

~~Strictly Private and Confidential~~

*(This report contains personal data as defined by the Data Protection Act 1998
which should be treated as strictly private and confidential)*

Brent Council

**Review of the events leading up to the meeting of
Full Council on 22 February 2016 concerning former
Councillor Oladapo's illness and continued
absence from Council meetings**

Report of Independent Investigator

July 2016

Richard Penn

Independent Investigator

Strictly Private and Confidential

*(This report contains personal data as defined by the Data Protection Act 1998
which should be treated as strictly private and confidential)*

Contents		Page
1	Introduction	3
2	My review of the key events leading up to the Full Council meeting on 22 February 2016	5
3	My conclusions and recommendations	12

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

1 Introduction

1.1 I was appointed by the Chief Legal Officer of Brent Council at the end of May 2016 to conduct an independent review of the events leading up to the meeting of Full Council on 22 February 2016 concerning former Councillor Oladapo's illness and continued absence from Council meetings.

1.2 As well as the key events my review was to cover:

1. the information and facts known and understood by key officers and members of the Council throughout the relevant period and how this was formally reported at meetings of Full Council;
2. whether further or better information could reasonably have been obtained about former Councillor Oladapo prior to the meeting of Full Council on 22 February 2016;
3. the Council's general processes for reporting former Councillor Oladapo's illness and continued absence from Council meetings;
4. what, if anything, the Council could have done differently or better at the time;
5. what, if any, lessons the Council should take from this experience; and
6. what, if any, improvements the Council should implement.

I was required to make any other recommendations that I consider appropriate and prepare a written report to the Chief Executive.

1.2 Former Councillor Oladapo died at the Royal Free Hospital in the London Borough of Camden on 29 January 2016 following a long illness. For a long period of time prior to his death, former Councillor Oladapo was unable to attend any meetings of the Council and was therefore at risk of automatic disqualification. In line with the Local Government Act 1972, if a member of a local authority fails throughout a period of 6 consecutive months from the date of his last attendance to attend any meeting of the authority then, subject to certain exceptions, he ceases to be a member of the authority unless the failure was due to some reason approved by the authority before the expiry of that period.

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

- 1.3 Following enquiries made by the Council's Chief Executive, Carolyn Downs, on 10 March 2016, the police notified the Council that former Councillor Oladapo had died on 29 January 2016 but that his death had not been registered.
- 1.4 My review commenced shortly after my appointment when I was provided with relevant documentation, during the course of my review I was provided with other relevant documents those that I interviewed as witnesses.
- 1.5 I conducted interviews with:
- Carolyn Downs, Chief Executive
 - Fiona Alderman, Chief Legal Officer
 - Thomas Cattermole, Head of Executive and Member Services
 - Peter Goss, Democratic Services Manager
 - Daniel Elton, Labour Group Political Assistant
- a. The purpose of these interviews was to establish so far as possible the facts.
- 16.1 In addition to this review of the events and the process I have been appointed by the Council's Monitoring Officer to investigate a Members' Code of Conduct complaint about the conduct of Councillor Muhammed Butt. Councillor Butt is the Leader of the Council and Leader of the majority Labour Group. In broad terms, it is alleged that Councillor Butt apparently misled the Council over the death of former Councillor Oladapo. I have been asked to investigate a number of issues and prepare a separate standards investigation report which will be considered by the Council's Standards Committee.
- 1.8 Inevitably, this general review will overlap with the standards investigation and therefore the two reports are bound to contain some of the same information. However, they are intended to serve distinct purposes and will be reported accordingly.

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

2 My review of the key events leading up to the Full Council meeting on 22 February 2016

- 2.1 The Local Government Act 1972 expressly provides that where a council member fails throughout a period of 6 consecutive months from the date of their last attendance to attend any meeting of the authority then, subject to certain exceptions, they cease to be a member of the authority unless failure was due to some reason approved by the council before the expiry of that period.
- 2.2 Former Councillor Oladapo was elected to Brent Council in May 2010 and last attended a Council meeting on 26 November 2014. Since then his absence from meetings of the Council was approved by Full Council on 2 March 2015; 20 May 2015; 7 September 2015; 18 January 2016 and 22 February 2016. The first three of these approvals was following a report to the Council from the Chief Operating Officer, and the last two approvals were following reports in the name of Chief Executive, although in fact such reports are drafted by officers in Executive and Members Services and in many instances are not cleared by the Chief Executive.
- 2.3 The first of these reports set out in some detail the reason for Councillor Oladapo's non-attendance in the following terms:

'Councillor Oladapo is currently suffering ill-health such that he has been unable to attend meetings since 26 November 2014 and if he were not to attend another meeting before 25 May 2015 the legislation provides that his seat be declared vacant forthwith and he would cease to be a councillor.'

'At a Council meeting on 13 June 2001, it was agreed that the decision to then approve the absence of a councillor due to ill-health should set a precedent in such circumstances'

- 2.4 The recommendation approved by Council on 2 March 2015 was that:

'Councillor Oladapo's absence from meetings of the Council since 27 November 2014 be approved on the basis of ill-health and that the position be reviewed, if required, at the first Ordinary Meeting of Full Council for the 2015/16 Municipal Year'

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

- 2.5 The Council meeting on 20 May 2015 approved Councillor Oladapo's absence on the basis of his ongoing ill-health subject to further review, if required, at the full Council meeting in September.
- 2.6 The Council meeting on 7 September 2015 approved Councillor Oladapo's absence on the basis of his ongoing ill-health. This was subject to further review, if required, at the full Council meeting in January 2016.
- 2.7 The Council meeting on 18 January 2016 approved Councillor Oladapo's absence on the basis of his ongoing ill-health subject to further review, if required, at the full Council meeting in February 2016. The Report from the Chief Executive that led to this further approval included a statement that the Mayor had reported to Full Council in November 2015 that Councillor Oladapo had been discharged from hospital following successful surgery and was at home recuperating, but that although Councillor Oladapo had been expected to attend full Council that day he had been re-admitted to hospital and was unable to attend.

Interview with Chief Legal Officer

- 2.8 The Chief Legal Officer told me that she had not been aware in early February that the report to Full Council would be needed until it had been drafted (due to annual leave) and she had seen it in or around the Mayor's pre meeting on 17 February 2016. There had been some debate as to whether it should or could be deferred but she did not think, on her reading of the January report, that it could be deferred – either Councillor Oladapo's absence was approved at the February Full Council meeting or it was not and he would cease to be a councillor and the Chief Executive would then call a by-election. The debate in this regard was whether the January 2016 report authorised a longer period of absence than just to the date of the February 2016 Full Council meeting. The Chief Legal Officer could see how the recommendation could be read differently but on balance thought that the authorisation ran until February 2016. She did advise the Chief Executive prior to Full Council that Councillor Oladapo should be given notice that he would become disqualified, particularly bearing in mind the lack of clarity as to what his health situation was, but was unclear how that notice could be given, bearing in mind the unconfirmed account that he was in Nigeria and there was no one else to contact with the notice. At the Mayor's pre-briefing the Chief Executive had made clear her concerns about the lack of information and intimated that she thought that the situation

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

needed to be clarified and, if appropriate, a by-election called. As the Chief Executive had made plain her views, she was confident that the matter would be clarified by the Labour Group imminently. Additionally, the Mayor had intended to read out a form of wording on 22 February 2016 that clarified that the Council had not received any update from Councillor Oladapo's family. The Full Council meeting ended in a contentious manner and this was overlooked and the words went unspoken but the Mayor's script for the evening confirms the intention. In the week commencing 7 March 2016 there were unconfirmed reports that Councillor Oladapo had passed away. The Chief Legal Officer gave advice that the Chief Executive should seek confirmation from the police as to Councillor Oladapo's situation so that a by-election could be called with some certainty.

Interview with Chief Executive

- 2.9 The Chief Executive told me that the report to Full Council on 18 January 2016 had requested approval for further absence by Councillor Oladapo as he had been expected to attend that meeting following an organ transplant, but the week before the Council meeting the Council Leader had told her that Councillor Oladapo had been readmitted to hospital. The next Council meeting was on 22 February 2016 and the 'pre meeting' with the Mayor, the Leader and Opposition members was on 17 February 2016. At this pre meeting the Leader referred to Councillor Oladapo's further absence saying that he had not heard from Councillor Oladapo or his family, but that he had become aware that Councillor Oladapo was no longer at the Royal Free Hospital. Councillor Butt said that he understood that Councillor Oladapo's health had deteriorated and that his mother had taken Councillor Oladapo to Nigeria to die. The Chief Executive advised that she considered that the Council should now let Councillor Oladapo's membership of the Council lapse and that a further report should not be submitted to the Council. However, the others present at the meeting considered that this would appear inappropriately harsh for a dying man, and the Chief Legal Officer advised that notice must be given. The Chief Executive was therefore asked to write to Councillor Oladapo to give due warning of this if this was her intention. The Chief Executive accepted this consensus view but advised that the report to Full Council should make it clear that there had been no update received about Councillor Oladapo's health. The report to Full Council on 22 February 2016 stated that Councillor Oladapo was still unable to attend meetings due to his ill-health, and Council approved the recommendation that Councillor Oladapo's absence from meetings be approved on the basis of his ongoing ill-health subject to review if required at the Annual Council meeting in May 2016. The report was approved on this basis. The Chief Executive

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

said that the report was written in good faith on the understanding that Councillor Oladapo's ill health was ongoing and in fact, there had been a deterioration in his health which resulted in his return to hospital, and by the time of the Council meeting in February it was believed that he had returned to his family in Nigeria to pass away. This could not be confirmed however, and in the event turned out to be inaccurate, and it would have been inappropriate to include it in a public report. In summary, the Chief Executive's view is that the Full Council considered and approved Councillor Oladapo's ongoing absence based on what was known on that date and what was included in the report.

- 2.10 The Chief Executive said that around the beginning of March 2016 she became aware of concerns that Councillor Oladapo had in fact passed away. She had sought confirmation of this but despite best efforts no formal confirmation of his death was forthcoming which would have left her able to call a by-election. The Chief Executive then took action to establish the 'window' when a by-election in the Kilburn Ward could be called in order that it could take place on the same day as the GLA elections. That 'window' was identified as between 14 March 2016 and 30 March 2016. The Chief Executive informed the Leader of this, and he confirmed that he had heard nothing from Councillor Oladapo or his family. The Leader undertook to try to contact the family but in the event had no success. The Leader visited Councillor Oladapo's residence but saw no sign of anyone being there. As a consequence the Chief Executive became more concerned and on 8 March 2106 she asked the local Registrar to check on any death recently registered in either Brent or Camden, but no relevant record of death could be found. Her view is that the Council had made all reasonable enquiries possible, including trying to contact family members in both Nigeria and the USA, but it was not possible to get official confirmation of his death.
- 2.11 On 9 March 2016 the Chief Executive contacted the Borough Commander to ask whether the police could find out whether Councillor Oladapo had died and, if so, whether his body was in the morgue at the Royal Free Hospital as no death certificate had been issued.
- 2.12 On 10 March 2016 the Chief Executive was informed by the Registrar that a notice had been issued to the Brent Bereavement Service at Northwick Park Hospital in a name similar to that of Councillor Oladapo. The date of death was 29 January 2016. Also on 10 March 2016 the Borough Commander rang the Chief Executive to inform her that Councillor Oldapo had died on 29 January 2016 but that his death had not been registered and that his body remained in the morgue at the Royal Free Hospital. On

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

11 March 2016 the Council issued a statement about Councillor Oladapo's death, lowered the flags and issued tributes from the Mayor of Brent and the Leader of the Council. The Chief Executive wrote to Councillor Oladapo's mother at his home address on Kingfisher Way.

- 2.13 Councillor Oladapo's housing benefit and Council member allowances payments were discontinued as soon as the police confirmed his death.

Interview with Head of Executive and Member Services

- 2.14 The Head of Executive and Member Services confirmed that the first report to the Council in March 2015 was for the purpose of avoiding Councillor Oladapo being disqualified as it was known that he was very ill and unlikely to be able to attend any meeting within the six months 'window'. A doctor's certificate confirming Councillor Oladapo's illness had been received in August 2015 from Councillor Oladapo and passed to the Acting Chief Executive by Councillor Butt. It had been known before this that Councillor Oladapo had been hospitalised but the details of this were not known. During this period the Leader had been in contact with Councillor Oladapo, as had a former member, Mary Arnold, and other councillors had also been in contact with him. The new Chief Executive took up her post in September 2015 and had been concerned that Councillor Oladapo's continuing absence should be properly managed and accounted for so there had been regular updates to Full Council with formal extensions of the approval for absence. In January 2016 it had been expected that Councillor Oladapo would return shortly as it was known that he had received an organ transplant. He was a young man and the expectation throughout this whole period was that his absence was temporary and that he would return at some point, particularly when it was known that he had received a transplant. There had been no dissent from members to the extensions of approval of absence. However, Councillor Oladapo had not attended the January 2016 Council meeting so a report from the Chief Executive was prepared for the February 2016 Council meeting to extend approval of absence till the May 2016 Council meeting. The Chief Executive discussed this matter and the report proposing extension of approval of absence with the Leader and other senior members at the pre-Council meeting on 17 February 2016. The Chief Executive had asked the Head of Executive and Member Services to contact the Registration and Nationality Service in early March to ascertain whether there was any information about Councillor Oladapo but the situation had been made more complicated by the fact that there had been different versions and spellings of his name. There had been no information about his whereabouts but on March 10 2016 the

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

Borough Commander had advised that Councillor Oladapo had died. This had then been confirmed by the Camden Bereavement Service (the Royal Free Hospital is in Camden not Brent) who advised that death had taken place on 29 January 2016. Following this the Coroner was involved so there had been a further delay in the registration of Councillor Oladapo's death. The Head of Executive and Member Services confirmed that Councillor Oladapo had received his Basic Allowance throughout the period of his absence but that payment of the Special Responsibility Allowance for his membership of the Scrutiny Committee had been stopped. Payment of the Basic Allowance was ceased as soon as Councillor Oladapo's death was confirmed.

Interview with Democratic Services' Manager

- 2.15 Peter Goss, the Council's Democratic Services Manager, told me that he puts together the Council Summons supported by other relevant documentation but that his involvement in this matter had been very limited until the drafting of the report for the Full Council in February 2016. He had been aware of Councillor Oladapo's absence and of the renewals of the Council's approval of his absence but along with most people he thought that as Councillor Oladapo was a young man receiving hospital treatment he would return to his Council duties at some point. There have been previous cases where councillors have been absent for various reasons, usually illness, and approval of absence has been given by the Council but this case was unusual as it extended over a long period. In terms of the level of proof for the reason for absence is concerned the Council has relied basically on the knowledge of other councillors about a colleague's situation, supplemented by the councillor himself or herself and contact with the councillor's family. Production of medical certificates as proof of illness has never been required as in the past as there had always been sufficient awareness or knowledge of the situation not to call this into question. At least two medical certificates had been provided in Councillor Oladapo's case but these were volunteered rather than required.
- 2.16 The Democratic Services Manager told me that there are three sources that are used to establish whether or not a councillor is likely to breach the six months rule:
- i. political groups are accountable for the attendance of members of their own group at meetings and should monitor the situation in respect of each of their members

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

- ii. the awareness of Council staff that individual members have not been around for some time and have not turned up at meetings they should have attended
 - iii. the committee management system throws up the names of councillors who have missed meetings that they should have attended and flags up the names of councillors who are approaching the end of six months without attending a meeting.
- 2.17 The local definition of a meeting for this purpose is attendance at Full Council, a Committee or a Sub Committee. Not every member of the Council is a member of either a Committee or a Sub Committee, and given the lengthy gaps between Council meetings this could result in a problem for any member who for good reason misses a Council meeting. However, the Council does operate a system of substitution at Committees and Sub Committees so that is sometimes utilised to provide a councillor who is in danger of breaching the six months rule the opportunity to attend a meeting before the six months has expired. If he sees that a councillor has not attended a scheduled meeting and is in danger of breaching the six months rule he contacts the relevant Group Office to ensure the Group is aware of this possibility. In this particular case he had been advised by his line manager that Councillor Oladapo had been unwell and had worked out that a report was required to Full Council to authorize an extension of absence. It is a matter for the Council to authorize such extensions, the reason for which is usually illness, but there could be other reasons such as a partner's or other family member's serious or even terminal illness, or lengthy work commitments abroad. The Council could either define all of the potential reasons for absence or continue to deal with the matter on a case by case basis.

Interview with Labour Group Political Assistant

- 2.18 Daniel Elton, the Labour Group Political Assistant, told me that as a part of his role to ensure that the work of the Labour Group runs smoothly he deals with the arrangements for members to substitute when there is a danger that they will breach the six months rule as a result of non-attendance, although this is more of a convention than a codified process. He told me that the Group Whip should be aware of those members of the Group who were not attending Council meetings for a justifiable reason as attendance at Council meetings is a key part of the Labour Party rules. If a member of the Labour Group is known to be ill over a long term that information is used to request the Council to extend the six months absence rule. The Labour Group Executive would be made aware of any member of the Group who seems likely to breach the six month rule. He

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

controls the agenda for those meetings so he would flag this up through that mechanism.

3 Conclusions and recommendations

- 3.1 My review of the key events from the perspectives of the Council officials involved is set out in paragraphs 2.1 to 2.17 above.

My review has established:

1. *the information and facts known and understood by key officers and members of the Council throughout the relevant period and how this was formally reported at meetings of Full Council.*

It is clear that the reports presented to meetings of the Full Council from March 2015 to September 2015 and that led to approval of continued absence on the grounds of ill-health relied heavily on information that was provided by the Leader and other councillors who were in regular contact with Councillor Olapado including through visiting him in hospital. The real problem occurred at the beginning of 2016 when Councillor Oladapo left hospital and then suffered a relapse after the organ transplant. From that point on his whereabouts and situation were unknown so the information that was used in the report to the Full Council in February 2016 was based on hearsay and assumptions that were the only basis on which the recommendations for continued leave of absence could be made in good faith.

2. *whether further or better information could reasonably have been obtained about former Councillor Oladapo prior to the meeting of Full Council on 22 February 2016;*

The report to Full Council on 18 January 2016 had requested approval for further absence by Councillor Oladapo following an organ transplant, but the week before the Council meeting the Council Leader had told her that Councillor Oladapo had been readmitted to hospital. At the pre meeting before the next Council meeting on 22 February 2016 the Leader referred to Councillor Oladapo's further absence saying that he had not heard from Councillor Oladapo or his family but that he had become aware that Councillor Oladapo was no longer at the Royal Free Hospital. Councillor Butt said that he understood that Councillor Oladapo's health had deteriorated and that his mother had taken Councillor Oladapo to die. The Chief Executive advised that she considered that the Council

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

should now let Councillor Oladapo's membership of the Council lapse and that a further report should not be submitted to the Council. The Chief Executive accepted the consensus view that this was inappropriate and reported to the Full Council meeting on 22 February 2016 that Councillor Oladapo was still unable to attend meetings due to his ill-health. The Council approved the recommendation that Councillor Oladapo's absence from meetings be approved on the basis of his ongoing ill-health subject to review if required at the Annual Council meeting in May 2016. The report was approved on this basis. The Chief Executive said that the report was written on the understanding that Councillor Oladapo's ill health was ongoing but in fact there had been a deterioration in his health which resulted in his return to hospital, and by the time of the Council meeting in February it was believed that he had returned to his family in Nigeria to pass away. This was not, however, confirmed and so would have been inappropriate to put in a public report. The Chief Executive's view is that the Full Council considered and approved Councillor Oladapo's ongoing absence in good faith based on what was known on that date and what was said in the report.

My conclusion is that these were very difficult and unusual circumstances – a young councillor but seriously ill and hospitalised, living on his own with no partner and no family members living in the UK and who were seemingly unresponsive to requests for information and uncommunicative about their relative's situation. In my view no further or better information could reasonably have been obtained by the Council about former Councillor Oladapo's situation before the Council meeting in February 2016.

3. *what, if anything, the Council could have done differently or better at the time;*

Given all the circumstances as set out in my review it is difficult to see what the Council could have done differently or better at the time. There was clearly uncertainty and a lack of reliable information about Councillor Oladapo's whereabouts or situation in early 2016 and the Chief Executive had advised at the pre meeting for the February Council that she considered that the Council should now let Councillor Oladapo's membership of the Council lapse and that a further report should not be submitted to the Council. However, the mood of the meeting was not to allow Councillor Oladapo's membership of the Council to lapse.

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

4. *what, if any, lessons the Council should take from this experience; and*

In my view the particular circumstances in this case were unique and it is unlikely that the Council will ever have to deal with a similar case in the future. Each case should be dealt with on its facts and it is not necessary to devise a detailed procedure in an attempt to deal with any eventuality that might occur in an increasingly diverse and complicated world, based on what were a fairly unique set of circumstances. However, my review has identified some issues that warrant further consideration as set out in the next paragraph.

5. *what, if any, improvements the Council should implement.*

- i. the checks and balances to identify members at risk of breaching the six months rule already in place (as described in paragraph 2.15 of this Report) seem appropriate and proportionate.
- ii. the Council's current procedure for dealing with proposals for extension of absence also seems appropriate and should continue, but reports recommending extensions should be presented to Council only following consultation between the Chief Executive, the Monitoring Officer, the Head of Member and Executive Services and the relevant Group Whip. Councillors understandably rely on the content of those reports in agreeing to the continued absence of a colleague so they need to be able to rely on the integrity of any such report. It is crucially important, given the recent experience, that the most reliable information is obtained by officers and provided in the report. In most cases this will be quite straightforward but there will be cases in the future when additional effort by officers is required to establish the facts so far as possible.
- iii. those members who are potentially likely to breach the six months rule because of their non-attendance should be given written notice of this by Members Services as soon as it becomes known through the various checks and balances.

Strictly Private and Confidential

(This report contains personal data as defined by the Data Protection Act 1998 which should be treated as strictly private and confidential)

- iv. any report recommending extension of absence, and in particular the recommendation itself, should make clear whether the member's absence is being approved indefinitely, until a specific date only or perhaps contingent on the member being required to take some action, for example providing further information.
- v. consideration should be given as to whether every member of the Council should sit on a sub committee or committee as well as Full Council to improve the potential for attendance and thereby avoid the possibility of breaching the six months rule. This could also obviate the current practice of using the substitution arrangements to enable members to avoid breaching the six months rule.
- vi. consideration should be given to whether councillors should be required to provide medical certificates just as Council staff are required to do to prove the reason for absence on ill health.
- vii. consideration should be given as to whether the same approach should be used both in cases of terminal illness and in cases of continuing ill health.
- viii. consideration should be given to how cases in which childbirth, both pre and following the actual birth, is the cause for extended absence should be dealt with, and whether this applies to members who are partners in such circumstances.
- ix. consideration should be given to other reasons for potential extension of absence including the illness of a partner or family member, and work commitments involving periods abroad
- x. consideration should be given to the way in which 'apologies for absence' are managed. Currently there is no requirement for the member concerned to tender their apologies directly or personally as these can be tendered on their behalf by another member or an officer.

Richard Penn

Independent Investigator

July 2016