

**LEGAL SERVICES**

**Director of Law  
Tasnim Shawkat**

Mr Daffarn  
(via email)

My reference: LP  
Your reference:

Please ask for: LeVerne Parker

14 June 2016

Dear Mr Daffarn

**Code of Conduct Complaint – Councillor Feilding-Mellen**

Thank you for your complaint set out in your email of 14 May 2016.

As you are aware I am the Council's Monitoring Officer and, in accordance with the "Arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct" (the Arrangements), I am responsible for considering whether or not complaints alleging breaches of the Members' Code of Conduct (the Code) should be investigated.

**The Complaint**

Your complaint is set out fully in your email of 14 May and, to summarise, concerns an alleged failure by Cllr Feilding-Mellen to declare an interest.

**Procedure**

In accordance with Paragraph 4.1 of the Arrangements, I am required to consider whether or not the complaint merits formal consideration. The relevant criteria are set out in paragraph 4.3. Before coming to a decision, I have consulted the Independent Person, Ms Johanna Holmes, and the Chairman of the Audit and Transparency Committee, Councillor Pascall.

**Monitoring Officer Decision**

The issue I have to consider is whether or not there is evidence that Councillor Feilding-Mellen has, by his individual conduct, breached the Code and, if so, whether or not the complaint should be investigated further.

In coming to my decision I have considered the following;

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Address: Legal Services, The Town Hall, Hornton Street, London, W8 7NX

- Your email of 14 May 2016
- The Cabinet report to and minutes of the Cabinet meeting of 19 November 2015 in connection with a proposed lease of the Westway Information Centre and North Kensington Library
- Declarations made by Cllr Feilding-Mellen at the Cabinet meeting of 6 March 2014 in connection with matters involving Notting Hill Prep
- Comments from Cllr Feilding-Mellen on the complaint

The Code and the Localism Act 2011 require Members to register and declare disclosable pecuniary interests which are a category of interests prescribed by the Act and regulations made under the Act. The fact that a Member's children are on the waiting list for a school is not a disclosable pecuniary interest. The issue therefore is whether this is "any other significant interest" and, if so, should it have been declared by Cllr Feilding-Mellen at the Cabinet Meeting on 19 November 2015.

The Code provides that Members present at meetings of the Council, including Cabinet meetings, should identify whether they have any other significant interests which they feel should be declared in the public interest. If any such interests are identified, Members should consider whether their participation in the matter in question would be reasonable in the circumstances, particularly if the interest may give rise to the perception of a conflict of interest.

Cllr Feilding- Mellen declared that his children were on the waiting list for Notting Hill Prep at the Cabinet meeting on 6 March 2014 when, as a member of the Cabinet, he considered a proposed lease of the Isaac Newton Centre. At the same time he also declared that his children were on the waiting list of another nursery owned by Alpha Plus. Notting Hill Prep were one of the parties bidding for the lease but were not the preferred bidder who, in the event, was granted the lease by the Council. Cllr Feilding –Mellen having made the declaration participated in the Cabinet decision to grant the lease.

The Code makes it clear that it is for the Member to consider whether or not they have a significant interest should be declared and whether or not to participate in the decision.

The decision was taken following consideration of a detailed report on the options with the benefit of professional property and legal advice. The detailed commercial advice is contained in an exempt appendix, which has not been released to the public at the current time because of the commercially sensitive information that it contains, so I do appreciate that you have not had the benefit of seeing that advice before making your complaint.

The Code is not prescriptive as it is in the case of disclosable pecuniary interests. The fact that Cllr Feilding-Mellen did not declare that his children are on the waiting list for Notting Hill Prep at the Cabinet meeting on 19 November 2015 is not a breach of the Code. In my view a fair-minded member of the public who is aware of the facts would not consider Cllr Feilding-Mellen had a significant interest which could give rise to a conflict of interests.

Cllr Feilding-Mellen could have decided to repeat what he said at the Cabinet meeting on 6 March 2014, in the interests of openness and transparency, but the fact that he did not does not mean that there has been a breach of the Code.

I have decided therefore not to refer your complaint for further investigation.

Views of the Independent Person and the Chairman of the Audit and Transparency Committee

I have consulted both the Independent Person and the Chairman of the Audit and Transparency Committee who both agree with my decision.

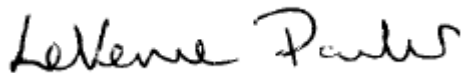
Conclusion

My decision is that the complaint does not merit further investigation for the reasons I have set out above. I am sending copies of this letter to Councillor Feilding-Mellen, Ms Holmes and Councillor Pascall.

Appeal

You are entitled to appeal my decision to the Town Clerk, Mr Holgate. If you wish to appeal please could you advise me in writing within 21 days of today's date and I will forward the papers to Mr Holgate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'LeVerne Parker', with a stylized, cursive script.

LeVerne Parker  
Chief Solicitor (Property and Planning) and Monitoring Officer

Cc. Councillor Feilding-Mellen  
Ms Johanna Holmes  
Councillor Pascall