you may be required or wish to carry out in the course of your duties as a councillor. You are required to comply with these and any breach may be regarded as a breach of this Code. The following codes and protocols are currently in effect:
 - (1) Planning Code of Practice
 - (2) Licensing Code of Practice
 - (3) Local Authority Code of Publicity
 - (4) Use of Information Technology: Guidance on the Brent's Local Code of Conduct for members
 - (5) Convention on Working Relations

Guidance

14. If you need further advice or guidance on interpretation of this Code, please contact:

Fiona Ledden, Director of Legal and Procurement (Monitoring Officer); Ext: 1292 or
Kathy Robinson, Senior Lawyer, Ext: 1368

PROCEDURE FOR DEALING WITH COMPLAINTS UNDER THE MEMBERS' CODE OF CONDUCT

1. Background

This procedure sets out how a complaint that an elected or co-opted member of this authority has failed to comply with the authority's Code of Conduct can be made and how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

2. The Code of Conduct

The Council has adopted a Code of Conduct for members and this is available on the Council's website.

3. Making a Complaint

3.1 A complaint must be made in writing and emailed or sent to:

The Monitoring Officer
London Borough of Brent
Brent Civic Centre
Engineers Way
London
HA9 0FJ

Or emailed to: fiona.ledden@brent.gov.uk

3.2 The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for applying the processes in respect of complaints of member misconduct.

3.3 The authority will not normally investigate anonymous complaints unless there is a clear public interest in doing so.

3.4 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and will keep the complainant informed about the progress of the complaint.

3.5 The Monitoring Officer will inform the member against whom a complaint has been made that a complaint has been made and will give details of the complaint to them. The Monitoring Officer has the discretion, which will only be exercised in exceptional circumstances, not to inform the member of the detail of the complaint at this stage if the Monitoring Officer is of the view that there is a risk that an investigation could be frustrated or a case prejudiced by the member knowing the details. Once the matter is concluded the member will be informed of the outcome of the matter whether or not they were informed at this early stage.

4. Will the complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received.
- 4.2 The complaint must be:
- Against one or more named members of the authority; and
 - In relation to a named member who was in office within the authority at the time of the alleged conduct and the code of conduct was in force at the time; and
 - In relation to an alleged breach of the Code of Conduct.
- 4.3 If the complaint does not fall within 4.2 above the matter will not be considered and the complainant will be informed that there will be no further action.
- 4.4 Where the complaint passes the above test, and in order to establish a preliminary view of the circumstances of the complaint and whether there may be a course of action which could be taken to resolve the issues promptly without the need for formal action, the Monitoring Officer may consult or meet with any relevant persons, which may include the Leader of the Council or Group Leaders, the Chief Executive or any other officers, the complainant and the member against whom the complaint has been made.
- 4.5 The Monitoring Officer will consult with the Independent Person to determine the course of action to be taken. This decision will normally be taken within 14 days of receipt of the complaint. The complainant and the member against whom the complaint is made will be informed of the Monitoring Officer's decision and the reasons for that decision. Three outcomes are available:
- (i) No formal investigation and no further action paragraph (4.6) below
 - (ii) No formal investigation and local resolution paragraph (4.8) below
 - (iii) Referral to the Standards Committee for a decision to be taken on investigation – paragraph 5.
- 4.6 In assessing whether a complaint should be investigated the following factors will be taken into consideration:
- Public Interest – the decision whether to investigate will be a proportionate response to the issues raised and expected outcomes and will take into account the wider public interest and the costs of undertaking an investigation. Complaints will only be investigated where the allegations are reasonably considered to be serious matters.
 - Alternative course of action – a complaint will only be investigated where there is no other action which could be taken which would achieve an appropriate outcome in the circumstances of the case.
 - Previous action – if the complaint has already been subject to a previous investigation or some other action relating to the code of conduct or other related process, the matter will ordinarily not be referred for further investigation of the same matters.

- Vexatious/repeated complaints – the Monitoring Officer will not refer for investigation a complaint that is the same or substantially the same as one previously made by the complainant.
- Timing of the alleged conduct – complaints made over a year after the date of the alleged behaviour will not be investigated unless there are exceptional circumstances, for example a significant public interest in the matter being investigated
- Ulterior motive – no further action is likely to be taken if the complaint is considered to be only motivated by malice, political motivation or retaliation.

4.7 In cases which do not fall within 4.6 above the Monitoring Officer in consultation with the Independent Person may consider resolution of the complaint by one of the following means;

- The member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the authority.
- Referring the matter to group leaders or officers
- The member being required to attend training
- The member being required to meet with the Monitoring Officer and/or other chief officers to formally discuss the member's conduct
- Such other action as is considered appropriate by the Monitoring Officer and Independent Person

4.8 Matters which might appropriately be dealt with as described in 4.7 above may include:

- Misunderstanding of procedures or protocols
- Misleading, unclear or misunderstood advice from officers
- Lack of experience or training
- A general deterioration of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect.

4.9 If the action recommended in paragraph 4.7 above is not taken, the Monitoring Officer shall refer the matter to Standards Committee to determine if formal investigation is the appropriate course of action.

5 How is the investigation conducted?

5.1 Where a complaint does not fall within paragraph 4.6 or 4.8 the case shall be referred to the Standards Committee for a decision as to whether the complaint merits formal investigation. Where the Standards Committee agrees a formal investigation be undertaken it will instruct the Monitoring Officer to appoint an investigating officer. The timescale for investigation will normally take no more than 12 weeks to complete.

5.2 The investigating officer will contact the complainant and the member against whom a complaint has been made and undertake such investigation as is appropriate in all the circumstances within the parameters of the complaint that

has been made. Where during the course of an investigation new matters arise, the Investigating Officer shall refer those matters back to the Monitoring Officer for a decision on how those matters should be dealt with under these procedures.

- 5.3 At the end of the investigation, the investigating officer will produce a draft report and will seek comments and views on the draft report from the complainant and the member against whom the complaint has been made.
- 5.4 Having received and taken account of any comments which have been made, the Investigating Officer will send a copy of the final report to the Monitoring Officer.
- 5.5 If at any time the investigation is frustrated, for example, if significant witnesses are not available for interview, the Standards Committee in consultation with the Independent Person can decide what action to take, including terminating the investigation. Such cases will be reported to the Standards Committee for a decision.

6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

- 6.1 The Standards Committee will review the Investigating Officer's report and if, in consultation with the Independent Person, it accepts the Investigating Officer's conclusion, the Standards Committee will inform the complainant and the member concerned that it is satisfied that no further action is required. A copy of the Investigating Officer's final report will be given to the complainant and the member concerned. Members of the Standards Committee will be advised that the report relates to an individual and will reveal their identity.
- 6.2 If the Standards Committee in consultation with the Independent Person is not satisfied that the investigation has been conducted properly, it may ask the investigating officer to reconsider his/her report.
- 6.3 If the Standards Committee in consultation with the Independent Person wishes, notwithstanding the views of the investigating officer, it may refer the matter for hearing.

7. What happens if the investigating officer concludes that there is evidence of a failure to comply with the Code of Conduct?

- 7.1 The Standards Committee will review the investigating officer's report and in consultation with the Independent Person, will either (a) direct local resolution or (b) refer the matter to Standards Committee for a hearing

7.2 Local Resolution

The Standards Committee, in consultation with the Independent Person may consider that the matter can reasonably be resolved without the need for a hearing. In such a case the Standard Committee may direct such fair resolution as it considers helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action. If the local resolution recommended by Standards Committee is not complied with, the Monitoring Officer

will refer the matter to the Standards Committee to determine whether there should be a hearing.

7.3 Standards Committee hearing

Meetings of the Standards Committee including those in 4.9, 5.1 and 6.1 above will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed. The committee will go into private session if it resolves to do so.

If the Standards Committee decides that the matter will proceed to a hearing, paragraphs 8 to 11 will apply:

8. Pre Hearing Process

8.1 Prior to a hearing, an officer from the Council's Democratic Services team will write to the member subject to the complaint proposing a date for the hearing before the Standards Committee.

8.2 The Legal and Procurement Department would provide a copy of this procedure note to the member subject to the complaint and request a written response from the member within a set time in relation to whether the member

- Wants to be represented at the hearing by a solicitor, barrister or any other person and the identity of that person
- Disagrees with any of the findings of fact in investigation report and the reasons for it
- Considers he or she has breached the Code of Conduct and, if not, why
- Whether if there is found to be a breach there is anything he or she would like to be taken into account by the committee when it considers whether a sanction should be imposed and what that sanction might be
- Wants to give evidence to the Standards Committee either verbally or in writing
- Wants to call relevant witnesses to give evidence to the hearing and to provide details of the witnesses
- Wants any part of the hearing to be held in private and reasons for the request
- Wants any part of the investigation report or other relevant documents to be withheld from the public and reasons for the request
- Has any special access requirements e.g. interpreter, special print (or the Member's witness(es)) or representative requires such)
- Can attend the hearing

8.3 The members response will be referred to the Monitoring Officer to comment in order to ensure that all parties are clear about the remaining factual disputes and can deal with these issues at the hearing. The Monitoring Officer will also ascertain from the investigating officer whether the complainant will be giving evidence at the hearing and whether the investigating officer will be calling any witnesses to give evidence.

8.4 The Monitoring Officer will prepare a report for the hearing which will:

- Summarise the allegation
- Outline the main facts of the case which are agreed
- Outline the main facts which are not agreed
- Indicate whether the member and the investigating officer will be present at the hearing
- Indicate the witnesses, if any, who will be asked to give evidence
- Include the proposed procedure for the hearing
- Include the Investigating Officer's report
- Include the views of the Independent Person

9 The Hearing

- 9.1 The hearing is before the Standards Committee and the Independent Person will be in attendance to provide his/her views before a decision is made.
- 9.2 The procedure for local hearings is attached at **Appendix 1**.
- 9.3 The meeting of the Standards Committee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed. The Committee will go into private session if it resolves to do so.
- 9.4 The Standards Committee will decide on the balance of probabilities whether the member is in breach of the Code of Conduct. The Standards Committee must seek the views of the independent person before making a decision on the allegation.
- 9.5 The Standards Committee can determine the number of witnesses and the way in which witnesses can be questioned.
- 9.6 If the member fails to attend the hearing, the Standards Committee can decide whether to proceed in the member's absence and make a determination or whether to adjourn the hearing to a later date.
- 9.7. If the Standards Committee conclude that the member did fail to comply with the Code of Conduct, the Committee will then consider what action, if any, the Committee should take. In doing this, the Committee will give the member the opportunity to make representations to the Committee and will consult the Independent Person.

10. What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?

- 10.1 The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct.

Accordingly the Standards Committee may:

- Censure or reprimand the member
- Publish in a local newspaper its findings in respect of the member's conduct
- Report its findings to Council for information

- Recommend to the member's Group Leader (or in the case of ungrouped members recommend to Council or to committees) that the member be removed from any or all committees of the council
- Recommend to the administration that the member be removed from the Cabinet or removed from particular portfolio responsibilities
- Recommend to Council that the member be replaced in any Council appointed roles
- Instruct the Monitoring Officer to arrange training for the member
- Recommend to Council removal from all outside appointments to which the member has been appointed or nominated by the authority
- Withdraw facilities provided to the member by the Council
- Exclude the member from the Council's offices or other premises with the exception of meeting rooms as necessary for attending council and committee meetings.

11. What happens at the end of hearing?

- 11.1 At the end of the hearing the Chair of the Standards Committee will state the decision of the Committee and any actions which the Committee resolves to take.
- 11.2 The decision taken by the Standards Committee will be recorded in accordance with ordinary committee rules.

12. Appeals

There is no right of appeal for the complainant or the member against a decision of the Monitoring Officer or the Standards Committee.

If the complainant believes that the authority has failed to deal with the complaint properly, they may wish to make a complaint to the Local Government Ombudsman.

Appendix 1

Procedure for Hearings before the Standards Committee

- 1. Introduction**
- 2. Chair of the Standards Committee outlines the hearing procedure**

The Chair can depart from the procedure outlined below where he/she considers it expedient to do so in order to secure the fair consideration of the matter.

Findings of Fact

- 3. The Committee should consider where there are any significant disagreements about the facts contained in the investigating officer's report.**

If there is no disagreement about the facts the committee can move on to the next stage of the hearing (go to paragraph 9)

4. Where there is a disagreement the investigating officer will be invited to make representations to support the findings of fact and with the committee's permission, call witnesses to give evidence.

The member, against whom the complaint has been made, will be given the opportunity to challenge the evidence put forward by any witness called by the investigating officer by asking the witness questions.

5. The member will then be given the opportunity to make representations and with the committee's permission, call any witnesses to give evidence.

The investigating officer will be given the opportunity to challenge the evidence put forward by any witness called by the member to give evidence.

6. At any time, the committee and independent person may question any of the people involved or any witnesses.

7. The Committee will usually consider the representations and evidence in private.

The committee will be advised by the Monitoring Officer, in private if necessary, at any time during the hearing or while they are considering the outcome.

8. Once the committee has made its decision, the Chair will announce the committee's finding of fact to the meeting.

Did the member fail to comply with the Code of Conduct?

9. The committee should then consider whether based on the facts it has found, the member has failed to comply with the Code.

10. The member will be invited to make representations on the matter.

11. The investigating officer will be invited to make representations

12. The independent person will be invited to make representations

13. The committee may, at any time, question the member, investigating officer or independent person on any point raised in the representations.

14. The member will be invited to make any final relevant points

15. The committee will usually consider the representations in private, with the attendance of and advice from the Monitoring Officer

16. Once the committee has made its decision, the Chair will announce the committee's decision to the meeting as to whether the member has failed to comply with the Code.

If there is a finding that the member has not failed to comply with the Code of Conduct

17. Where the committee decides that the member has not failed to comply with the Code, the committee can consider whether it wishes to make any recommendations to the authority

If there is a finding that the member has failed to comply with the Code of Conduct

18. If the committee decided that the member has failed to comply with the Code, it will consider representations from the member, investigating officer and independent person as to:

- Whether the committee should apply a sanction
- What form any sanction should take

19. The committee may question the investigating officer, member and independent person and take legal advice, to make sure they have the information they need in order to make an informed decision.


20. The committee will consider in private with the attendance of and advice from the Monitoring Officer whether to impose a sanction and if, so what sanction it should be

21. The Chair will announce the decision to the meeting.

22. The committee will also consider whether it should make any recommendations to the authority with a view to promoting high standards of conduct

Committee decision

23. The decision taken by the Standards Committee will be recorded in accordance with ordinary committee rules.

 Brent	<p style="text-align: center;">Standards Committee 9 January 2014</p> <p style="text-align: center;">Report from the Director of Legal and Procurement</p>
For Action	Wards Affected: ALL
Annual Report of the Monitoring Officer	

1.0 Summary

- 1.1 This is the Monitoring Officer's Annual Report to the Standards Committee for the period December 2012 to December 2013 and provides an update on member conduct issues, and the work of the Standards Committee and the Monitoring Officer during that period. This report also reviews the introduction of the new Standards regime which was introduced in July 2012.

2.0 Recommendations

- 2.1 That the Committee note this report.

3.0 Detail

Members of the Standards Committee

- 3.1 Following the change to the Standards regime under the Localism Act 2011 the composition of the Standards Committee as an ordinary committee of the Council is now based on the political balance of the membership of Council. The Council also recognised the value of an independent member on the committee, even though under the change in legislation, that person is no longer able to vote. The composition of the Committee is therefore 3 Labour, 1 Conservative, 1 Liberal Democrat and Sheila Darr as the independent member of the committee. Sheila Darr's initial appointment ends in May 2014 and it

will be recommended to Full Council in May 2014 that consideration be given to re appointing for a further two years.

Appointment of the Independent Persons

- 3.2 Under the legislation the Council is required to appoint at least one Independent Person whose views are or can be sought at various key stages in a complaint against a member. This role is different from the role of Sheila Darr as an independent member of the committee. The Council appointed Sola Afuape and John Mann as the Independent Persons under the transitional arrangements set out in regulations accompanying the Localism Act 2011. Their term of office comes to an end in May 2014. Under the legislation the Council is required to advertise the vacancies. Ordinarily there is no bar on reapplication. However, in the case of the current post holders, the transitional arrangements no longer apply and they are caught by provisions which bar officers, members, and co opted members from being appointed as Independent Persons, including if they have held office in the last 5 years. Sola Afuape and John Mann were both previously co opted members on the Standards Committee under the old arrangements.

The Committee's work during December 2012- December 2013

- 3.3 The Code of Conduct was adopted by the Council in July 2012 following changes in the requirements and processes introduced by the Localism Act 2011. Members will recall that the main changes are the abolition of Standards for England, the removal of requirements to have Standards Committees with independent members, the removal of the list of sanctions available to a Standards Committee, and giving Councils discretion about the content and form of the Code of Conduct. The Localism Act 2011 introduced new requirements for members' to register declarations and declarations at meetings, which seemed to focus on Disclosable Pecuniary Interests. The Council decided to largely maintain the system previous used, with amendments where appropriate to reflect the new requirements. New procedures for dealing with complaints were approved by this committee in January 2013.
- 3.4 In March 2013 a decision was taken by this Committee to meet on three pre-arranged dates during the municipal year to discuss and decide on matters of policy and procedure, to conduct reviews and to deal with other general business. Previously the committee met on four occasions per year but a number of scheduled meetings were cancelled during the municipal years 2011/12 and 2012/13; with the ending of centralised information, reviews, statistics etc on Standards matters during the transitional period and with the move to the new arrangements under the Localism Act 2011 it was apparent that such frequency was not required. The Committee also meets on additional

dates as and when required to determine any complaints against councillors.

- 3.5 There have been two meetings in the review period December 2012 to December 2013. The focus of the meetings has been the introduction of the new requirements and procedures. The items considered are as follows:

22nd January 2013

- 3.6 New procedures for dealing with complaints against members were discussed and approved. The work programme including the new frequency of scheduled meetings was agreed. Members' expenses were discussed.

12th March 2013

- 3.7 Report by the Monitoring Officer on Disclosable Pecuniary Interests and member's compliance, and discussions with the group whips about the Code, and the processes and sanctions where complaints are made about members.

June and December 2013

- 3.8 One scheduled meeting of the Standards Committee was cancelled in June 2013 since there were no items of business to be discussed. The meeting previously scheduled for 4th December 2013 was postponed to 9th January 2014 so as to avoid two meetings of members close together. There remains one further meeting in this municipal year scheduled for March 2014.

- 3.9 In the period under review there has been one non scheduled meeting of the Committee to consider a complaint against a member. The matter was in the early stages of enquiry. Members considered Schedule 12A Local Government Act 1972 and its application and resolved that the matter be held in private.

Complaints against members

- 3.10 Under the previous legislation all complainants made under the Code of Conduct had to be referred to the Standards Committee. One of the criticisms of the previous arrangement was the time spent and cost wasted on matters that need not be considered under the Code, or which could be resolved other than through a formal process. Under the new law the Council is permitted to set out its own processes for dealing with complaints and it has adopted a system whereby the Monitoring Officer is delegated some discretion as to how some matters be dealt with. There are clear parameters for this and these are

set out in the procedure that was adopted by this Committee in January 2013.

- 3.11 Since January 2013 when the new process came into effect the Monitoring Officer has received 11 complaints under the Code. Of those 11, five did not overcome the initial threshold since those complaints, even if the facts were true, fell short of any possibility of a breach of the Code. One was referred to this committee and one is outstanding at the time of writing this report because it was received recently. The remaining four were dealt with by the Monitoring Officer by local resolution. The Independent Person was consulted by the Monitoring Officer as appropriate and this assisted in determining how matters should be dealt with.

Monitoring Officer Advice Notes and Training

- 3.12 During the period December 2012 to December 2013 the Monitoring Officer continued to issue Advice Notes to members as required. Together with the previously issued Advice Notes these form an ongoing resource for councillors. In the relevant period the Monitoring Officer issued the Annual Monitoring Officer Advice Note in September 2013.
- 3.13 The Monitoring Officer provides training to members on matters pertaining to members' conduct immediately after the local elections and appointment of new members as part of the induction process and on further occasions as and when appropriate. Training by the Monitoring Officer and other training provided to Members is set out in a separate report before this committee.

Review of the Register of Member's Interests

- 3.14 A separate review of members' Disclosable Pecuniary Interests was undertaken in the Spring 2013 and reported to this committee. All members have now completed and returned their disclosable pecuniary interest forms.

Gifts and Hospitality

- 3.15 There is no longer a specific requirement in the legislation to register gifts of over £25. However, the principles of conduct in public life require transparency and openness and in furtherance of those principles members are advised to continue to declare gifts and hospitality over this value. Information on this was provided to members in March 2013. An update is below.

Details of the Register to December 2013

<i>Councillor</i>	<i>Date</i>	<i>Description</i>	<i>Value</i>	<i>Who from</i>
<i>Arnold</i>	<i>11 Aug 2013</i>	<i>2 tickets for FA Community Shield match at Wembley Stadium</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
<i>Ashraf</i>	<i>11 Aug 2013</i>	<i>Tickets to football match at Wembley Stadium</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
	<i>14 Sept 2013</i>	<i>Tickets to football match at Wembley Stadium (two passed on to local residents)</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
	<i>15 Nov 2013</i>	<i>2 x tickets for Eng v Chile football match</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Cheese</i>	<i>13 Apr 2013</i>	<i>Wembley Stadium football tickets</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
	<i>11 May 2013</i>	<i>Wembley Stadium football tickets</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
	<i>29 May 2013</i>	<i>Wembley Stadium football tickets</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
	<i>14 Aug 2013</i>	<i>Wembley Stadium football tickets</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
	<i>6 Sept 2013</i>	<i>Wembley Stadium football tickets</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
<i>Choudhary</i>	<i>5 Sept 2013</i>	<i>Dinner (non alcohol)</i>	<i>£35</i>	<i>Henderson</i>
<i>Choudry</i>	<i>11 Aug 2013</i>	<i>6 tickets to football match: Eng v Scotland</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
	<i>14 Aug 2013</i>	<i>6 tickets to football match: Man U v Wigan</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Colwill</i>	<i>15 Nov 2013</i>	<i>Eng v Chile</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Crane</i>	<i>5 Sept 2013</i>	<i>Dinner and Local Govt Pension Summit</i>	<i>£100</i>	<i>Henderson Global Investors</i>
	<i>11 Aug 2013</i>	<i>Tickets for charity shield</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
	<i>14 Aug 2013</i>	<i>Tickets for Eng v Scotland</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
	<i>8-9 Nov 2013</i>	<i>Hotel accommodation</i>	<i>£125</i>	<i>Morgan Sindall</i>

Meeting
Date

Version no.
Date

		<i>in Bristol. SCALA awards ceremony</i>		
<i>Hirani</i>	11 Aug 2013	<i>2x tickets to Charity Shield</i>	<i>Not known but above £25</i>	<i>FA</i>
	14 Aug 2013	<i>2x tickets to Eng v Scotland</i>	<i>Not known but above £25</i>	<i>FA</i>
<i>John, OBE</i>	11 Aug 2013	<i>2 tickets for the Charity Shield</i>	<i>Not known but above £25</i>	<i>Wembley National Stadium Ltd</i>
	14 Aug 2013	<i>2 tickets for the Eng v Scotland International</i>	<i>Not known but above £25</i>	<i>Wembley National Stadium Ltd</i>
<i>Kansagra</i>	11 Aug 2013	<i>2 x Charity Shield tickets</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
	14 Aug 2013	<i>2 x Eng v Scotland</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Long</i>	11 Aug 2013	<i>2 tickets for Man u v Wigan</i>	<i>Not known but above £25</i>	<i>Wembley Stadium/FA</i>
	14 Aug 2013	<i>2 tickets for Eng v Scotland</i>	<i>Not known but above £25</i>	<i>Wembley Stadium/FA</i>
<i>Lorber</i>	11 Aug 2013	<i>Football match tickets received and distributed to residents</i>	<i>Not known but above £25</i>	<i>FA via Brent Council</i>
	14 Aug 2013	<i>Football match tickets received and distributed to residents and attended in person as host</i>	<i>Not known but above £25</i>	<i>FA via Brent Council</i>
<i>McLennan</i>	11 Aug 2013	<i>Two tickets for the FA Charity Shield (Man U v Wigan)</i>	<i>Not known but above £25</i>	<i>The Football Association</i>
	14 Aug 2013	<i>Two tickets for the Eng v Scotland match</i>	<i>Not known but above £25</i>	<i>The Football Association</i>
<i>Jim Moher</i>	11 Aug 2013	<i>Wembley Stadium ticket FA charity cup</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Ruth Moher</i>	11 Aug 2013	<i>Ticket for football match</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Bhiku Patel</i>	11 Aug 2013	<i>2x Charity Shield tickets</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
	14 Aug 2013	<i>4 Eng v Scotland</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Harshadbhai Patel</i>	11 Aug 2013	<i>Football match tickets – Wembley Stadium</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
	14 Aug 2013	<i>Football match tickets – Wembley Stadium</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
	15 Nov 2013	<i>Football tickets x2</i>	<i>Not known but above £25</i>	<i>Wembley Stadium</i>
<i>Harihar Patel</i>	11 Aug 2013	<i>2x tickets for</i>	<i>Not known but</i>	<i>Wembley Stadium</i>

		<i>Charity Shield</i>	<i>above £25</i>	<i>via Brent Council</i>
	<i>14 Aug 2013</i>	<i>2x tickets for Eng v Scotland</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>
	<i>15 Nov 2013</i>	<i>4 tickets Eng v Chile</i>	<i>Not known but above £25</i>	<i>Wembley Stadium via Brent Council</i>

4.0 Financial Implications

4.1 This report contains no specific financial implications.

5.0 Legal Implications

5.1 The legal requirements relating to members' Code of Conduct and the Standards regime are set out in the Localism Act 2011.

6.0 Diversity Implications

6.1 This report contains no specific diversity implications.

7.0 Staffing Implications

7.1 This report contains no specific staffing implications.

Background papers

Members Register of Disclosable Pecuniary Interests
Brent Members' Code of Conduct
Localism Act 2011

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson, Senior Corporate Solicitor, on telephone number 020 8937 1368.

Fiona Ledden
 Director of Legal and Procurement

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 Brent	<p style="text-align: center;">Standards Committee 9 January 2014</p> <p style="text-align: center;">Report from the Director of Legal and Procurement</p>
For Information	Wards Affected: NONE
<p style="text-align: center;">Review of the Member Development Programme and Members' Expenses</p>	

1.0 Summary

- 1.1 The purpose of this report is to review the Member Development Programme and members' travel expenses.
- 1.2 The report outlines the development sessions delivered for members since May 2012 and also outlines the upcoming induction programme for June 2014 as Appendix 1.
- 1.3 The London Borough of Brent Members' Allowance scheme makes provision for the payment of travel expenses to members. Appendix 2 outlines expenses claimed over the period from May 2011 to December 2013.

2.0 Recommendations

- 2.1 Members are asked to note this report.

3.0 Detail – Member Development

The Member Development Programme was last reviewed by this Committee in June 2012 covering the period April 2011 to May 2012. It is however, discussed and monitored by the Steering Group on a quarterly basis. The relevance for this Committee is to consider the type of training provided and attendance at the training, and to consider and discuss any implications with regards maintaining high standards of conduct. This is particularly relevant as the Council approaches local elections in May 2014 which may result in new councillors being elected who may require training on various aspects of councillor roles and duties, and the possibility of new roles for re-elected councillors.

3.1 **Development events May 2012 – December 2013:**

A number of member development events were held during May 2012 to December 2013. These have been delivered by a combination of external trainers, internal officers and partners:

- Ward Working Projects – 19 June 2012
- Civic Centre 'Drop-In' Briefing Sessions – 2, 9, 16 and 18 July 2012
- Shaping a Healthier Future: Health Scrutiny Event – 4 September 2012
- The Procurement Challenge – 12 September 2012
- Civic Centre Formal Briefing from the Move to the Civic Centre Team – 8 October 2012 (Labour and Liberal Democrats), 17 October (Conservatives)
- The Welfare Reform Act 2012 Part 1: The Localism Act and The Tenancy Strategy – 18 October 2012
- The Welfare Reform Act 2012 Part 2: HRA Reform and Brent Housing Partnership – 22 November 2012
- 'Out of Hospital Care' Strategy: Health Scrutiny Event – 10 January 2013
- Brent's New Website: A Drop-In Session – 21 January 2013
- Welfare Reform Part 2: The Allocations Policy – 20 February 2013
- Members' iPad: Basic Training – 21 February 2013
- New Role for Councillors in Dealing with Housing Management Complaints – 28 February 2013
- School Admissions – 13 March 2013
- Safeguarding Children and Corporate Parenting – 18 March 2013
- Leadership Skills – 20 March 2013
- Voluntary Sector 101 – 26 March 2013
- Safeguarding Vulnerable Adults – 15 April 2013
- HRA Business Plan – 29 May 2013
- Code of Conduct and Related Issues – 4 June 2013
- Housing Strategy for Members – 21 June 2013
- Civic Centre Induction for Members – 25 and 26 June 2013
- Treasury Management – 2 July 2013
- Gangs and Serious Youth Violence – 8 July 2013
- Media Awareness Training for Non-Executive Members – 16 July 2013
- Code of Conduct training for Planning Committee Members – 21 August 2013
- Equalities training – 3 September 2013
- Development Management Policies Workshop for Planning Committee Members – 4 September 2013
- Smarter Working – 12 September 2013
- Leadership Skills (joint session with Harrow Council Members) – 26 September 2013
- Housing Strategy – 17 October 2013
- Brent Local Safeguarding Board – 23 October 2013

- Complete Media Training Programme for 5 Executive members – 24 October 2013
- Planning Applications training for Planning Committee members – 28 October 2013
- Tackling Violence Against Women and Girls in Brent – 21 November 2013
- The Impact of the Localism Agenda in Brent – 5 December 2013
- Smarter Working for 5 members – 6 December 2013

Further scheduled sessions:

- Social Media – 7 January 2014.
- Smarter Working for 5 members – 23 January 2014.
- Political Leadership – 27 January 2014.

3.2 Attendance at internal training events

Attendance at internal member development events has been reviewed and discussed by the Steering Group (the sample reviewed is show at Appendix 3). The pattern of a four year programme indicates that training events in the first year after elections are well attended and further training provided over the remaining three years starts to have a dwindling number of attendees. There are no particular trends relating to subject matter, timing of the courses or the process of advertising which assists in identifying the precise reasons for this but lower attendance is thought to be due to increasing commitments on members' time once they become more experienced in office. It is also perhaps due to the current booking system which makes it difficult to ascertain final numbers until the event is held.

The Programme is advertised quarterly to members via email. Bookings can be made direct via the Member Development Manager or Group Offices. A reminder email is sent to all members a week prior to an individual event. It is possible for members to drop-in without booking to attend and there is no sanction for members who do not attend following confirmation being received.

3.3 Attendance at external events May 2012 – December 2013:

The number of external events attended by members was 19, whilst the number of members attending external events was 18. Several members attended more than one external event. The single event where the member failed to attend did incur a financial penalty.

3.4 Feedback from members regarding the member development programme:

Feedback is sought from members following every training event attended, both internal and external. The majority of feedback received after attendance at internal events over the indicated period has been

largely positive. Very limited feedback was received following attendance at external events.

A questionnaire has been sent to all members to feedback on the current four year programme 2010-2014. The information returned will be used to inform the induction planning process and future training courses for 2014-2018.

3.5 Political support:

The Member Development Steering Group met on a quarterly basis throughout the indicated period and has consistently provided constructive input and evaluation during this time. A strong political lead on member development from all groups is essential to ensure member ownership of the programme.

The Group is keen to see the member development programme taking advantage of the new technology available and that this be used to full advantage in the training following the elections in 2014. An agreed pilot of filming a member development event was successfully held in December as a possible new format for reference material for all members. A proposal to pilot Facetime attendees at a future event is also being considered. The use of technology will offer members alternatives to attending training face-to-face at meetings and the flexibility this offers may increase take up of the training offered.

3.6 Member Development Charter Award

The Steering Group, Chief Executive and Leaders of all political parties are supporting the reaccreditation of the council to the London Councils Charter for Elected Member Development. The evidence and interview assessment is due to complete on Wednesday 8 January 2014.

The Council last achieved the Charter for Elected Member Development accreditation on October 2010 which was valid for three years and expired in October 2013. Only five London councils have been awarded the Charter – Barking & Dagenham, Brent, Islington, Richmond upon Thames and Southwark.

To achieve the Charter the Council needs to evidence four themes – a commitment to member development, a strategic approach to member development, learning and development is effective in building capacity and supporting members.

3.7 Induction Programme 2014

A draft Induction Programme has been created and will be reviewed and agreed at the next meeting of the Steering Group in January 2014. This allows an opportunity for the questionnaires sent to members to feed into the Programme. A decision on whether an Induction

Handbook will also be provided to members as a useful reference tool is being considered.

4.0 Detail – Members’ Expenses

4.1 Part 8 of the Council’s Constitution contains the Members’ Allowance Scheme which explains that travel expenses may be claimed if they meet the following criteria:

- a) Any claims must be submitted in writing to the Mayor’s Office Manager within two months of the date on which the duty in respect of which the entitlement to the allowance arises.
- b) A travel allowance may be claimed by a councillor, independent member or voting co-opted member in respect of the cost of travel to or from a meeting or conference or other similar event (together referred to as a meeting for the purpose of the Scheme) provided that:
 - i) the meeting is of a type specified in the regulations (Schedule 2 of the Scheme, attached as Appendix 4 – extract from the Local Authorities (Members’ allowances) (England) Regulations 2003);
 - ii) The allowance will be for reimbursement only of the reasonable costs of standard class travel;
 - iii) Expenses can only be claimed for travel undertaken outside of the borough;
 - iv) Approval of an expenses claim must be sought from the Mayor’s Office Manager prior to the date of the meeting for which travel costs will be incurred;
 - v) No allowances can be claimed for travel to any meeting of the Council or a meeting of a Committee or Sub-Committee of the Council, other than a Joint Committee.
- c) Claims for car mileage allowance (fuel costs) or travel by bicycle must be made from time to time in accordance with the scheme that is in place for officers.

4.2 The Mayor’s Office is responsible for administering the Members’ Allowance Scheme and oversees the receipt, processing and payment of all appropriate expense claims submitted by members.

4.3 All claims submitted since May 2006 are detailed on the Brent Council website and are also publicly available for inspection at the Mayor’s Office.

4.4 Members’ expenses were last reviewed by this committee in December 2011 for the period up to April 2011. An internal audit of members’ expenses was completed in May 2013 which only raised minor

administrative matters. Attached as Appendix 2 is the record of expenses for the period May 2011 to December 2013.

5.0 Financial Implications

5.1 The costs of the member development programme are met from a budget of £16,852 annually. The majority of the events in the programme over the indicated period have been delivered internally by council officers which has meant that the current budget will not be fully spent. A request has been made to the Chief Finance Officer for any unused monies at year end to be carried into next year. The Induction Programme will incur a lot of additional expenditure to run Personal Development Plans for new and re-elected councillors, specific skill sessions on chairing and scrutiny, etc which will be provided by external organisations and facilitators.

A pilot to share costs of member development training events with other boroughs was held in September with Harrow Council. At this event Brent paid for the facilitator and Harrow paid for the catering. Unfortunately this event was too poorly attended for a follow-up event to be agreed.

5.2 The total amount spent on members travel expense claims made between May 2012 and December 2013 was £541.65.

6.0 Legal Implications

6.1 None for the Member Development Programme.

6.2 The Local Government (Members' Allowances) (England) Regulations 2003, as amended, requires the council to have the records available for public inspection. During the period from 1 May 2012 to 31 December 2013 no member of the public came to inspect the records.

7.0 Diversity Implications

7.1 There are no diversity implications arising from this report.

For further information please contact:

Saskia Woolloff
Mayor's Office and Member Development Manager (Acting)
Tel: 020 8937 1137
saskia.woolloff@brent.gov.uk

FIONA LEDDEN
Director of Legal and Procurement

Appendix 1 – draft Members Induction Programme 2014

Date	Time	Title and Content of Session	Facilitated By
22 May	-	Local Government Elections	-
27 May	7-9pm	Welcome Reception for all Members Signing of declaration of acceptance of office Official photos to be taken Personal details forms	Chief Executive Democratic Services Manager Member Development Manager
1 June (Sunday)	10am- 3pm	Members Induction Day Introduction from Chief Executive CMT Directors brief overview of service areas Question and answer session with Chief Executive and CMT <i>External speaker on relevant session i.e. upcoming challenges facing elected representatives in current financial climate, etc</i> Democratic Services and the Group Offices Smarter Working (IT technology – issuing of iPads and iPhones) Member Development programme Tour of the Civic Centre	Chief Executive CMT Directors Democratic Services Manager Operational Director ICT Member Development Manager External speaker to be invited
4 June	6-8pm	AGM and Mayor Making	Democratic Services Mayor's Office
12 June	7-9pm	Briefings Governance and Corporate Services Planning and Licensing Committees	Legal Planning Licensing

Date	Time	Title and Content of Session	Facilitated By
19 June	7-9pm	Introduction to Local Government Decision Making Full Council Cabinet Overview and Scrutiny	Operational Director Corporate Policy Democratic Services Manager
26 June	7-9pm	Briefings Standards and Scrutiny Committees Finance	Legal Chief Finance Officer
3 July	7-9pm	IT Training iPads iPhones Mod.Gov BoardPad	IT
10 July	7-9pm	Briefings Assistant Chief Executive's Office – Corporate Strategy, Ward Working, Brent Connects Forums, Communications and Events	Assistant Chief Executive Operational Director Corporate Policy Community Engagement Manager Head of Communications
17 July	7-9pm	Skills Chairing Questioning	External provider

Date	Time	Title and Content of Session	Facilitated By
24 July	7-9pm	Briefings Regeneration and Growth – Housing, etc Environment and Neighbourhoods – Highways, Transportation, Arts	Strategic Director Regeneration and Growth Strategic Director Environment and Neighbourhoods
31 July	7-9pm	Briefings Education, Health and Social Care	Strategic Director Education, Health and Social Care

Appendix 2 – summary of members' expenses claimed from May 2011 to December 2013

Councillor Name (Claimant)	Nature of expense	Date expense incurred	Date claim submitted	Mode of travel	Value of claim	Claim Approved/ rejected
Cllr Crane	Travel expenses incurred for travel to and from LGC Pension Summit	04/09/13	06/09/13	Car	£139.20	Approved
Cllr Choudhary	Travel expenses incurred for travel to and from LGC Investment Summit	04/09/13	06/09/13	Car	£128.70	Approved
Cllr Crane	Travel expenses incurred for travel to and from Local Government Pension Conference	05/09/12	30/09/12	Car	£120.60	Approved
Cllr Choudhary	Travel expenses incurred for travel to and from Local Government Pension Conference	05/09/12	01/10/12	Car	£124.65	Approved
Cllr Butt	Travel expenses incurred for travel to LGA annual conference	21/06/12	28/06/12	Train	£28.50	Approved
Cllr Sheth	Travel expenses incurred for travel to LGA conference	19/03/12	23/03/12	Tube	£5.70	Approved
Cllr Kabir	Travel expenses incurred for travel to the Leadership Academy	7/01/12	23/01/12	Train/ Taxi	£37.50	Approved

Councillor Name (Claimant)	Nature of expense	Date expense incurred	Date claim submitted	Mode of travel	Value of claim	Claim Approved/rejected
Cllr Sheth	Travel expenses incurred for travel to Using the London Plan workshop (Urban Design)	24/11/11	24/11/11	Tube	£5.40	Approved
Cllr Sheth	Travel expenses incurred for travel to UDL Leaders' Briefing on Street Design and Best Practice	9/11/11	6/12/11	Tube	£5.40	Approved
Cllr Kansagra	Travel expenses incurred for travel to the Leadership Academy	21/10/11	21/11/11	Car	£69.10	Approved
Cllr Sheth	Travel expenses incurred for travel to an Understanding the National Planning Policy Framework conference	10/10/11	21/10/11	Tube	£5.40	Approved
Cllr Choudhary	Travel expenses incurred for travel to the LGC Investment Summit	07/09/11-09/09/11	16/09/11	Car	£189.15	Approved
Cllr John	Travel expenses incurred for travel from the Local Government Group Conference	30/06/11	04/07/11	Train	£74.50	Approved

Appendix 3 – sample attendance at internal member development events

Date	Title	Evening/ Afternoon	Numbers Booked	Numbers Attended
10 January	'Out of Hospital Care' Strategy	Evening	5	4
20 February	Allocations Policy	Evening	10	12
28 February	Housing Management Complaints	Afternoon	7	7
13 March	School Admissions	Afternoon	5	7
18 March	Safeguarding Children and Corporate Parenting	Evening	6	13
20 March	Leadership Skills	Afternoon	11	6
26 March	Voluntary Sector 101	Afternoon	8	10
15 April	Safeguarding Vulnerable Adults	Evening	8	7
17 April	Census 2011 Briefing	Afternoon	13	14
21 May	Staff Appeals Sub-Committee	Evening	1	1 (Not held)
29 May	HRA Business Plan	Afternoon	5	6
4 June	Code of Conduct	Afternoon	9	10
18 June	Police Briefing on Smartwater	Evening	11	12
20 June	A&E Licensing Committee	Afternoon	7	6
21 June	Housing Strategy	Afternoon	8	5
25 June	Civic Centre Induction	Evening	12	15
26 June	Civic Centre Induction	Afternoon	20	23
2 July	Treasury Management	Evening	9	7
8 July	Gangs and Serious Youth Violence	Afternoon	6	13
16 July	Equalities	Afternoon	7	Postponed by speaker
25 July	Media Awareness for Non-Executive Members	Evening	9	4

There is no marked difference between attendance in the day or the evening. Afternoon sessions 9.7 evening sessions 8.9.

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