

SLOUGH BOROUGH COUNCIL

REPORT OF AN INVESTIGATION UNDER SECTION 66 OF THE LOCAL GOVERNMENT ACT 2000 AND REGULATION 5 OF THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) REGULATIONS 2003 (AS AMENDED) INTO A COMPLAINT FROM (FORMER) COUNCILLOR DAVID MACISAAC CONCERNING THE ALLEGED CONDUCT OF COUNCILLORS SHAFIQ CHAUDHRY, PERVEZ CHOUDHRY, SUKHJIT DHALIWAL, MOHAMMED RASIB AND PAUL SOHAL.

GRAHAM WHITE, INTERIM HEAD OF LEGAL AND DEPUTY MONITORING OFFICER APPOINTED AS INVESTIGATION OFFICER, BY KEVIN GORDON, MONITORING OFFICER

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1. Introduction

- 1.1 Former Councillor David Maclsaac (DM) of Slough Borough Council (SBC) made a written complaint, via email, to the Monitoring Officer of SBC. The complaint is dated 24 February 2011. (Document 1)
- 1.2 In summary, DM alleged that at the meeting of the Licensing Committee held on 23 February 2011, as a result of lobbying from the Slough Taxi Federation, the Subject Members were predetermined when they voted. They voted, it is alleged, against Officer advice, referring for consultation, the proposed amendments to the Council's Policy on convictions and cautions used when determining the grant renewal, suspension or revocation of Hackney Carriage and Private Hire drivers or operators licenses, for consultation. The amendments were proposed to more accurately reflect current practice and procedures which were in line with nationally accepted legislation and case law and were viewed by the Officers as administration changes only.
- 1.3 On 28 March 2011, the Standards (Assessment) Sub-Committee considered the complaint of DM and decided to refer the complaint to the Monitoring Officer for investigation. The Sub-Committee identified paragraph 5 of the Local Code of Conduct, 'Bringing an Office or Authority into Disrepute' as applying to the alleged conduct.
- 1.4 The decision notice in respect of DM's complaint can be found at Document 2.

2. The Process

- 2.1 As part of the investigation, interviews were carried out with the following persons present at the Committee meeting and a witness statement recorded for each:
 - a) Councillor David Maclsaac (DM) - Complainant
 - b) Councillor Roger Davis (RD) – Chair
 - c) Councillor Mohammed Rasib (MR) - Defendant
 - d) Councillor Shafiq Chaudhry (SC) - Defendant
 - e) Councillor Pervez Choudhry (PC) - Defendant
 - f) Councillor Sukhjit Dhaliwal (SD) - Defendant
 - g) Councillor Paul Sohal (PS) - Defendant
 - h) Michael Sims (MS) - Licensing Manager
 - i) Shabana Kauser (SK) - Senior Democratic Services Officer
 - j) Ann Osbourne (AO) - Lawyer
- 2.2 All witness statements are detailed at Documents 3 – 12 of the report.

- 2.3 All witness statements have been formally agreed by the witnesses via email notification.
- 2.4 Witness statements were not taken from Councillor Dodds, who left the meeting part way through the applicable agenda item due to sickness, or Councillor Long, who was unable to recall the meeting.
- 2.5 Former Councillor Shine was written to with regard to the investigation however failed to respond. This was not been followed up as sufficient information was presented by the above witnesses, to allow for conclusions to be drawn.

3. Statutory Framework and Common Law

- 3.1 The Council adopted its current Local Code of Conduct for Members (“the Code”) on 21st May 2007.
- 3.2 All Members who are elected to office must sign a “Declaration of Acceptance of Office” before they can officially act as a Councillor. In that declaration Members undertake to observe the Code as to the conduct which is expected of Members of the Council.
- 3.3 The Local Code of Conduct for Members is detailed at Part 5.1 of SBC’s Constitution. Section 5 of Part 5.1 states “[Members] must not conduct yourself in a manner which could reasonably be required as bringing your office or local authority into disrepute”. Predetermination with regard to any agenda item of a Committee Meeting would constitute a breach of this section.
- 3.4 Prior to the enactment of the Localism Bill, bias and predetermination continue to be governed by case law.
- 3.5 In the case of R [Lewis] v Redcar & Cleveland Borough Council and Permission Homes Teeside Ltd¹ the Court of Appeal gave details as to what constitutes an “apparent predetermination”. In the decision making process, unlawful predetermination occurs when a public authority decision maker closes their mind to any outcome but the one which they have predetermined. This is distinct from someone who is lawfully predisposed, which requires the individual to remain, at all times, open to other outcomes. Lord Justice Pill stated:

“62. ... When taking a decision Councillors must have regard to material considerations and only to material considerations, and to give fair consideration to points raised, whether in an Officer’s report to them or in representations made to them at a meeting of the Planning Committee. Sufficient attention to the contents of the proposal, which on occasions will involve consideration of detail, must be given. They

¹ 2008] EWCA Civ 746

are not, however, required to cast aside views on planning policy they will have formed when seeking election or when acting as Councillors.

63. ...It is common ground that in the case of some applications they are likely to have, and are entitled to have, a disposition in favour of granting permission. It is possible to infer a closed mind, or the real risk a mind was closed, from the circumstances and evidence. **Given the role of Councillors, clear pointers are, in my view, required if that state of mind is to be held to have become a closed, or apparently closed, mind at the time of decision.**"

He continues by quoting Woolf J in the case *R v Amber Valley District Council ex parte Jackson*² who stated that "...It is therefore likely that any Labour member of the planning committee will be more ready to grant planning permission than he would be if the Labour group had remained adverse to the development. But does this have the effect of disqualifying the Labour majority from considering the planning application? It would be a surprising result if it did since in the case of a development of this sort, I would have thought that it was almost inevitable, now that party politics play so large a part in local government that the majority group on a council would decide on the party line in respect of the proposal."

- 3.6 It should be noted that it is not possible to draw the conclusion that the decision maker has a closed mind simply because he or she had previously indicated the view which they may take, but rather there must be clear evidence that the decision makers mind was closed.

4. Information about the Licensing Committee meeting of 23 February 2011.

- 4.1 Item three of the meeting agenda presented to the Committee the revised Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing. The previous policy had been approved by the Licensing Committee on 24 January 2008. The Report was presented by MS. The purpose of the report was to note the minor amendments and reformatting of the revised policy ...following a draft document produced by the Office of Local Government Regulation, entitled 'Taxi and PHV Licensing Criminal Convictions Policy. The Committee was requested to approve the revised policy document in its new format, to be used when determining the grant, renewal, supervision or revocation of Hackney Carriage Drivers' license, a Private Hire Driver's license or Operations License.
- 4.2 Upon the completion of the presentation by the Licensing Manager, Mr. Badial who represented the Slough Taxi Federation and who, had given prior notice of his intent to speak, was invited to address the Committee. Mr Badial requested that consultation be carried out with members of the trade, to ascertain their views on the revision of the policy document.

² [1984] 3 All ER 501, [1985] 1 WLR 298, 50 P & CR 136

- 4.3 The minutes of the meeting detail the following:
- 4.4 “The Licensing Manager highlighted that the minor revisions and additions to the policy document related to legislation that had to be taken into account when determining applications and that in practice Members serving on a Licensing Sub-Committee already took these into account. It was reiterated that the policy and guidance booklet was being updated to reflect current working practices and that no substantial policy changes were being proposed within the policy and guidance booklet. The purpose of the consultation was queried, as it was highlighted that the amendments being proposed related to recent case law and legislation that had to be taken into account by Members of the Licensing Sub-Committee when determining an application.
- 4.5 In the ensuing discussion, several Members expressed concern regarding the proposal that a consultation should be implemented due to the fact that the revisions to the document were relating to legislation and the fact that the document had been tested out at the Magistrate’s Court and been viewed as a good and reliable document. Members were concerned that should a consultation be carried out and comments received, this could not change the inclusion of information within the document that related to national legislation and case law.
- 4.6 However, a number of Members stated that consultation with members of the private hire and hackney carriage trade would highlight those areas that were being proposed for inclusion within the document and alleviate any concerns that individuals who would be affected by the amendments may have.
- 4.7 Several members of the Committee highlighted that the purpose of the document was to serve to protect members of the public in Slough and reiterated that consultation on the document would not be in the best interests of the public.
- 4.8 **Resolved** - That a consultation be carried out with all private hire and hackney carriage licensed drivers with regard to the revised policy document.”

5 Report Follow Up – Licensing Committee meeting 2 June 2011

- 5.1 Having completed the consultation, the report returned to the Licensing Committee in June. Councillors RD, SC, PC JL and MR in addition to a number of newly elected Councillors, were requested to reconsider the amended Policy, which was presented by Rachel Rumney, Senior Licensing Manager. The minutes of the meeting state that the amended Policy was approved by all Members after having been presented the amended report again by Officers. No questions were raised with regard to the Policy. It was minuted that “A Member expressed disappointment with regard to the poor response that had been received during the consultation period, given that the matter had

been adjourned from the last meeting in order for the consultation to be carried out.”

6 Material Findings – Unlawful Predetermination

- 6.1 DM claims that the five Councillors who voted in favour of consultation had “got together to vote a consultation through to win support from [the] Taxi Federation” and did so despite having “no plausible reasons” for their decision. DM believes that the accused attended the meeting having predetermined their decision to vote for consultation as lobbied by the Taxi Federation. He states the Members “appear[ed] to be smiling and nodding at the Taxi Federation representative when they spoke”. MS noted that Mr Badial, representative of the Taxi Federation appeared to be “uncomfortable, as though he had been encouraged to attend and speak at the meeting by someone else”. RD also supports DM and has stated that “I was of the impression that those voting in favour of consultation had come to the meeting having already made up their minds that they would do so”.
- 6.2 SD, SC, MR and PS have all stated that they had not been lobbied prior to the meeting in question and were unaware of anything that would be raised as an issue. RD informed that “I was not conscious of anything on the agenda that may have provoked any form of lobbying for the federation”. SK also reported that she was not aware that this was to be a controversial issue and reiterated that all Members were informed by MS that consultation was unnecessary as additions reflected legislation and case law only”. She noted that MS was questioned as to whether the Policy was standard practice for Local Authorities (LAs). MS told all Committee Members that LAs were entitled to adopt their own version of the Policy; however this Policy had been upheld by the Magistrates Court and implemented since 2008. SK confirmed that the Committee was informed that consultation had previously been carried out with regard to the whole Policy and the additions to be approved were clarifications only. It was noted that the debate surrounding the issue of consultation became somewhat heated as a result of which, SK requested that all comments be made through the Chair.
- 6.3 There is no disputing that MS emphasised to the Committee that amendments made to the Policy reflected national requirements and were already utilised by Officers and Members.
- 6.4 All of the accused dispute attending the meeting having predetermined that they would, with absolute certainty, vote for consultation. Councillor Rasib (MR) specifically mentions that he “entered the meeting with the intention of being open minded”. SC notes that he has “been a Cabinet Member for three years” and does his “best to take the role seriously and act in a responsible manner at all times”. He also disputes that he was politically motivated to vote for consultation and states that “I was not fighting for votes in the election

and so had no intention of voting for consultation in order to encourage members of the electorate to vote for myself". Finally, PC was of the opinion that the Committee is not politically motivated as it performs a quasi-judicial function and there is no political whip.

- 6.5 It was stated by a number of the Members, including RD that, former Councillor Shine (PS), a BILLD Member, despite having voted in favour of agreeing the Policy, had initially voiced the opinion that consultation should be sought. RD stated that "I believe Councillor Shine initially requested consultation, although he changed his mind at the time the vote was carried out".
- 6.6 Despite having been happy with the Policy, MR stated that "I aimed to take into consideration the interests of both the Council and its constituents". He concluded to vote for consultation as he thought it appropriate that consultation take place with members of the trade prior to the amended policy being agreed. PC provided no detailed reason as to why consultation should be carried out other than that "[t]here is an established principle in the Committee that before any changes are made to licensing policy, relevant parties are consulted."
- 6.7 SD was of the opinion that some confusion had arisen with regard to the report due to the information provided by MS. She states "[i]nitially I felt that the Officer presenting the amended Policy did not do so as clearly as could have been done...I attempted to act as mediator between the Members and the Officer...However I did not receive the clear response I had expected and began to question my own understanding of the modified Policy". Consequently SD informed that she decided to vote for consultation as she believed that decision would minimise any risk that may have occurred had the Policy simply been agreed.
- 6.8 A number of Members have stated that they were informed by MS that nothing would be lost, other than a time period of four weeks, if consultation was to be carried out. PC comments that, the Committee was informed that no harm would occur as a result of consultation. PS noted that he questioned MS "with regard to whether there would be any financial implications as a result of pending the decision of the report for a month or so to enable consultation to be carried out" and was informed that "this was not to be the case and therefore could not see any disadvantage in going ahead with consultation".
- 6.9 MS informed that in response to the Committees decision "1000 consultation letters were sent out. Only one response was received..." Having completed the consultation the report returned to the Licensing Committee on 2nd June 2011. All members agreed to adopt the amended Policy with no questions being raised. PS stated that he was particularly disappointed with the poor response to consultation and "apologised to the Committee for having wasted Officer time".

7 Reasoning – Unlawful Predetermination

- 7.1 On the balance of the evidence, it can not be concluded that the accused Members attended the meeting having predetermined how they would vote.
- 7.1.1 No material evidence is available of conduct at the Committee Meeting which clearly demonstrates that any of the accused had closed their mind to any result other than the need for consultation.
- 7.1.2 Despite the suggestion that said Members were voting in order to win votes in the following local elections which took place on 5th May 2011, SC was not participating in the election and so was unlikely to have been voting with this intention. Little evidence had been produced that Members were any more politically motivated than would normally be expected from elected policy makers.
- 7.1.3 SD noted that had the amended report been better explained she may have voted differently.
- 7.1.4 PS' apology prompted by the extremely low response to consultation suggests sincere reasoning for having voted for consultation.
- 7.1.5 SC was not required to participate in any local election in 2011 and was therefore unlikely to have been politically motivated when voting with regard to this matter.

8. Conclusion

- 8.1 The investigation has given rise to no substantial or independent evidence which can demonstrate the Committee Members in question attended the Licensing Meeting of 23 February 2011 having unlawfully predetermined that they would be voting for public consultation to be carried out.

9. In summary I conclude that

- 9.1 No breach of Section 5 of Part 5.1, which states “[Members] must not conduct [themselves] in a manner which could reasonably be required as bringing your office or local authority into disrepute” has been found.

10. Recommendation

- 10.1 It is recommended that the complaint be dismissed and no further action be taken.

Date: 05 December 2011

Graham White

Interim Head of Legal

Standards Investigation Officer,

For and on behalf of the Monitoring Officer

11. List of Documents Annexed to the Report

- a. Complaint of Former Councillor MacIsaac dated 24 February 2011
- b. Decision Notice 2011/SBC27 dated 28 March 2011
- c. Witness statement of Former Councillor MacIsaac
- d. Witness statement of Councillor Davis
- e. Witness statement of Councillor Rasib
- f. Witness statement of Councillor S Chaudhry
- g. Witness statement of Councillor P Choudhry
- h. Witness statement of Councillor S Dhaliwal
- i. Witness statement of Councillor Sohal
- j. Witness statement of Michael Sims, Licensing Manager
- k. Witness statement of Shabana Kauser, Senior Democratic Services Officer
- l. Witness statement of Ann Osbourne, Lawyer

DOCUMENT ONE

From: David MacIsaac [david.macisaac@btinternet.com]

Sent: 24 February 2011 20:54

To: Memoli Maria

Cc: Cook June

Subject: Licene Committee Standards complaint

On committee on 23rd Feb, Officers presented a report on amending licence policy for convictions and cautions to meet National Guidelines. The officers pointed out that nothing in document was different from what we did already and no need to consult Trade as it was legal requirements. Despite 5 Councillors were ignoring all the arguments and insisting it went for consultation with the trade and appear to be smiling and nodding at the Taxi Federation representative when they spoke. In my view they were doing this because of some pre arranged agreement with the representative and I made that point at committee, particularly as it is election time coming up and seem to be lobbying for votes from his members.

They gave no plausible reasons for the consultation despite being challenged by officers and the other 4 councillors and instead just voted it through.

The Councillors voting it through were

Councillor Sohal

Councilor Suki Daliwal

Councillor Rasib

Councillor Shafiq Chaudry

Councillor Pervez Choudry

The other 4 Councillors on the Committee were

Myself

Councillor Julia Long

Councillor Pat Shine

Councillor Roger Davies who voted against.

We all thought the same thing as taxi officers presenting that these 5 Councillors had got together to vote a consultation through to win support from Taxi Federation

While the others have no faith in Standards investigating I have decided to put my complaint forward. If nothing else awareness that Councillors like myself are willing to complain about it they may feel uncomfortable doing it again. Certainly if it is investigated you will see there was no legitimate reason to vote for consultation with trade and that the 5 gave no plausible arguments why they were voting that way.

SLOUGH BOROUGH COUNCIL
STANDARDS (ASSESSMENT) SUB-COMMITTEE

DECISION NOTICE

Reference: 2011/SBC27

1. Complaint

On 28th March 2011 the Standards Assessment Sub-Committee of this Council considered a complaint from Councillor David Maclsaac concerning the alleged conduct of Cllrs Shafiq Chaudhry, Pervez Choudhry, Sukhjit Dhaliwal, Mohammed Rasib and Paul Sohal, Members of this Authority.

A general summary of the complaint is set out below:

That, at the meeting of the Licensing Committee meeting held on 23rd February 2011, as a result of lobbying from the Taxi Federation, the Subject Members were predetermined when they voted, against Officer advice, to refer for consultation proposed amendments to the Council's Policy on convictions and cautions used when determining the grant renewal, suspension or revocation of Hackney Carriage and Private Hire drivers or operators licences. The amendments were proposed to more accurately reflect current practice and procedures which were in line with nationally accepted legislation and case law and were viewed by the Officers as administrative changes.

2. Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Assessment Sub-Committee of the Standards Committee decided to refer the allegation to the Monitoring Officer for investigation.

I identify below the paragraph of the Local Code of Conduct which may apply to the alleged conduct:-

Paragraph 5 - bringing an office or authority into disrepute.

The investigator will determine which paragraph(s) of the Code are relevant during the course of the investigation.

3. What happens now?

Please see the attached guide on the investigations process.

4. Terms of Reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000 which now provides for the local assessment of new complaints that members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of authority members and requirements for dealing with this.

The regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committee) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

5. Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible by contacting Shabana Kauser, Senior Democratic Services Officer on (01753) 875013 or by e-mail at shabana.kauser@slough.gov.uk.

Signed:

Maria Memoli, Monitoring Officer for and on behalf of the Sub-Committee

Date: 28th March 2011

DOCUMENT THREE

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by (former) Councillor Maclsaac

I attended the Licensing Committee meeting on 24 February 2011 in my capacity as Councillor and Committee Member. I can confirm that I had not been lobbied prior to the meeting; Members were well aware that I did not agree with lobbying.

I had no concerns with agenda item three, 'Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing' and expected it to be agreed by the Committee fairly quickly. I could see no reason to suggest that consultation was necessary, particularly as amendments reflected National Guidance.

The report was presented by Michael Sims, Licensing Manager, who stated that the amendments were straightforward. I recall that Mr Badial of Slough Taxi Federation requested to speak with regard to the item, which surprised me as I could see no reason why this particular report required any discussion. Despite being informed by both the Chair and Michael Sims, that it was unnecessary, Mr Badial insisted that consultation should be carried out.

Councillor P Choudhry confirmed that he fully supported the request for consultation. In my opinion he gave no logical reason for this request. Councillor Sohal confirmed that he too was of the opinion that full consultation was necessary, which was followed by the expressed support of Councillors Dhaliwal, Rasib and S Chaudhry, all of whom looked towards Mr Badial and smiled on a number of occasions.

I informed the Committee, that in my opinion, public consultation was pointless and was only being requested to impress the Taxi Federation before the election. I commented that we may as well vote on the matter as it was apparent early on that these Members would be voting for consultation. The vote went ahead with five members voting in favour of consultation and four against. I made it clear that I was of the opinion that this was nothing but a waste of money which would have to be spent as a result of the completely unnecessary consultation. All Members had been informed by both the Chair and Officers that amendments to the Policy had been standard practice for some time and merely reflected national Guidelines. In my opinion the vote for Consultation had been predetermined, which is why I have raised this complaint.

At the end of the meeting I raised my concerns again with the Chair and Councillor Long, who agreed that it was a shame that Councillor Dodds had to leave during the meeting, as the outcome may well have been different.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Davis

I attended the meeting of the Licensing Committee on 23 February 2011, in my capacity as Committee Chair. I can confirm that no one had approached me prior to the meeting with any intention to lobby me.

Michael Sims, Licensing Officer, provided the Committee with an update regarding the revision of the Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing, item three of the agenda. Members were informed that all amendments to the Policy were for clarification purposes only and simply reflected practices as they had been for some time. I invited Mr Badial, of the Slough Taxi Federation, to speak. Mr Badial stated that he was not happy that amendments to the Policy had been made without prior public consultation and requested that consultation go ahead before the changes be agreed. I was surprised that Mr Badial had attended the meeting and raised this as a concern. I expected that the amendments, which clarified current practices, would sail through.

I believe Councillor Shrine initially requested consultation, although he changed his mind at the time the vote was carried out and voted in favour of the policy being approved by the Committee. Councillors Long, Dodds, Maclsaac and myself all spoke in favour of approving the amended Policy, whilst all other Committee Members spoke in favour of consultation. There was an obvious split of opinion from an early stage in the meeting. I was of the impression that those voting in favour of consultation had come to the meeting having already made up their minds that they would do so. Unfortunately, some time before the vote, Councillor Dodds was forced to leave the meeting due to sickness.

All Members were informed by Michael Sims that consultation was unnecessary as the amendments implemented no major change but rather confirmed practices that had been utilised for some time. Members were aware that consultation, which would require thousands of letters to be sent out, would be very costly to the Council and was unnecessary and disproportionate for the changes that had been made to the Policy.

The report returned to the Licensing Committee on 2 June 2011 and was approved by the Committee without any hesitation, as I had expected would be the case at the first meeting. No issues at all were raised and no one from the Taxi Federation attended the meeting.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Rasib

I confirm that I attended the Licensing Committee meeting of 23 February 2011 in my capacity as Committee Member. I had not met with anyone prior to the meeting to discuss any matters on the agenda and attended expecting it to be a short meeting.

Having been presented with item three on the agenda, 'Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing', I was of the opinion that the Policy was worthy of approval however, prior to this, consultation should be carried out. By suggesting this, I aimed to take into consideration the interests of both the Council and the constituents. I entered the meeting with the intention of being open minded.

I am unable to recall whether or not someone from the Taxi Federation spoke, however, I believe that two or three representatives did present their case for consultation, I am unable to recall who.

All Members were of the opinion that the amended Policy was a very well written document and it should be approved, however a number of Members, myself included, thought it appropriate that consultation take place with members of the trade prior to the amended Policy being agreed. I suggested that consultation should take place first and then approval be given. Councillor Shine also spoke in favour of this proposal, as did Councillor P Chaudhry.

After some period of debate, Members voted in favour of consultation. I was of the opinion that nothing, other than a period of four weeks, would be lost as a result of the consultation and it would ensure that members of the trade also agreed with the revised Policy.

The Policy was quickly approved by the Committee when it was presented again in June.

I would suggest that (former) Councillor Maclsaac had a tendency to react in a negative manner when a number of the Asian Members voted together. Although I have a great regard for (former) Councillor Maclsaac, it does seem that he is unable to accept that others may speak against his personal opinions.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Shafiq Chaudhry

I confirm I attended the Licensing Committee of 23 February 2011. I had not been lobbied with regard to this matter, or discussed it specifically with Michael Sims, Licensing Manager, prior to the meeting. The report was presented to the Committee by Michael Sims, after which the representative present from the Slough Taxi Federation had the opportunity to present his case.

I was of the opinion that if consultation had not taken place, the trade was likely to have been unhappy. I was in favour of the Policy, however wanted to ensure that the opinion of the trade was taken into consideration. I was also concerned that the amendments would affect drivers of private hire vehicles in addition to the Hackney Carriages and thought that it was important that all drivers were made aware of the amendments. That is why I came to the conclusion that I did and voted in favour of consultation.

I have been a Cabinet Commissioner for 3 years and I do my best to take the role seriously and act in a responsible manner at all times. Please also be aware that in 2011, I was not fighting for votes in the election and so had no intention of voting for consultation in order to encourage members of the electorate to vote for myself.

In addition, I had, on many occasions offered to give Councillor Maclsaac a lift home but not long before this particular meeting he declined my offer stating that his wife was coming to collect him. He went on to state that even if his wife had not been giving him a lift, he wouldn't have accepted a lift from me anyway. I was particularly offended by this and was well aware that he did not like me, although I am unsure why.

I am also upset by this complaint and that it has been alleged that I have partaken in some wrong doing. Given my position within the Council I would not wish to do anything which may undermine my credibility.

I do not recall being present at the time that the report returned to the Committee in June.

Standards Investigation into complaint by (former) Councillor MacIsaac

Statement by Councillor Pervez Choudhry

It is noted that the complaint is made against five members of the Committee who are all Asian. Although I am not suggesting that this complaint is inspired by racism, the complainant does have history in that regard.(i.e. complaints of racist attitude).

Members of the Licensing Committee are aware that the deliberations of the Committee are not politically motivated as the Committee performs quasi-judicial functions. There is no political whip and members go into the Committee with an open mind, independent of any body's advice including the Slough Borough Council Officers and determine the issues as they feel to be correct as per training received.

There is an established principle in the Committee that before any changes are made to licensing policy, relevant parties are consulted. On this occasion the trade associations were not consulted. There is no point in having a principle if it is not followed.

I do not recall whether it was the Taxi Federation or the Private Hire Association which sought consultation but it made no difference to me, the important element was that the principle should be followed.

Officer reported to the committee that he intentionally did not consult the trade as is his opinion Officers, there was no need for consultation as the changes were more about legality than discretion but I still concluded that it was necessary for us to go through the consultation process.

I was aware that the consultation may cause some delay to implementation of the revised policy and whilst that may cause some difficulties, but on my questioning I was informed that there was no history of any harm to public. As the legal principles were already being applied by courts and were applicable since some time, but Licensing Department did adopt those legal principles due to one reason or other but no real harm was done in mean time.

In view of above I made my decision at the meeting on the basis that regardless of what the policy amendments were, there was no historical evidence of danger to public and it was important to maintain the integrity of the process of consultation and I voted accordingly.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Dhaliwal

I attended the Licensing Committee meeting of 23rd February 2011 in my capacity as Committee Member. I had not been lobbied prior to the meeting and was unaware that anyone from the Slough Taxi Federation would be present at the meeting. I was not conscious of anything on the agenda that may have provoked any form of lobbying by the federation.

The report was presented by Michael Sims, Licensing Manager and the representative from the Slough Taxi Federation was given the opportunity to speak. Councillor Shine questioned whether or not consultation had been carried out and raised concern when informed that it had not. This prompted worry from Councillors P Choudhry, Rasib and Sohal, who also agreed that they would be unhappy to approve the amended Policy prior to consultation.

Initially, I felt that the Officer presenting the amended Policy did not do so as clearly as could have been done, hence the concerns which Members had shown. I attempted to act as a mediator between the Members and the Officer. I asked a number of questions to Michael Sims, the answers to which I hoped would mitigate concerns raised by Members. However, as I did so I did not receive the clear response I had expected and began to question my own understanding of the modified Policy. Consequently, I decided that I would vote for consultation as I believed this decision minimised any risk that may have resulted had the policy simply been agreed. I had thought that I was voting with Councillor Shine, as it was he who originally suggested that consultation should be carried out. I therefore feel that the complaint made by Councillor Maclsaac was particularly insulting and evidently not true.

Councillor Maclsaac had, throughout the meeting, stated that he knew how all Asians in the room would be voting. Once the vote had taken place he claimed that he had the names of all those who would vote for consultation on paper, prior to the vote taking place. It was at this point which I told him that I found his behaviour particularly insulting.

I was no longer a member of the Licensing Committee when the report returned in June 2011.

The issue with regard to simply voting in a manner to keep the Taxi Federation on side has been raised previously in a number of Licensing Meetings, however I do not believe that the Taxi Federation are influential enough for this to be a realistic aim of any Councillor. I am aware of and have supported a number of individuals, as members of the Community, who belong to the Federation, but that is all.

I would like to add that I had also submitted a complaint in response to the comments made by Councillor Maclsaac, who, I believe acted inappropriately

and with racist intent. The Comments he made challenged my integrity and intelligence, let alone my race and it was particularly insulting given that it had originally been Councillor Shrine who raised these concerns.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Sohal

I confirm that I attended the Licensing Committee meeting on 23rd February 2011, as a member of the Committee. The third item on the agenda was a report regarding the Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing. Prior to attending the meeting I had not been lobbied about this or any other agenda item and I was unaware as to whether or not consultation had taken place with regard to this particular item.

Two representatives of the Slough Taxi Federation were in attendance at the meeting, one of whom was Mr Badial. Once the report had been presented by Michael Sims, Licensing Officer, Mr Badial was invited to speak by the Chair. He raised concern with regard to the amendments that had been made to the policy and requested that full consultation be carried out.

Having heard from both Michael Sims and Mr Badial, I was of the opinion that it was only reasonable to request that the Taxi Federation be consulted. A number of comments were put to the Michael Sims with regard to the report, however it was my opinion, in addition to that of a number of other Councillors, that consultation was reasonable. After some heated discussions, Councillor P Choudhry proposed a motion for consultation. I note that Councillor Shine also spoke in favour of consulting with the Taxi Federation, however when it came to the vote he appeared to change his mind.

I questioned Michael Sims with regard to whether there would be any financial implications as a result of pending the decision of the report for a month or so, to enable time for consultation to be carried out. I was told that this would not be the case and therefore could not see any disadvantages in going ahead with the consultation. I seconded the motion.

This is not the first time that Councillor Maclsaac has complained about myself and my colleagues, I have been informed that this is consistent with his attitude and previous track record. I believe that he was in the habit of saying such things in order to acquire publicity.

The Policy came back to the Committee on 2nd June 2011, at which point I discovered that no response had been received from the federation nor did Mr Badial attend the Committee meeting, which I was particularly disappointed about. As a result of the poor consultation result, I apologised to the Committee for having wasted Officer time.

Standards Investigation into complaint by (former) Councillor Maclaac

Statement by Michael Sims, Licensing Manager

I confirm I am the author of the report entitled 'Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing', which was presented to the Licensing Committee on 23 February 2011. Attached to this report was the amended Policy and Guidance, all additions and amendments to which were highlighted. To confirm, all amendments and additions included were areas that Members were already guided on and used at Licensing Sub Committee meetings and which were not previously included in the original policy document. These were national published requirements, case stated, national standards, relevant legislation, all of which were currently used by officers and Members and had been for some years. In addition all these areas had been included in all Member Training and were and are contained in their Member Training Support Manual and Members would be fully aware of them.

I was of the opinion that the revised document would be approved swiftly. I had spoken with the Committee Chair who did not consider the report to be controversial or to have any adverse impact upon licence holders. It was expected that there may be some taxi drivers attend to speak on the following item on the agenda, the Equality Act 2010 taxi and Private Hire Wheelchair Accessible vehicles but I did not think any issue would be raised with this agenda item.

Mr Paramjit Badial, the Chair of Slough Taxi Federation attended the meeting and requested that he be able to speak with regard to this particular item. His request was approved by the Chair.

Mr Badial stated that he was unhappy that no consultation had been carried out and that full consultation should be required. It seemed to me that Mr Badial felt uncomfortable raising this, as though he had been encouraged to attend and speak at the meeting by someone else. Cllr P Choudhry immediately agreed that he too required public consultation prior to approving the amendments.

I stated to the whole Committee that consultation would be costly, unnecessary and irrelevant as it would not alter the amendments to the Policy, which mirrored Guidance. Despite this, Councillors Rasib, S Chaudhry, and Sohal began to voice their opinion that they too wanted full consultation to be implemented. All other Members (excluding Councillor Dodds, who left the meeting part way through due to illness) were happy to agree the amended Policy as it was.

Discussion continued for approximately an hour and a half. It was resolved that consultation would take place (five Members voted in favour and four against public consultation).

It is my opinion that Councillor P Choudhry was determined from the outset of the meeting to ensure that consultation would take place. I spoke with him after the meeting, highlighting again that there would be no benefit in consultation, to which he responded that I should just get it done and bring the Policy back to the Committee to be approved. It seemed that the additional Councillors also requesting consultation only did so once encouraged by Councillor P Choudhry.

As a consequence of the meeting, 1000 consultation letters were sent out. Only one response was received from a Mr Shakeel Ashraf who opposed the amendments.

The Policy was presented to the Committee in its complete original format for the second time on 2 June 2011, on my behalf by Rachel Rumney, Senior Licensing Officer. As you will note from the minutes of the meeting the amended Policy was swiftly approved. Councillors Sohal and Rasib publicly apologised for having forced through the requirement for consultation.

DOCUMENT ELEVEN

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Shabana Kauser, Senior Democratic Services Officer

In my capacity as Senior Democratic Services Officer, I attended the Licensing Committee meeting of 24 February 2011. It was my understanding that agenda item three 'Revision of Policy of Convictions and Cautions was not a controversial issue but rather that the Policy had simply been 'tidied up' by Michael Sims, Licensing Manager.

Mr Badial, of the Slough Taxi Federation was present at the meeting. He requested that he be able to speak with regard to agenda item three, which the Chair agreed. Mr Badial addressed the Committee stating that the amendments to the Policy were too much to take in and that consultation with all members of the trade should be carried out.

Michael Sims replied stating that consultation was unnecessary as additions reflected legislation and case law only and that amendments clarified various points but did not add anything further to the document.

I recall that Councillor Dhaliwal asked a number of questions which were not wholly relevant to the policy document or the amendments which had been made to it. Councillor S Chaudhry questioned whether the Policy was standard practice for Local Authorities and was informed by Michael Sims that all Local Authorities have their own policies; however this particular Policy had been upheld by the Magistrates Court and had been implemented since 2008.

Councillor S Chaudhry raised concern with section 6.6 of the document. Michael Sims stated that this was not an addition to the document, but rather a national requirement which had been approved by the Licensing Committee previously. Councillor Maclsaac responded, stating that it was the role of the Councillors to protect the public. Councillor Rasib confirmed that he also agreed that consultation should go ahead.

Councillor Sohal questioned as to whether the Committee were able to go back to Mr Badial and ask him further for his opinion with regard to the Policy. I informed the Chair that it was not correct procedure to engage in a dialogue with Mr Badial as he had already had the opportunity to express his opinion.

Councillor P Choudhry formally proposed that a consultation take place. It was questioned as to what exactly was to be consulted on as nothing new was contained within the Policy. Councillor Shine questioned whether the areas highlighted within the document had been consulted on, to which Michael Sims reiterated that the consultation had previously been carried out with regard to the whole Policy and the additions to be approved at this meeting were simply clarifications reflecting case law and legislation.

Councillor Maclsaac again commented that the Councillors were there to protect the public and that in his opinion people were playing with votes. Councillor P Choudhry stated that he objected to the comment made by Cllr Maclsaac and that was not the case.

At this point Councillor Sohal seconded the proposal of Councillor P Choudhry. Five Members voted in favour of consultation with four voting against.

Michael Sims confirmed that consultation would take place with regard to additions to the Policy, as highlighted, only.

I noted that Councillor Long commented to Councillor P Choudhry that he was being obstructive and making points for the sake of making points. I interrupted at this stage and requested that all comments be made through the Chair.

Michael Sims concluded by stating that the Policy had been in place for three years, had been tried and tested at the Magistrates Court and that he was bewildered by the comments made by Members.

Having conducted the consultation, the revised Policy was brought to the Committee again on 2 June 2011. This Committee was comprised of a number of new Members, however Councillors Davis, Long, Rasib and Sohal also attended this second meeting.

Rachel Rumney, Senior Licensing Officer introduced the report, informing that the consultation had been carried out and that only one response had been received. Councillor Sohal stated that he was very disappointed with this result, especially as Mr Badial had not responded at all. He offered a formal apology for time wasted and recommended that the Policy be approved.

All Members agreed to the adoption of the amended Policy.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Ann Osbourne, Lawyer

I attended the Licensing Committee meeting on 23 February 2011 in my capacity as Council Solicitor. The Committee were presented with a report by the Licensing Manager, Michael Sims with regard to the revision of the Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing.

I am unable to recall the meeting in detail as it was some time ago; however I can confirm that the Committee was presented with the report, after which a representative of the Slough Taxi Federation was given the opportunity to speak. He requested that consultation be carried out with regard to the amended Policy.

All Members were informed by Michael Sims that consultation was unnecessary given that no significant changes had been made to the Policy. I was not asked to provide any legal advice with regard to the matter at any point during the meeting, nor did I notice any suspicious behaviour by Members.

I was aware that Councillor Maclsaac specifically requested that it be noted in the minutes of the meeting that he disagreed with the decision to go ahead with consultation.