



Standards Sub-Committee A

Report title: Determination of Complaint

Date: 28th June 2023

Key decision: No.

Class: Part 1

Ward(s) affected: All

Contributors: Jeremy Chambers – Monitoring Officer

Outline and recommendations

The Standards Sub-Committee is asked to consider the Investigation Report prepared on behalf of the Monitoring Officer in relation to a complaint made about the conduct of a Councillor.

For the reasons set out in this report it is recommended that the Standards Sub-Committee determine that no breach of the Members' Code of Conduct was committed by the Councillor.

1. Summary

- 1.1. This report presents a summary of the complaint received about the conduct of a Councillor (the "**Subject Councillor**") in October 2022 and the outcome of the investigation into this complaint carried out on behalf of the Monitoring Officer.
- 1.2. The Investigation Report prepared on behalf of the Monitoring Officer is appended to this report.

2. Recommendations

- 2.1. To consider the contents of the Investigation Report and any representations made by the Subject Councillor and the Independent Person.
- 2.2. To find that no breach of the Members' Code of Conduct was committed by the Subject Councillor.

3. Context

- 3.1. The Council's Code of Conduct for Members (the "**Code**") sets out the principles and standards of behaviour for all members of the London Borough of Lewisham. It is designed to demonstrate the Council's commitment to the highest standards of ethical behaviour. The Code applies at all times when members act in their capacity as member or claim to do so.
- 3.2. Complaints of breach of the Code should be made in writing and are handled in

accordance with the Council's Procedure for Handling Complaints of Breach of the Member Code of Conduct (the "**Complaints Handling Procedure**").

4. Background

- 4.1. On 18 October 2022 the Council's Monitoring Officer received a completed Ethics Form from a resident.
- 4.2. The nature of the Complaint is summarised as follows. Firstly, The Complainant alleges that in an email dated 25th August 2022 the Subject Member had made an untrue accusation, namely that a member of the Bell Green Neighbourhood Forum had attempted to attack him at a Council Planning meeting and had to be physically restrained by several officers. The Planning meeting referred to was the meeting of the Strategic Planning Committee meeting on 28th April 2022. Secondly, the Complainant complained about responses submitted by the Subject Member in his consultation response to an application seeking the designation of a Neighbourhood Area and the designation of a Neighbourhood Forum – The Bell Green Neighbourhood and Forum. The responses were disclosed to the Complainant following a Freedom of Information Request. The Complainant alleged that the contents of the Subject Member's consultation response failed to treat the Bell Green Neighbourhood Forum with respect and was an example of his bullying behaviour and malicious allegations.
- 4.3. The relevant section of the Code alleged to have been breached is paragraph 2.2 sub-paragraphs 8 and 9 which requires all members to promote equality, not discriminate unlawfully against any person, treat all people with respect and promote high standards of conduct.
- 4.4. Following receipt of the Complaint and in accordance with the Complaints Handling Procedure, the Monitoring Officer consulted with the Council's Independent Person and determined that the Complaint warranted further investigation. The Monitoring Officer appointed Melanie Dawson, the Council's Deputy Monitoring Officer (the "**Investigator**"), to investigate the Complaint on the Monitoring Officer's behalf. The Investigator made enquiries of the Complainant, the Subject Member and the Council's Director of Planning, who was witness to the events referred to in the email of 25th August 2022. Each party submitted a written account of the events in question.
- 4.5. On completion of the investigation, the Investigator prepared the Investigation Report attached to this report. A copy of the Investigation Report was shared with both the Complainant and the Subject Member on 25th May 2023.
- 4.6. The Complainant's response to the Investigation Report is attached at Appendix 2 of this report. The Complainant has drawn attention to a factual inaccuracy in paragraph 6.3 of the Investigation Report. The email from the Subject Member on 25th August was not sent from his official Council email address. Despite this, the Investigator has confirmed that she is satisfied that the Subject Member was acting in his capacity as member when he sent the email. The email address used by the Subject Member bears a very close similarity with the Subject Member's official councillor email address, the email was copied to councillors and officers and sent to the Bell Green Neighbourhood Forum who would have known the Subject Member is a Councillor; and the Subject Member refers to his role as Councillor in the email.
- 4.7. The Subject Member's response to the Investigation Report is attached at Appendix 3 of this report. In response to the points raised:
 - The Subject Member queried why he was not informed of the Complainant's identity at an earlier stage - There were no exceptional reasons why the complainant's name was not disclosed.
 - The Subject Member queried why the Complainant had seen a copy of his statement and the statement of the Director of Planning – It was clear from both statements that the Complainant was the unnamed committee member referred

to in the original complaint. The Complainant was given an opportunity to respond to the version of events presented by the Subject Member and the Director of Planning.

- The Subject Member queried why his consultation response was disclosed in the Council's Freedom of Information Response even though the consultation website stated that responses would only be viewed by members of the Strategic Planning team and would not be shared with any third party – the Subject Member's response was disclosed because his response was submitted in his capacity as a Ward councillor and therefore there was no exemption available to withhold the information requested.

4.8. A copy of this report and the Investigation Report has been shared with the Independent Person. The Independent Person's comments are appended to this report at Appendix 4.

5. Investigator's Findings

5.1. In relation to the email sent by the Subject Member on 25th August 2022, the Investigator concluded that the content of the email was polite, courteous and civil, did not identify any individual by name and evidenced a desire to establish improved working relationships in future but legitimately raised concerns about the behaviour of one of its members. The Investigator concluded that the email was not disrespectful and did not bring the Bell Green Neighbourhood Forum as an entity into disrepute.

5.2. In relation to the Subject Member's consultation response, the Investigator concluded that there was nothing in the consultation response that alleged any dishonest motives and that the Subject member disagreed with the consultation proposals in a respectful way. The Investigator concluded that the Complainant's complaint reflects a difference of opinion, that the Subject Member did not fail to treat any person with respect or maintain an adherence to the Nolan Principles.

5.3. Accordingly, the Investigator concluded that in relation to both elements of the Complaint the Subject Member did not breach the Code.

5.4. It is therefore recommended that the Standards Sub-Committee find that no breach of the Code was committed by the Subject Member as alleged by the Complainant.

6. Financial implications

6.1. There are no specific financial implications arising from this report.

7. Legal implications

7.1. The promotion of the Code of Conduct is consistent with the Council's duty under Section 27 Localism Act 2011 to promote the highest standards of conduct by its members.

8. Equalities implications

8.1. There are no specific equalities implications arising from this report

9. Climate change and environmental implications

9.1. There are no specific climate change and environmental implications arising from this report.

10. Crime and Disorder implications

10.1. There are no specific crime and disorder implications arising from this report.

11. Health and wellbeing implications

- 11.1. Complaints can affect the health and wellbeing of both the complainant and the subject of the complaint. Officers have had regard to this throughout the course of the investigation.

12. Report author(s) and contact

- 12.1. For further information about this report please contact:

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Appendix:

- (1) Standards Investigation Report
- (2) Complainant's Written Response to the Investigation Report
- (3) Subject Member's Written Response to the Investigation Report
- (4) Comments of Independent Person

Appendix 2

Complainant's Written Response to the Investigating Officer's Report : 11th June 2023

PROCEDURAL IMPARTIALITY

Each person involved in Lewisham's handling of this Ethics complaint works alongside the planning service. This links them closely to the management of the OLSPN planning case, and the Director of Planning's refusal to designate the Bell Green Neighbourhood Forum.

- The Subject Member is the Chair of Strategic Planning, and chaired the OLSPN hearing. They objected, over several years, to the Bell Green Neighbourhood Forum including any part of their Perry Hill Ward. They were one of the five councillors whose objections led to the BGNF being refused designation.
- The sole witness is the Director of Planning. They failed to enforce multiple major breaches of the OLSPN permitted scheme. They refused designation of the Bell Green Neighbourhood Forum, under delegated powers. They received the Subject Member's email with false allegations, circulated against the BGNF.
- Witnesses were not asked to give a statement. Up to forty people were in the chamber at the time, so it seems surprising that nobody noticed these sensational events. The motive for not requesting a statement from a second witness is said to be financial prudence. However, given the Report's highly critical statements of the Complainant, behaviour, it is imperative that all allegations are backed up by witnesses.
- The Monitoring Officer is the Head of Law, approving both the OLSPN decisions, and the refusal to designate the BGNF. The Ethics complaint process was lodged in October 2022; repeated reminders were made at every stage, over many months, before any action was taken.
- The Investigating Officer is Senior Lawyer for Place.
- One member of Standards Sub-committee A was sitting on the Strategic Planning Committee for the OLSPN meeting. Two members of Standards Sub-committee A currently sit on Planning Committee A, one on Planning Committee B, and the final member is the Deputy Mayor, and Cabinet Member for Housing Development and Planning.

Responses to excerpts from the Investigating Officer's Report.

1 Executive Summary

In paragraph 1.1, the Report omits the Subject Member's attack on the credibility of the BGNF from the summary of the Complainant's case. The Subject Member made false allegations to discredit the

Bell Green Neighbourhood Forum in an email to fellow local politicians, the Director of Planning, and the BGNF committee.

1.7 *"..... I have concluded that there was nothing contained either in the Subject Member's email or consultation response that would place him in breach of the Code."*

1.8 *"... However, the wording used in the Subject Member's email may have been interpreted by those who were not witness to the events in question as implying that an individual had attempted to physically assault him. This was not the case. .."*

Despite the fact the Report admits that the Subject Member's allegations were untrue in every way; there was no violence or attempted violence, and no physical restraint was required. Rather than explain why spreading false allegations didn't place him in breach of the Code, the Report criticises the Complainant.

1.8 *".. the Complainant's behaviour fell far below acceptable standards"*

7 FINDINGS

"7.2 I find that, while the statements made by the Subject Member may have been misinterpreted by some recipients of the email in that there was no physical attack perpetrated or attempted and the Complainant was not physically restrained,"

The use of 'misinterpreted' is puzzling. The email's recipients were clearly misinformed by the Subject Member, whose allegations the Report states are untrue. It doesn't address the parallel allegation that the unnamed committee member had verbally attacked the local MP. The Subject Member doubles down on this allegation in responses, asking that the MP should be asked to give evidence. This is confected from an occasion the day following the Strategic Planning Committee, when the local MP was canvassing a nearby estate with their election agent, the Subject Member, who is central in their campaign structure.

The Complainant had been unable to get advice from the MP at any point during the OLSPN case, even the lack of transparency over the handling of £3m of public money, and other maladministration. The Complainant was prevented from approaching the MP on the street, and from speaking to her directly. When an MP is out door knocking to canvass, surely a resident is entitled to ask them questions? The Complainant tried to ask why there had been no advice, and how they felt about their agent bullying residents over this same case? The MP has met the Complainant many times before, so it's unlikely they felt fear unless the Subject Member had told them that the Complainant was dangerous.

7.3 *"The Complainant was distressed at a decision made by the Strategic Planning Committee and approached the head table at its conclusion. The Complainant was angry, shouting, swore at and was rude to the Subject Member. She had to be calmed down by those in attendance. The confrontation lasted for some time."*

5.4 *"On the basis that the statements obtained represent a broadly similar recollection of events, I have concluded that it was not necessary to obtain further witness statements from others in attendance."*

This is an astonishing claim, as the three statements don't agree on fundamental points. The Subject Member alleges attempted violence, and the need for physical restraint. The sole witness, the Director Planning, doesn't support either of these charges, but does say that the Complainant told the Subject Member to piss off. The Complainant's account, excluded from Report, puts this comment in a different context. They politely requested the Subject Member to move away, as it felt intrusive, and they were not part of the conversation. At about the fifth attempt, the polite request was indeed completed with a request to piss off, as it was felt to be intimidating and invading their personal space.

"I approached the chair, Cllr xxxxxxxxxxxx and the Director of Planning, to register a complaint about the committee's procedure. The meeting was held in the Council Chamber, and they were both behind the top desk. I am not sure of the distance, but given the number of people milling around, I couldn't get close to the table, and was craning my neck to have a conversation. I was extremely upset, as a number of procedural matters had been troubling.

..... After a couple of minutes, the Director of Planning came around from behind the table to continue the conversation more conveniently, seeming sympathetic to my distress. She cannot have felt that I posed any threat, or she would have not come around from behind the table to speak to me. A couple of minutes later, Cllr xxxxxxxx appeared beside us, having also come from behind the desk. He did not speak, but was listening, smiling, and standing very close, in a way that I thought intrusive and very much 'in my face'. I felt his presence was intended to mock and to intimidate, as he had nothing to contribute to the discussion. I asked Cllr Xxxxxx four times to please step away, as he was not welcome, intrusive, and was making me feel uncomfortable. At the fifth time, I pointed out that I had already asked him to go repeatedly, and stressed my point by asking him mildly to piss off. In the circumstances, after so many requests, I don't think that my wording should have been particularly surprising to him."

The Subject Member, Director of Planning and the Report each suggest that the Complainant's reaction to the committee's decision was excessive. and disproportionate. ET says they were *'subjected to quite an emotional outpouring from her.. was incredibly upset ... with Julia incredibly distressed.... Julia's reaction to the decision was quite extreme'*

The Director of Planning has put it on record that the development was grossly under-enforced by their department. Delegated powers were used to decide on enforcement levels, after Planning was first notified of breaches in July 2017. Lewisham gave the RC Archdiocese of Southwark over £3m and free land to deliver the redevelopment, but maintained no oversight or quality control, even when alerted to problems. The built scheme was in the wrong place, with the wrong roof, wrong fenestration, wrong cladding, and was 4m too high in places. No explanation has been given for Children & Young People handing over £3m immediately upfront, when the legal agreement specified payment by instalments linked to completed works. Public money should be handled transparently.

The developers challenged enforcement at a planning inquiry (where the Complainant was a Rule 6 participant), then at the High Court (where the Complainant was a party). Their case was thrown out both times. Lewisham delayed, then rushed through an application with minimal remediation at short notice, during electoral purdah, months after the expiry of the deadline for completion of all works imposed by PINS and the High Court.

The Subject Member's chairing was unprecedented. The hearing was swift, with very little discussion within the committee, and most councillors were using their smartphones. An FOI/EIR request for their Teams Chat / Whatsapp discussion was made immediately after the meeting; it was rejected with the claim that no such data was held by the council. Furthermore, the Subject Member, as chair, permitted an unregistered speaker, a supporter of the development, to speak after the objection, undermining the balance of the hearing. The hearing had every appearance of being predetermined.

7.4 "I do not find that the email sent by the Subject Member was disrespectful. The content of the email was polite, courteous and civil, did not identify any individual by name, and evidenced a desire to establish improved working relationships in future"

It is not possible to describe false accusations as polite, courteous and civil, yet alone as a way of legitimately raising concerns. Concealing the identity of the person you accuse falsely is not civil. In this case it widens the pool of suspects, making it harder to expose the lie.

7.5 "I do not find that the email sent by the Subject Member brought the Bell Green Neighbourhood Forum as an entity into disrepute, but raised legitimate concerns about the conduct of one of its members."

The BGNF was brought into disrepute through the Subject Member's false allegations about an anonymous member. Hiding their own identity made it impossible for the BGNF to confront the lie. Legitimate concerns cannot be addressed with false accusations.

7.6 "Nonetheless the manner, choice of wording and forum in which the Subject Member's legitimate concerns were raised may not with hindsight have been the most appropriate means."

What is legitimate about the Subject Member's allegations? The Report says the allegations were without foundation, and questions the Subject Member's methods. The Report is simultaneously saying that their concerns are legitimate, and that they are untrue. Surely, when a concern is untrue, it ceases to be legitimate?

Consultation response

7.7 ".....<https://consultation.lewisham.gov.uk/planning/bellgreen/>. It is expressly stated that responses would only be viewed by members of the Strategic Planning team at the Council and would not be shared with any third party."

This is misleading. The consultation information says that "Your personal information will only be viewed by members of the Strategic Planning team..." Responses are public but anonymised, with all personal information redacted.

7.8Complainant obtained a copy of the response as a result of a Freedom of Information request."

The FOI/EIR request, 15002807, asked that each councillor's comments be identified. The Council's

response was that *".....it has been recognised and accepted that information provided by elected members should not have been redacted. The consultation statement has now been unredacted with regard to naming elected members to reflect this."* The Report appears to argue that the consultation response was confidential, only revealed by an FOI, and there was therefore no intention to circulate the allegations.

Paragraph 7.9 of the Report quotes the passages of concern to the Complainant in the Subject Member's consultation response. It says that the BGNF's potential designation:

7.9 *" would risk dominating the views of residents and other stakeholders in the key area, by those of a few others with less direct interests." and "...the promotion and development of the forum to date has not been inclusive and seems to be driven by a collection of potentially conflicting interests."*

7.10 *"... the consultation response, which was not intended to be seen by anyone other than those in the Council's Strategic Planning team, I find that the Complainant's complaint reflects a difference of opinion, ..."*

See comments above at 7.8. The Subject Member's comments were already publicly available in the public consultation report; only their identity was redacted in a procedural mistake. The accusations that the Forum isn't inclusive, and that a small number of people risk dominating the agenda are extremely serious, not just a 'difference of opinion'. They are accusations, unsubstantiated, and hedged about with conditional words, circulated publicly. There isn't a single witness willing to support this account, out of up to forty people present in the room.

1. 16.3 *"... Was sent from his official email address)"*

The Subject Member was actually using xxxxxxxxxxxx@lewisham.org.uk, a personal email address, passing off as an official account. This account is used for all official work, evading the archiving and scrutiny issues of an official account. This has previously been reported, but no action has ever been taken.

The Complainant's actions in pursuing the OLSPN case has been unpopular with both Lewisham members, and officers. It exposed a systematic failure of planning procedures and enforcement, a failure to oversee the substantial capital grant's outcome, and a refusal of C&YP to explain their handling of the development money. Despite the committee's 'expediting' a resolution, there is still no end in sight of the remedial works, over a year past the High Court deadline for completion. Lewisham maintains that it is not in the public interest to examine these events. The Bell Green Neighbourhood Forum has also suffered from Lewisham's reluctance to allow residents to use their legal right to participate in planning matters, in local democracy, or to seek transparency.

Lewisham Council is held by one party, with no opposition. The politicians and officers are fused, with no checks and balances. A feeling has arisen that being questioned is an outrage, an attack, rather than a legitimate call for scrutiny.

The Subject Member's pattern of behaviour has been sustained from at least 2019, when the embryonic BGNF began work. They asked the Complainant why they were being copied into correspondence about the BGNF, as it had nothing to do with Perry Vale Ward. At every stage, they

said they didn't think it had a place in their ward. At no point have residents been consulted. The Subject Member's statement describes the Complainant as "an 'activist' well known to Council staff in Planning and other services." On the face of it this might be a fair description, but placing 'activist' within quotation marks, along with allegations of violence, implies a harsher judgement.

At no time has the Complainant attempted to attack the Subject Member, or anybody else. The allegations are untrue, as the Report confirms. Had the Subject Member named the Complainant, it would have been libellous. By making the allegations about a member of the BGNF, it brought that Amenity Society into disrepute, and blocked its designation. The Subject Member has now doubled down on their accusations, expanded the claims, and named the Complainant. These accusations are circulating within the Council.

The Complainant wishes to put to the Council that the Subject Member's actions in this are not isolated. They are part of a pattern of behaviour that is demonstrably malicious. It gives a false impression of character, motives and actions, shares it with third parties, and uses it to besmirch the Complainant, I submit that this is defamatory. I go further; it is designed to defame me, and the BGNF by extension. As such, these unlawful comments must breach the code of Conduct, as, by definition, they cannot be said to be Nolan-Principles compliant. I remind the Council that the London Borough of Lewisham Member Code of Conduct goes beyond the statutory minimum. I hope that my complaint will be heard with impartiality, and for it to be on the record in case of further attacks.

Appendix 3

Subject Member's Written Response to the Investigating Officer's Report : 11th June 2023

In respect of comments and questions I wish to make on the draft committee report and the investigation report that you have sent me:

1) I do not disagree with any of your findings as summarised in para 5 of the committee report.

However:

2) I have not been informed of the identity of the complainant until now. It seemed likely, when I was first informed by Mr Chambers of this complaint and his decision to investigate it, that it could have been made by either a current councillor, a former councillor, or Julia Webb - all active in the would-be 'Bellingham Neighbourhood Forum' and all likely to have been able to read the email sent by me and the subject of part of the complaint. Mr Chambers did not identify the complainant to me at that time and your email of 25th May is the first time the complainant has been identified to me. Could you please explain why this was, and which of the exceptional reasons (detailed in s5 of the Ethics Complaint Form) necessitated that the complainant not be identified to me?

3) This is the first time I have seen any of the contents of your report, other than text I wrote myself in response to your initial enquiry, or that was the subject of the complaint. The statement of Julia Webb dated 7th February seems to make reference in several points to the statement submitted by myself to you dated 3rd January (both 2023, both appended to your investigation report). Could you please let me know whether Ms Webb may have been shown the statement that I made to you, before submitting her own statement, and if that would have been in accordance with the process that should have been followed?

4) You state that the consultation (on the original proposal for the BGNF&A, to which I responded) requested responses with the proviso that they, and the identities of respondents, "would only be viewed by members of the Strategic Planning team at the Council and would not be shared with any third party."; and that "It is understood that the Complainant obtained a copy of the response as a result of a Freedom of Information request.". Could you please identify the FoIR concerned, and review the handling of that request to determine whether the attributed responses of myself (and I assume of others) were disclosed incorrectly, and if so recommend what the Council should do to remedy that to those harmed and ensure that similar errors are not repeated?

5) It is normally considered good practice to ensure the correct spelling and punctuation of the names of individuals mentioned in formal Council reports. You have managed to spell my surname in two different ways, just on the first page of your investigation report. I realise that it is not a name of English/UK origin, but I have that in common with several of our 54 current

councillors, and some of them may be less used to (or tolerant of) this happening to them than I am, by now. Please note also that the details included in para 2 are incorrect, possibly because they are taken from the Council website. I have been elected as a Labour & Co-operative councillor for Perry Vale ward, and several of the committee appointments listed are now incorrect.

6) I note your advice (para 1.8): "the Subject Member should in future keep in mind the impact that the language used to criticise others may have and, depending on the circumstances, place him in breach of the Code. The Subject Member and all Councillors should be reminded that any concerns about behaviour or conduct which leaves them worried about their safety or that of any other individual should be reported to the Monitoring Officer so that appropriate safeguards may be put in place on Council premises and can be reported to the police if felt appropriate.". The complainant (I now know) has been seated in the public gallery of the Council Chamber on at least two occasions of Full Council meetings, a very short distance behind the place at which I am instructed to sit by Governance officers at these meetings. Please could you ensure that there is a more effective separation or barrier between this person and myself, before this is allowed to happen again.

7) I dispute para 11 of the committee report which states that "There are no specific health and wellbeing implications arising from this report." Being subject to this process, which stems from an incident that occurred in April 2022, kept in ignorance of the identity of the person who had complained about me, and in parallel with the way I have been personally treated by Mr Chambers regarding several other unrelated matters, almost since the time of his appointment as Monitoring Officer, has certainly had a negative impact on my own health and wellbeing.

Comments of the Independent Person

Email of 25 August 2022

In his email to Bell Green Neighbourhood Forum of 25 August 2022, Councillor Paschoud sets out, among other matters, what appears to be his subjective perception of the incident which arose after the Planning Committee of 28 April 2022. In their statements provided to the Investigator, both the Complainant and the Director of Planning Emma Talbot confirm the words the Complainant addressed to Cllr Paschoud during the incident. The statements of both Councillor Paschoud and Emma Talbot support that the incident was one of some distress on the part of the Complainant and was emotionally heightened. Emma Talbot advises that a group of people formed around her due to the heightened nature of the incident.

The Investigator is not in a position to call into question Councillor Paschoud's own perception, set out in his email of 25 August 2022, of what on current evidence was an emotionally heightened incident, or conclude that that account was untrue, as alleged by the Complainant.

I therefore agree with the Investigator's conclusion that there was an unpleasant verbal confrontation involving the Complainant and Councillor Paschoud at the conclusion of the planning meeting on 28 April 2022. I also agree that the email sent by Councillor Paschoud on 25 August 2022 was not disrespectful to the Bell Green Neighbourhood Forum, nor did it bring it into disrepute, for the reasons set out above in addition to the reasons set out in paragraph 7.4 of the Investigation Report.

In relation to the email, I would echo the Investigator's reminder to the Councillor around the choice of language in future communications.

Consultation Response

I concur with the Investigator's conclusion that there is nothing in Councillor Paschoud's planning consultation response which suggests dishonest motives on the part of members of the Bell Green Neighbourhood Forum or fails to treat the Forum with respect.

In conclusion, I agree with the Investigation's finding of no breach of the Code.

Wendy Innes
Independent Person
12 June 2023