

London Borough of Islington

Standards Committee – 11th May 2011

Minutes of the meeting of the Standards Committee held at the Town Hall, Upper Street, N1 2UD on 11th May 2011.

PRESENT: Arvinda Gohill, Jane McNeill, Godfrey Stadlen and Alison Vydulinska

Councillors George Allan and Kate Groucutt

Godfrey Stadlen in the Chair

58. APOLOGIES FOR ABSENCE (Item 1)

Apologies for absence were received from Diana Gibbs.

59. DECLARATION OF SUBSTITUTE MEMBERS (Item 2)

None.

60. DECLARATIONS OF INTEREST (Item 3)

None.

61. MINUTES OF THE PREVIOUS MEETING (Item 4)

RESOLVED:

That the minutes of the previous meeting held on 26th April 2011 be confirmed as a correct record and the Chair be authorised to sign them.

62. COMPLAINT AGAINST COUNCILLOR GARY DOOLAN – PRE-HEARING SUMMARY REPORT (item 5)

The Monitoring Officer gave a brief introduction to the procedure and hearing.

The Investigating Officer introduced her report and called the following three witnesses

Peter Roach, the complainant

Doug Goldring

Councillor Gary Doolan.

In order for the Members Code of Conduct to be engaged it was necessary to establish whether Councillor Doolan was acting, or claiming to act or giving the impression that he was acting as a representative of the Council when he sent the offending emails on 12 November 2009. Councillor Doolan is the Branch Secretary in the GMB Trade Union and represents a number of staff in Homes for Islington (HFI) including caretakers. Councillor Doolan contended that he was acting as a trade union representative when pursuing the issue of the damage to the tree and not as a councillor.

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FINDINGS OF FACT

Councillor Doolan had worked for Islington Council for about 26 years prior to being transferred to the employment of the Council's Arms Length Management organisation Homes for Islington in about 2004. His substantive role is as a residential caretaker.

Councillor Doolan was elected as a councillor in May 2006 and received training on the Members Code of Conduct on 15 May 2010. He gave a written undertaking to observe the Code on 15 May 2010.

Councillor Doolan is the Branch Secretary of the GMB Trade Union and was appointed to this role in about 1994.

During the period before the emails of 12 November 2009, Councillor Doolan was in dispute with HFI over the alleged use of non-regulation chainsaws in the Holland Walk Area Office and as a result of union representations (including some from Councillor Doolan), these were withdrawn. The matter had been referred to HFI's Health and Safety Committee.

On or about the first week in November 2009 it came to Councillor Doolan's attention that a tree based within a garden of 11 Rona Walk on the Marquess Estate, now known as the New River Green Estate, had been cut back to a significant extent.

During the course of conversations with two of Councillor Doolan's member caretakers, Councillor Doolan came to the conclusion that the complainant and his colleague had been responsible for the damage, using the chainsaws previously complained about.

On 12 November 2009, Councillor Doolan attempted to contact Greenspace officers at the Council about this matter and spoke to one of the Directorate's PAs. She contacted the relevant officers by email on 12 November 2009 setting out the nature of his enquiry and referring to him as a Councillor. Councillor Doolan was copied into this email.

Later on the same day (12 November 2009), Councillor Doolan sent three emails to the Greenspace officers. One of the emails included the following words:

"The two officers responsible for the butchery of the tree is [.....] and [the complainant]."

Another email stated :

"I am pleased to hear that whoever was responsible for this will be prosecuted, no matter who they are or what organisation they represent..... I would like to be updated on this case as I intend it to be pursued to the bitter end."

Councillor Doolan used the title of councillor in the emails.

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An investigation as to who was responsible for the damage to the tree was carried out by a Head of Service within HFI and the outcome of that investigation was sent to the Chief Executive of HFI, Eamon McGoldrick on 23 November 2009.

The HFI investigation concluded that there was no evidence to support Councillor Doolan's allegation that the complainant and his colleague were responsible, either directly or indirectly, for the damage to the tree. This was accepted by Councillor Doolan.

On 7 December 2009 Eamon McGoldrick sent an email to Louise Round, Islington Council's Monitoring Officer, enclosing the internal investigation report and asked her to advise him on whether any action should be taken under the Code.

Louise Round met with the Labour Group Whip, Councillor Kelly and Councillor Doolan on 5 February 2010 to discuss the matter.

As a result of that meeting Councillor Doolan wrote directly to the complainant on 17 February 2010 apologising for his errors.

On 9 September 2010 following a prolonged period of absence on sick leave, the complainant sent an email to the Monitoring Officer stating that he was not satisfied with the outcome and asked that the matter be referred to the Standards Committee.

The Standards Committee commissioned its own investigation, into whether there had been a breach of the Code. This was carried out by a legal officer of the Council. At the Standards Committee hearing on 11 May 2011, the investigating officer presented her report and called as witnesses the complainant and HFI's Director of Operations, Councillor Doolan attended and took part in the proceedings.

The Investigating Officer and witnesses left the room at 7.18pm, while the Committee deliberated and returned at 8.05pm.

DECISION

The Committee reached the following conclusions:

- (1) By sending or allowing his assistant to send three emails signed "Councillor Gary Doolan" Mr Doolan gave the impression that he was acting as an authorised representative of the Council. Consequently, although the Committee accepted the investigating officer's finding that Councillor Doolan had not intended to give that impression, the Members Code of Conduct did indeed apply to his actions in this case.
- (2) (By a majority vote of 4-2) In making a potentially damaging accusation against the complainant without a sufficient basis and without qualifying the accusation in any way, and emailing the accusation to a number of third parties within Islington Council, Councillor Doolan breached paragraph 3(1) of the Members Code of Conduct in that he did not treat the complainant with respect.
- (3) No sanctions should be imposed on Councillor Doolan in the light of the mitigating circumstances set out below.

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(4) It is advisable for all members to take extreme care in keeping their councillor and any other roles entirely separate so as to avoid any confusion as to which capacity they are acting in.

(5) The Council should as far as possible provide councillors with technical and practical support to help them in maintaining this separation.

REASONS FOR THE DECISION

Is the Code engaged?

Paragraph 2 of the Code states that the Code applies whenever a councillor:

“acts, claims to act or gives the impression of acting as a representative of the authority”

The Committee considered that any reasonable person receiving emails signed using a councillor’s title would assume that the person sending them was acting as a councillor and therefore that Councillor Doolan “gave the impression” that he was acting as a councillor when he sent the emails on 12 November 2009. The Committee, while accepting Councillor Doolan’s assurance that this was not intentional considered that that was not relevant to the question of whether the Code was engaged. It also considered that councillors must accept responsibility for what goes out under their name and with their authority.

Breach of paragraph 3(1) of the Code

In her presentation, the investigating officer advised the Committee that, while it is now accepted by all parties that the complainant was not responsible for damaging the tree, it was reasonable at the time, in the light of information which he had received from two of his members employed on the estate and of the fact that the complainant had been working on cutting back foliage during the relevant weekend, for Councillor Doolan to form the view that the complainant and a colleague had been responsible for the damage. The Committee agreed with this finding.

That being said, the Committee (by a majority of 4 to 2) did not consider that Councillor Doolan had dealt with his concerns appropriately. It considered that the language he had used had been intemperate (particularly the description of the tree having been “butchered” and references to prosecution) and that given that Councillor Doolan had been relying on what third parties had told him (third parties who had not themselves claimed to have seen the tree being damaged), rather than on what he knew personally to be true, he ought not to have made an unqualified accusation or circulated it in the way that he did.

The Committee considered that it was not appropriate for the allegations to have been sent to Council officers as they were not responsible for the health and safety matters which Councillor Doolan had indicated were concerning him.

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The Committee took into account the right to freedom of expression enshrined in Article 10 of the European Convention on Human Rights and noted that this right can only be curtailed where it is necessary to do so to protect the rights and freedoms of others. They considered that in this case the protection of the complainant's rights, especially bearing in mind his relatively junior status, made it reasonable to expect Councillor Doolan to constrain the manner in which he expressed himself.

MITIGATING CIRCUMSTANCES

The following mitigating factors were taken into account in deciding that no sanctions be applied to Councillor Doolan:

(1) The briefing sessions provided to Members on updates to the Code of Conduct took place after this matter occurred and Councillor Doolan's original briefing took place when he was first elected in May 2006, some 3 years prior to the actions complained of.

(2) Councillor Doolan's actions were motivated by his genuine concern about the possible threat posed for the health and safety of his members arising from any untrained or unauthorised use of cutting equipment, and by frustration arising from his earlier exchanges with management. (The Committee's acceptance of this as a mitigating factor is entirely without prejudice to the merits of those exchanges, about which the Committee formed no view).

(3) As soon as Councillor Doolan had realised that the use of the term "Councillor" had led people to believe he was acting in that capacity rather than as a union representative, he corrected this in an email to a manager in Homes for Islington

(4) Councillor Doolan had sent a letter of apology to the complainant. The complainant had expressed the view that this was inadequate because in his view it sought to attribute the blame elsewhere and had a number of grammatical and spelling errors. The Committee accepted that the apology was only partial but noted that Councillor Doolan suffers from dyslexia and that the grammatical and spelling errors in the apology should therefore not detract from it. The Committee did not consider that any useful purpose would be served by requiring a further apology to be given.

(5) Nearly 1½ years had elapsed since this matter had first occurred.

The meeting, which started at 5.55pm, ended at 8.11pm.

CHAIR

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